

# Planning Committee

Town Hall, Colchester  
3 December 2009 at 6.00pm

## **This committee deals with**

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

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

## Information for Members of the Public

### Access to information and meetings

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

### Have Your Say!

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

### Private Sessions

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

### Mobile phones, pagers, cameras, audio recorders

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

### Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call, and we will try to provide a reading service, translation or other formats you may need.

### Facilities

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### Evacuation Procedures

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## **Material Planning Considerations**

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

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

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
3 December 2009 at 6:00pm**

**Members**

Chairman : Councillor Ray Gamble.  
Deputy Chairman : Councillor Stephen Ford.  
Councillors Mary Blandon, Helen Chuah, Mark Cory,  
John Elliott, Andrew Ellis, Theresa Higgins, Sonia Lewis,  
Jackie Maclean, Jon Manning and Ann Quarrie.

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

**Agenda - Part A**

(open to the public including the media)

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

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

**Pages**

**1. Welcome and Announcements**

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

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

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

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

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

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

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

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

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

Councillors should consult paragraph 7 of the Meetings General

Procedure Rules for further guidance.

## **6. Minutes**

**1 - 18**

To confirm as a correct record the minutes of the meetings held on 5 November 2009 and 19 November 2009.

## **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. 091193 Turner Road, Colchester, CO4 5JL  
(Mile End) **19 - 27**

Erection of building for decontamination and sterilisation of hospital equipment, associated car parking and landscaping.
2. 081633 Gun Hill Garage, Ipswich Road, Dedham, CO7 6HR  
(Dedham and Langham) **28 - 33**

Retrospective application for the erection of perimeter security fencing.
3. 090795 Gun Hill Garage, Ipswich Road, Dedham, CO7 6HR  
(Dedham and Langham) **34 - 41**

Construction of bunding and landscape planting (part retrospective) as resubmission of 082052.
4. 081631 Gun Hill Garage, Ipswich Road, Dedham, CO7 6HR  
(Dedham and Langham) **42 - 50**

Erection of storage racking (part retrospective).
5. 091226 Oxley House, Mersea Road, Abberton, CO5 7NR  
(Pyefleet) **51 - 55**

Alterations and extensions to existing dwelling house to include creation of natural wildlife conservation water feature.
6. 091245 Bellwood, Colchester Road, Great Wigborough, CM9 8HG  
(Birch and Winstree) **56 - 61**

Proposed conservation woodland and meadow with support facilities.

**8. High Hedge Complaint // Pumphouse, Queens Road, Wivenhoe, CO7 9JH**

**62 - 66**

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  
5 NOVEMBER 2009**

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillor Sonia Lewis\* (Deputy Mayor)  
Councillors Mary Blandon\*, Mark Cory,  
Andrew Ellis\*, Stephen Ford, Theresa Higgins\*,  
Jackie Maclean\*, Jon Manning\* and Ann Quarrie\*

*Substitute Members :-* Councillor Laura Sykes  
for Councillor Helen Chuah\*  
Councillor Richard Martin  
for Councillor John Elliott\*

*Also in Attendance :-* Councillor Chris Hall  
Councillor Kevin Bentley

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

## 121. Minutes

The minutes of the meeting held on 15 October 2009 were confirmed as a correct record.

**Councillor Mary Blandon (in respect of being related to an objector) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Jon Manning (in respect of having declared a view on the application prior to the committee meeting) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and he left the meeting during its consideration and determination.**

**Councillor Ray Gamble (in respect of having worked at the magistrates court for 5 years, having links with the court over 30 years and his close personal association with a number of magistrates) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and he left the meeting during its consideration and determination.**

**122. 090752 St Botolphs Car Park, St Botolphs Circus, Colchester**

The Committee considered amended plans and a statement regarding essential parking for disabled court users for the proposed redevelopment of part of the St Botolph's Car Park. The development comprises a part two, part three and part four storey magistrates court complex incorporating double height court volumes with vehicular access off Magdalen Street and parking. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Andrew Weavers, Monitoring Officer, attended to assist the Committee in its deliberations. He referred to this item having been considered at the meeting on 3 September 2009 following a site visit and committee presentation. At that time the Committee had a full debate and resolved that the application be deferred for further negotiations, specifically relating to the detailing of the tower block and for consideration of the provision of disabled parking spaces. The Committee had been satisfied that no other elements of the design required amendment. At this meeting therefore the Committee would be concentrating on those particular elements of the application. He asked that they consider the merits of the application and the officers comments in the report, and disregard any comments which may have been said elsewhere.

Members of the Committee were concerned that by voting in favour of or against the application at the meeting in September they may have incurred a declarable interest. However, the Monitoring Officer reassured the Committee that this was not the case.

John More, Principal Planning Officer, attended to assist the Committee in its deliberations. He described the amendments which had been made to the tower element of the development and referred to a statement regarding to the provision of disabled parking. The revised scheme had been the subject of a re-consultation process.

Yasser El-Gabry, architect for HM Court Services, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Court Service had issued a statement regarding how disabled parking would be made available. It is not customary for public parking to be provided for a courthouse. The tower element, which is designed to be a focal point at the western end of the site, has been modified in consultation with English Heritage and planning officers. The proportions of the tower are driven by two court volumes, one above the other, and the size is dictated by legislation. Waiting areas provide physical restrictions in form and volume, so the internal court spaces have not been altered. The modifications to the tower include cladding in a smooth finish with three distinct bays. Reference has been made to St Botolph's church.

Councillor Hall, Heritage Champion and ward councillor, attended and, with the consent of the Chairman, addressed the Committee. At the previous meeting when this application was considered he had spoken in favour of the proposal. He considered this would be a positive contribution to the area and it would act as a pleasing setting for the square opposite the station. He referred to other tall buildings nearby and to the revised design for this working building which had been developed by the architect in consultation with English Heritage. It would contribute towards Colchester's heritage for the future. He acknowledged that there were objections to the proposal, but considered this to be an excellent design which would improve the area and be a landmark for the future. He strongly recommended the proposal to the Committee.

Having heard the description and seen the drawings members of the Committee considered that both issues had been addressed well and noted that the statutory consultees were satisfied. The building would be a tremendous asset to the town and enhance the area.

*RESOLVED* (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for submission of:

- amended drawings showing the tower element, including more details showing the window elements and how they would be broken up by louvre panels; and
- the completion of a Section 106 Legal Agreement to secure the following contributions:

£28,692 towards the provision of CCTV;

£33,106 towards the provision of a footpath/cycle path;

£165,531 towards the provision of new public square works;

£55,177 towards the provision of public art;

£16,553 towards the provision of traffic signs;

- to allow the borough council to operate the car park on a pay and display basis until such time as the site is required by the developer to commence the development and to allow continued access to the remaining car park;
- to provide a temporary access off Magdalen Street (adjacent to St Botolph's roundabout) to serve that part of St Botolph's car park which does not form part of the proposal site (as shown in principle on drawing number 200398/EAD/151 Rev.P3 prepared by Mott McDonald);

- not to commence development until the developer has entered into a highways agreement with Essex County Council in relation to the highway works in Magdalen Street;
- the permanent removal of the temporary access mentioned above and provision of a new section of footway in Magdalen Street; and
- the remodelling and reconstruction of the Magdalen Street/Military Road traffic signal controlled junction to provide direct access to the proposal site as shown in principle on drawing number 200398-TA-001 Rev.P3 prepared by Mott McDonald.

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

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

**123. 091063 Former Focus Do It All Store, Moss Road, Stanway, CO3 0LE**

The Committee considered an application for a change of use from a DIY store to an indoor leisure centre, use classes A3/A4/D2, to include ten pin bowling and an ice rink. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

**Councillor Kevin Bentley, Councillor Ray Gamble and Councillor Jon Manning (in respect of each being a season ticket holder for Colchester United Football Club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Jon Manning (in respect of his employer, the University of Essex, being the current provider of training facilities for Colchester United Football Club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

## **124. 091115 and 091117 Land adjacent south Grange Road, Tiptree**

The Committee considered two applications for a change of use of agricultural land to a sports field with minor regrading and drainage of playing areas, associated vehicular parking and access from Grange Road and provision of cycle/footway links to Harrington Close and Vine Road.

Application 091115 is a resubmission of 090217 which was refused by the Committee at its meeting on 25 June 2009. This new application is accompanied by a revised Design and Access Statement, an updated Transport Statement, an updated Flood Risk Assessment and a Noise Assessment report. It also seeks to clarify the use of the community pitch by means of a management plan to be secured by condition. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Application 091117 comprises all the elements of application 091115 together with a building to provide facilities for Colchester United Football Club and changing room accommodation and showers and toilets for two community teams and two changing rooms for match officials, together with a canteen area, 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, Development Manager, attended to assist the Committee in its deliberations. There was a new proposed footpath and cycleway along the eastern side of the site and new footpath and access along Grange Road to Vine Road. A new access is proposed with new planting to replace the existing hedge. The main difference in the new applications is the clarification of the extent of the community use provided; a proposed new building, in part for community purposes including changing facilities and a canteen area for general meetings. The application also includes community use of one pitch. Each pitch would be restricted to being used no more than three times a week. The community use has been particularly identified for two clubs each of which run several teams with the possibility of community use at other times when games are cancelled or cup runs are cut short. This proposal could have an impact on the Warriors Rest site which could be freed up for other local teams to use. The whole parcel of land through to Vine Road is proposed partly for open space, but not public open space, and partly for predominantly residential use. The current allocated use of this parcel of land in the Borough Local Plan and the Local Development Framework (LDF) is shown as having no notation.

The main consultees are satisfied with the proposals in this application and

the Highways Authority have negotiated amendments to the scheme such as cycleways, footways and access, and they are content with the current proposals. The landscape officer is satisfied with the landscaping elements. The Environmental Control Team has examined the effect on local amenity resulting in exclusion zones which exclude any pitch being within 40 metres of any property in the three surrounding roads to mitigate the effect on nearby housing. Natural England is satisfied with the ecological proposals which include the need to survey for lizards and reptiles in connection with the removal of hedges to create the access. The Planning Policy team consider this proposal to be in accordance with the various layers of national, regional and local planning policy and conclude that there is no objection to this land use in this location. The proposal could contribute towards opportunities for recreation, the improvement of people's sense of wellbeing in places where they live, and the health and fitness agenda. Any community usage of the building and pitches would be secured by legal obligation.

Reference was made to the large number of letters of objection which have been received and the grounds for objection were set out in the report. Letters of support had also been received together with a petition, details of which were on the amendment sheet.

The building was considered to be a quality structure and had been designed to reflect a barn structure. It was proposed to be located at the point furthest from houses. Conditions regarding the use of the football pitches were proposed as was the requirement for the building to be provided concurrently with the sports pitches. It would be necessary to tie these two elements together and in this regard advice had been received which suggested that conditions which can be enforced should be used in preference to a legal agreement. The previous application, 090217, was subject to an appeal which would be heard in January. Within a Statement of Common Ground which has been prepared between the parties in respect of that appeal, it is also suggested that this matter should be dealt with by condition rather than by legal agreement. On that basis the recommendation is for approval for both applications.

Joseph Caffery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to policy issues, PPG2 and PPG17, stating that it was claimed that as the proposal was acceptable on green belt it was therefore acceptable on greenfield land, but this only applied to essential facilities. The large building will be the size of five large houses having thirty-one rooms with a second floor viewing platform. The building would be bulky and not small scale. Neither of the aforementioned policies support such a building due to its size and scale. The building would be the headquarters for a commercial training

complex and he questioned why it was proposed now and not mentioned in the earlier application. A Landscape Character Assessment had been undertaken for this part of Tiptree, which guards against development in the countryside. He had concerns about highway safety in connection with construction traffic which would have to negotiate a dangerous junction. A full size pitch elsewhere in Tiptree is being replaced. PPG17 contained no references to new sports facilities needing to be sited at Tiptree sports centre. The only difference between these applications is the large two storey building which could be a reason for refusal if the Committee were so minded, and all the reasons for refusal of the previous application also apply to these applications. Ten policies are mentioned in the officer's report, none of which mention changing rooms. He asked the Committee to refuse these applications as they are an increase of policy CO4. This land is not classified as open space at this time.

John Lawson, the applicant's agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Planning Committee's refusal was limited to the community facility and therefore this decision accepted the principle of the proposal as in the Statement of Common Ground. The proposals in these applications addressed the Committee's concerns and other matters are agreed. These proposals include building projects for both the Club and community use. The building is a high quality, state of the art building which will blend in with the surroundings and include use by local community teams. Although there is no requirement for a pitch it should be acknowledged that it forms an integral part of the scheme. Community use will be secured by condition. Any local team can book the pitch within the capacity of the facility and in his view the quality of the playing surface will be by far the best in the borough and probably in the country. They have liaised extensively with officers and local consultees and have invited local residents to attend a meeting. The Chairman attended a parish council meeting to answer questions. The Club support sport at grass roots level. This site is not in the metropolitan greenbelt so PPG2 does not apply. PPG17 allows for facilities in the countryside. He hoped the Committee would take his comments into account in coming to a decision.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He is one of five councillors who represent Tiptree and the application also borders the Winstree constituency. The parish council were mainly concerned that the site was outside the village envelope and were actively opposed to residential or commercial development outside the village envelope unless there is a substantial gain for the community of Tiptree and Tiptree alone. Strategically, efforts are being made to try to reduce the numbers of cars but this facility will attract people with cars. He questioned whether the Highways Authority had visited

the site, which he considered was important to understand the situation. This is a rural setting and as such the proposed two metre fences would be out of keeping. He believed there was land available for this purpose closer to the football stadium, which was 20 miles from Tiptree; the Council's policy is to reduce traffic and congestion. He referred to the wildlife and particular bird species in relation to hedgerows which were increasingly rare and in need of protection. Tiptree is a rural village, the site is in a countryside setting and many residents are keen to keep it that way. Any sporting facility must be welcomed but not at any price. He asked the Planning Committee to help preserve the countryside and reject both applications.

The planning officer explained that the site was not within statutory green belt so it was not afforded protection by PPG2. The site is outside the village envelope but rural land can be put to certain uses, recreational use being one such use. He reminded the Committee that the Planning Policy team did not raise any objections to this scheme in principle. Whilst it is undeniably a large building it is mitigated by landscaping with hedges and a spinney. It is a very well designed building and the mass and bulk is broken down into a family of building forms. He had no doubt that the Highways Agency had visited the site and their views, which he believed had been given careful consideration, were clearly stated. He accepted the situation in regard to traffic but it has been taken into account in the traffic appraisal which emphasised that the use of the facility will take place outside of the main peak period on local roads. Efforts have been made to encourage local people to arrive by cycle or on foot through the introduction of new footpaths and cycleways. Colchester is not seen as the main hub for those who will be arriving at this site because not all the players originate from Colchester.

LDF policy documents relevant to these applications have not yet been adopted so the current designation of the site is 'land without notation', but there is a proposal that this Council will be putting to the Inspector at the public enquiry which will take place in the spring of next year. The fencing is not an ideal solution but secure boundaries are necessary. The fences will be screened from view by existing and newly planted hedges. In respect of birdlife, all the main consultees, including Natural England, have found in favour of this proposal. However, any disruptive work to hedges should not take place in the nesting period. The proposals have been accepted by specialised authorities.

In their consideration of the proposals, some members of the Committee commented that now the community use has been clarified, there is a pitch which could be used by two teams, although many would say that there is not enough community use. The Committee have visited the site twice and have seen the proposals for the changing room facility.

A number of the Committee considered that nothing had really changed with these new applications. They were mindful that the current Local Plan shows the allocation to be 'white land' and the replacement LDF document relating to allocations has not yet been adopted, and as such it carries no weight. The earliest the document can be adopted is next summer so the Committee considered that these applications must be considered against the current Local Plan document. The whole area of land is twelve hectares of which Colchester United Football Club wants to use nine hectares. In the developing LDF document the land is shown as having an open space allocation. Members referred to other areas of private open space in and around the edges of Tiptree. Tiptree Parish Council have been wanting more public open space in Tiptree as there is a shortfall when compared with the target allocation per 1,000 of population. Tiptree has nearly 11,000 residents whereas footballers number several hundreds, and whilst football is quite popular in Tiptree and to that extent the community pitch would be a good thing for Tiptree, although it would only be for a minority of the population. One single pitch to be used by two teams is not sufficient gain.

There is a way forward here, but only with substantial gain for Tiptree. PPS17 and regional policies are irrelevant because all refer to community sports facilities for the benefit of the whole community and this is a football training ground for a professional team with the gain of one pitch which does not benefit the whole of Tiptree; it is a token gesture and more pitches and pavilion facilities are needed for the local area. Tiptree Parish Council's policy is to actively oppose residential and commercial development outside the village envelope, unless there is a substantial benefit to Tiptree and this proposal does not offer sufficient gain. The site will be a little used private open space. Had the applicant, who owns the whole of the site, donated the other three hectares for public open space that would be a substantial gain to Tiptree and the proposal may have been viewed differently by the community, but no consultation has been undertaken on this aspect and the views of residents present are unknown. The proposal in its current form was not supported.

There was a dilemma for some members who recognised that this training ground was for Colchester's professional team whose future success was supported. They needed a proper training ground, but there remained the concern that this site was outside the village envelope. On the positive side there is a community facility and the applicants were to be applauded for the community element of the proposal which included various caveats to protect residents' amenity. Although it was a much needed facility, it was contrary to policy.

In response the planning officer pointed out the extents of the proposed and

current village envelopes. The site is currently without notation and therefore outside the current village envelope. The officer view was that it was considered to be an appropriate level of community use. The LDF process will consider the level of open space provision for Tiptree and relate it back to population numbers and identify what public or other open space might be appropriate. There is a suggestion that the remainder of the site should be added in as a community gain, but that site is still the subject of representations in the LDF process. The fact that this is outside the village envelope is not a prequel to recreational use which is not built development. There is a building but it occupies a relatively small part of the site and is considered to be acceptable.

*RESOLVED* (MAJORITY voted FOR) that –

(a) In respect of application 091115, the application be refused for the following reason:-

The site for this proposal is located within an area of white land i.e. no notation as allocated in the Adopted Review Colchester Borough Local Plan – March 2004. Additionally, policy ENV 1 of the Local Development Framework Adopted Core Strategy (December 2008) states, inter alia:

Unallocated green field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough.

As new development within such areas is subject to restriction, the Council would wish to ensure that development proposals accorded with the aims of relevant policies in the Adopted Local Plan and the Adopted Core Strategy. To this end, the Council considers that the submitted scheme fails to include a sufficient degree of community use within the development to justify the use of this unallocated white land for an alternative purpose.

(b) In respect of application 091117, the application be refused for the following reason:-

The site for this proposal is located within an area of white land i.e. no notation as allocated in the Adopted Review Colchester Borough Local Plan – March 2004. Additionally, policy ENV 1 of the Local Development Framework Adopted Core Strategy (December 2008) states, inter alia:

Unallocated green field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character

Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough.

As new development within such areas is subject to restriction, the Council would wish to ensure that development proposals accorded with the aims of relevant policies in the Adopted Local Plan and the Adopted Core Strategy. To this end, the Council considers that the submitted scheme fails to include a sufficient degree of community use within the development to justify the use of this unallocated white land for an alternative purpose.

#### **125. 090692 Sainsbury's Store, London Road, Stanway**

The Committee considered an application for the erection of a new food store with associated accesses, a petrol filling station, car parking, cycle parking, servicing and landscaping. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that –

(a) Subject to the completion of a Section 106 Agreement to secure amongst other matters, the elements referred to in Section 9 of the report, the application be referred to the Government Office for the Eastern Region and the Secretary of State be advised that Colchester Borough Council is minded to approve the application with the conditions and informatives as set out in the report, see also Amendment Sheet, together with any additional conditions required by the Highways Agency;

(b) Upon receipt of notification that the Secretary of State does not wish to call the application in for determination and to the receipt of a satisfactory Section 106 Agreement and conditions and informatives referred to in (a) above, the Head of Environmental and Protective Services be authorised to grant consent.

#### **126. 090897 11 Spring Road, Tiptree, CO5 0BD**

The Committee considered a reserved matters application for the demolition of an existing bungalow and the erection of three chalet style dwellings and one bungalow. The Committee had before it a report in which all information was set out.

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

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

**127. 091084 St Pauls Hospital, Boxted Road, Mile End, CO4 5HE**

This application was withdrawn by the agent.

**128. 091147 Hythe Station, Hythe Station Road, Colchester, CO2 8JR**

The Committee considered an application for the erection of hoardings no greater than two metres high attached to fencing which borders the railway station. The hoardings will feature painting and poetry. The Committee had before it a report in which all information was set out.

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

**129. 091177 Gnome Magic, New Dawn, Ipswich Road, Colchester, CO7 6HU**

The Committee considered an application for a variation of Condition 04 of planning permission COL/03/0556 to allow for opening all year, January to December, Monday to Sunday with hours of operation from 6am to 10pm. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, opening January to December from 9am to 9pm daily.

**Councillor Andrew Ellis (in respect of having previously used the services of the applicant's agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Richard Martin (in respect of his association with the applicant's agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**130. 091197 61 Oaklands Avenue, Colchester**

The Committee considered an application for a single storey side extension with a front porch, rear single storey extension, conservatory and internal alterations. The application is a resubmission of 090608. The Committee had before it a report in which all information was set out.

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

**131. 091242 24 Becker Road, Colchester, CO3 9XR**

The Committee considered an application for a ground floor extension forming a new bedroom and the conversion of an existing study/playroom into a shower room. The Committee had before it a report in which all information was set out.

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

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

**132. 091262 1 Rosebank Road, West Mersea**

The Committee considered an application for proposed alterations and extensions to an existing detached house to provide accommodation for a disabled family member. The application is a resubmission of 081459. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. This is an extension to provide a facility for a disabled daughter.

William Kimberley, a neighbour, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Over the last four to five years there have been five applications submitted for this property. Four have been dismissed and he opposes this latest application. His neighbour asked for extra time in which to comment as he happened to leave for three weeks' holiday before this application was received. The neighbour had not received a reply but was assured by Bradly Heffer that any observations he made would be taken into consideration. He considered the two metre high fence proposed along the front of the property would be extremely ugly, out of keeping with the

property and out of character with the neighbourhood; there were no other fences higher than a metre. He asked that if approval is given no fences should be permitted in excess of one metre. On the plan there is a car port shown with a car added but the car port has been occupied by a caravan for 15-16 years. There is no garage because it has been converted to accommodation for their disabled daughter.

David Webb addressed the Committee on behalf of Mr and Mrs Weaver pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. There would be no privacy or overlooking issues. In regard to the comment about a two metre fence, there is a three metre hedge on the footway nearby. They were proposing a one metre fence together with a trellis which exists currently. This proposal is intended to provide a separate access to allow their disabled daughter to have a more independent life and a porch addition would not be out of place. Materials have been approved by senior planning officers.

Members of the Committee commented that the applicant's daughter's condition is not material to this proposal, which was supported. In response to a request for clarification regarding the fences it was explained that the plans showed a two metre fence, the top half of which comprised a 900mm trellis.

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

**Councillor Stephen Ford (in respect of his association with the applicant's agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**133. 091073 14 and 16 Wivenhoe Business Centre, Brook Street, Wivenhoe**

The Committee considered an application for a change of use from a printer, B2, to a dance studio, Ds. The Committee had before it a report in which all information was set out.

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

**134. Enforcement Action // Land at Hill House Farm, Colchester Road, West Bergholt**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the cessation of the light industrial, storage and distribution use of both barns and the removal of timber, materials and plant machinery associated with the unauthorised use, see also Amendment Sheet.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. It was explained that it was intended that the service of the enforcement notice would be delayed because the applicant has identified alternative premises where the use, light industrial, storage and distribution, has been undertaken and it may prove possible to move the operation to the other site. They are seeking a slight deferment in serving the notice so the transfer can take place.

*RESOLVED* (UNANIMOUSLY) that, in the event that the timber operation does not transfer to the alternative site within a reasonable period of time, an enforcement notice be served at Hill House Farm, Colchester Road, West Bergholt requiring the cessation of the light industrial, storage and distribution use of both barns and the removal of timber, materials and plant machinery associated with the unauthorised use and that the compliance period to terminate on 30 January 2010.

**PLANNING COMMITTEE  
19 NOVEMBER 2009**

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillor Sonia Lewis\* (Deputy Mayor)  
Councillors Mary Blandon\*, Helen Chuah,  
John Elliott\*, Andrew Ellis, Theresa Higgins\*,  
Jackie Maclean\*, Jon Manning\* and Ann Quarrie\*  
*Substitute Members :-* Councillor Nick Barlow for Councillor Mark Cory\*  
Councillor Michael Lilley  
for Councillor Stephen Ford  
Councillor Mike Hardy for Councillor Sonia Lewis\*

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

**135. 090732 Land adjacent to 9 Walters Yard, Colchester, CO1 1HD**

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that immediately prior to the start of the meeting it had come to light that residents in two of the properties having a shared boundary with the application site had not been notified of the application. In view of this unfortunate situation the officer requested that it would be prudent for the Committee to defer consideration of the application to enable a consultation with those properties to take place in accordance with the Council's current policy for consultation of neighbours, and for the application to be considered at a future meeting of the Committee meeting.

The Committee were mindful of the Council's policy in this matter and whilst it was regrettable because the applicants and a number of residents were in attendance, they considered that in the interests of fairness they would have to defer consideration of the matter as requested to enable those residents who had not been notified and who had not submitted any representations to do so if they wished. It was noted that a review of the internal policy on notification of neighbours was currently being undertaken.

*RESOLVED* (UNANIMOUSLY) that consideration of the application be deferred to a future meeting to enable consultation to be undertaken with those immediate neighbours who had not received notification of the application.

**136. 091266 Part garden, 110 Oaklands Avenue, Colchester**

The Committee considered an application for the erection of a bungalow with

associated parking facilities for the new property. The proposed dwelling in this application is slightly smaller than that for the earlier refused building thus enabling a larger creating a The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that –

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

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

### **137. 091208 Severalls Business Park, North Colchester**

The Committee considered an application for the erection of a three-storey business incubation centre, B1 Business use. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that -

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to secure contributions towards Highways and Education.

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

### **138. 091294 Boxted Farm Lodge, Burnt Dick Hill, Boxted, CO4 5TJ**

The Committee considered an application for the removal of Condition 3 of F/COL/03/1377, which restricted the occupancy of the dwelling to agricultural occupation. The Committee had before it a report in which all information was set out.

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

**139. 091296 7-9 High Street, Wivenhoe, CO7 9BE**

The Committee considered an application for a change of use from a vacated retail premises, A1, to a gourmet grocer/coffee shop/gallery mixed A1/A3 use. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

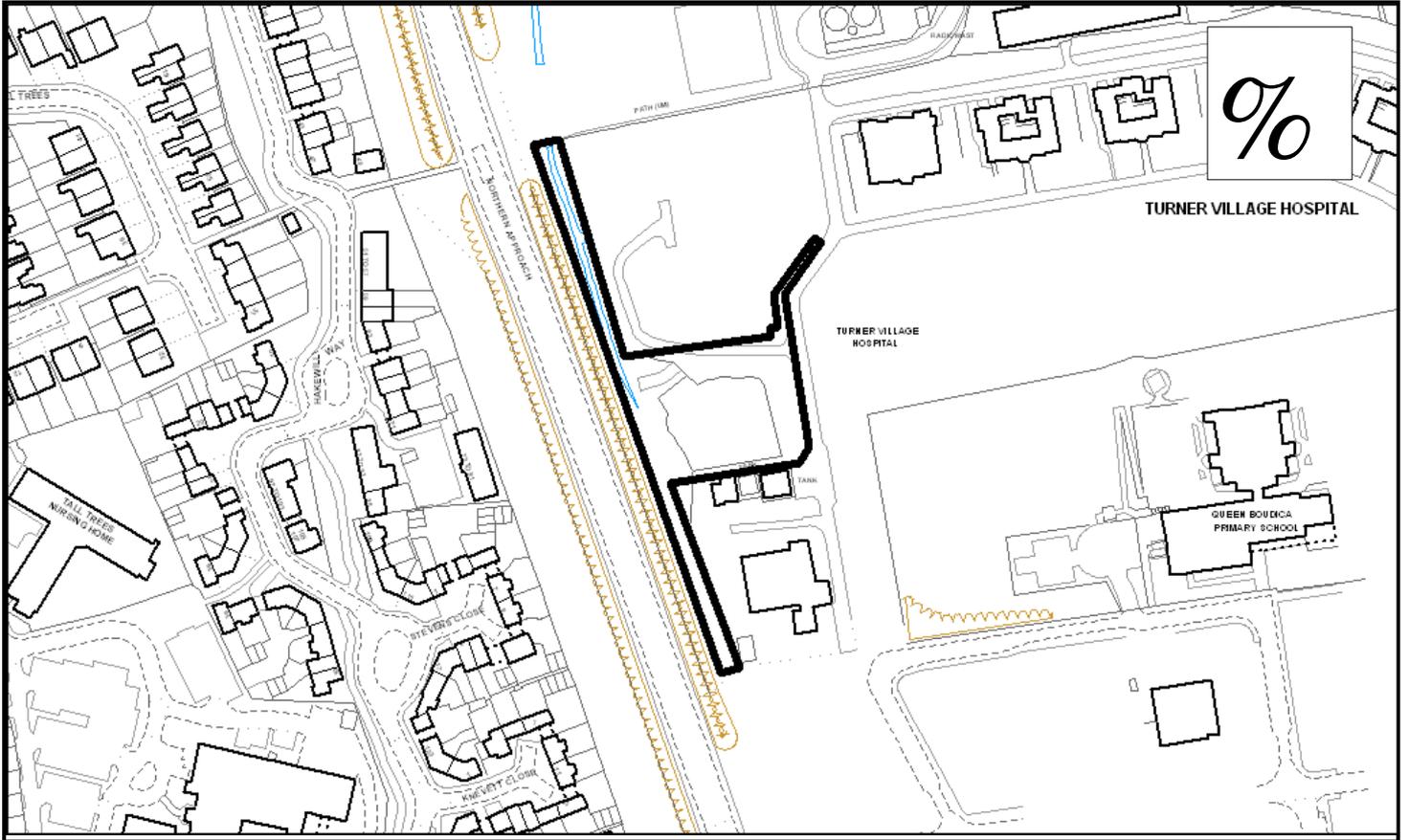
*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, see also Amendment Sheet.

**140. Correction to Description of Development // Development at Fortuna Park, Colchester - 090416**

The Committee considered a report by the Head of Environmental and Protective Services requesting agreement to the correction of the description of the development at Fortuna Park, Colchester. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that the description of the development 090416 at Fortuna Park, Colchester be corrected to read:-

“Amendments to part residential development approved under ref: F/COL/04/1998 to replace 19no. flats and 14no. houses with 8no. 2 bed houses, 17no. 3 bed houses and 3no. 4 bed houses, together with minor amendments to garden area of plot 22R, external works, parking areas and open space.”



**Application No:** 091193

**Location:** Colchester Hospital University NHS Foundation Trust, Turner Road, Colchester, CO4 5JL

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

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **3 December 2009**  
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: David Whybrow      EXPIRY DATE: 25/12/2009      MAJOR**

**Site:** Turner Road, Colchester, CO4 5JL

**Application No:** 091193

**Date Received:** 25 September 2009

**Agent:** Mr Vincent Gabbe

**Applicant:** Decon Sciences

**Development:** Erection of building for decontamination and sterilisation of hospital equipment, associated car parking and landscaping

**Ward:** Mile End

**Summary of Recommendation:** Conditional Approval provided that discussions between the agent and ECC Highways Department are concluded satisfactorily

## 1.0 Site Description

1.1 The application site is a largely wooded area lying to the north of the Old Boiler House at the former Turner Village site and immediately east of the Northern Approaches Road. The Old Boiler House is used as offices by the NHS.

1.2 There is a temporary overflow car park to the north and main hospital car park to the east. The newly opened Queen Boudicca School and proposed Turner Village residential estate lies to the south-east.

1.3 The site has an area of 0.3 ha.

## **2.0 Description of Proposal**

2.1 The proposal is for a building of 1046 sq.m. for the decontamination and sterilisation of hospital equipment. The facility would serve Colchester and Ipswich hospitals and replaces an existing plant at the General Hospital that will be decommissioned. A workforce of 48 people is proposed with 32 transferring from the existing facility and 16 new employees.

2.2 A small, landscaped parking and service area is proposed alongside the northern face of the building.

2.3 The building is of wide-spanned form with a shallow arched roof. The building form is dictated by its internal use and is designed to meet BREEAM "very good" standard. Externally, the agent suggests that contemporary facing material will be used to reflect the modernity and high technology of the proposed use and colour finishes will be co-ordinated with those to be used on the recently approved Villa 7 replacement building to the north-east, as agreed in discussions with your urban designer.

2.4 A Design and Access Statement, Arboricultural Impact Assessment, Transport and Flood Risk Appraisals are submitted with the application and may all be viewed on the web-site.

## **3.0 Land Use Allocation**

3.1 Hospital

## **4.0 Relevant Planning History**

4.1 There is no planning history directly relevant to this site but Members will be aware of the long and complex history of the wider General Hospital and Turner Village sites.

## **5.0 Principal Policies**

5.1 Adopted Rural Colchester Borough Local Plan  
DC1 - General DC considerations  
UEA11 - Non-residential design  
CO4 - Landscape features  
P4 - Contaminated land

5.2 Adopted Core Strategy  
SD1/SD2 - Sustainable development  
UR2 - Built design and character  
TA2/TA5 - Walking, cycling and parking

## **6.0 Consultations**

6.1 The Environment Agency have no objections but recommend conditions and informatives to be attached to any consent granted.

6.2 Environmental Control recommend approval with conditions in relation to contaminated land, noise levels, sound insulation of the building and light pollution.

6.3 The Highway Authority raise no objection to the proposal but recommend that:-

"No occupation of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:

1. A pedestrian/cycle ramp between the General Hospital site and the former Turner Village Hospital site. Ramp shall be a minimum 4 metres wide and located on land east of the Northern Approaches Road, south of the 'Old Boiler House' and west of the Queen Boudicca Primary School site. Details to be agreed with the Highway Authority.
2. A signed cycle route between the west-east cycle route (Northern Approaches Road to Turner Road) and the ramp mentioned above.
3. The General Hospital Turner Plan reviewed and if necessary amended to include this proposal to ensure it accords with the requirements of the Travel Plan."

6.4 The Trees and Landscape Officer is satisfied with the landscape content of the proposal having secured an amendment to the scheme involving the inclusion of bollards on the proposed turning head so as to prevent vehicular incursion onto soft landscaped areas and root protection areas of trees. Conditions are recommended.

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

7.1 Myland Parish Council comment that this is a disappointing design with a lack of architectural sensitivity. That said, they recommend conditions to replace all lost trees with semi-mature specimens on a 2 for 1 basis and screening to the NAR.

## **8.0 Representations**

8.1 None received.

## **9.0 Report**

9.1 There can be no basic land use objection to this proposal given the Borough Plan zoning and its functional relationship with the General Hospital. This report will therefore consider the proposals under the headings of building design, environmental impacts, trees and landscape and Highway Authority requirements. There will follow a discussion of the Corporate Development Team requirements.

### Building Design

- 9.2 The dominant buildings in the locality are the group of Villas to the north-east and adjacent boiler house and tower which are attractively detailed buildings of the inter war period. The proposed building does not lend itself to this type of building mass and form and as indicated above requires a wide-spanned building that does not readily reflect its context. Its modern, technology-based function also suggests a contemporary approach is appropriate here. Your officers therefore consider that the best response to the building's context is to ensure that the external finishes are the same as those used in the similarly contemporary styling of the proposed research and education facility replacing Villa 7 (090800 refers).

### Environmental Impacts

- 9.3 The Environmental Control Team and Environment Agency commented at length on these proposals and recommended a number of conditions to safeguard local amenity. For the most part the agent confirms the acceptability of those conditions but has queried the necessity for further intrusive risk assessment work in respect of potential contamination. Environmental Control have reconsidered this matter and have agreed the agents comments. Appropriate conditions are recommended.
- 9.4 Members will be aware that the nearest housing to this site lies beyond the NAR. Phase 3 of the Northfields development, to the south of the Old Boiler House, has yet to be commenced while Queen Boudicca School opened in September this year.

### Trees and Landscapes

- 9.5 Although not protected by a TPO the scheme will require the removal of a number of high category trees with a group retained to the west of the new building as a screen to the NAR. The site area offers limited opportunity for new landscaping but the Trees and Landscape Officer has confirmed his broad satisfaction with the submitted proposals which take the form of new groups of planting to the north of the building. Tree protection measures are proposed to safeguard the trees to be retained.
- 9.6 The agent has instructed a landscape consultant to consider re-providing lost trees with semi-mature specimens.

### Highway Authority requirements

- 9.7 The pedestrian/cycle ramp and east-west cycle route as required by the Highway Authority and a requirement of the corporate Development Team (see below) are, at the time of writing this report, the subject of discussions between the agents and the Highway Authority. Any outcome of these discussions will be required at the meeting.

## The Development Team

- 9.8 The application has been considered by the Corporate Development Team who considered that the Highway Authority's requirements as outlined above were required to mitigate the impact of the additional travel volumes generated by new staff at this major scheme. A contribution to crèche facilities was also requested in accordance with Essex County Council's Developer Contributions guidelines.
- 9.9 As indicated earlier in this report the number of NEW staff at the site is understood to be 16 and as such ECC accept the proposal falls below the threshold level (25 new employees) for triggering a contribution to crèche provision.
- 9.10 As noted above, discussions are at present on-going in relation to the highway works and any resolution of these matters will be reported at the meeting. Underlying these discussions is the agent's assertion that the cost of the ramp is likely to be in the region of 22k. Given this cost and the limited likelihood of employees using it, they do not consider the request to be fairly and reasonably related to the proposals.

## **10.0 Background Papers**

10.1 ARC; Core Strategy; HA; HH; NR; TL; PTC

### **Recommendation**

Provided that discussions between the agent and Essex County Council Highways Department are concluded satisfactorily, it is recommended that permission be granted, subject to the following conditions:-

### **Conditions**

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

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

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

2 - C3.1 Materials (general)

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

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

### 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

Before the development is commenced the existing Colchester General Hospital Travel Plan shall be reviewed in conjunction with the planning and highway authorities, and, if necessary, amended to ensure that this proposal is in conformity with the Plan.

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

#### 7 -Non-Standard Condition

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

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

#### 8 - Non-Standard Condition

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

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

#### 9 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers guidance Notes for the Reduction of Obtrusive Light' for zone 3. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the building hereby permitted coming into beneficial use a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

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

## 10 - Non-Standard Condition

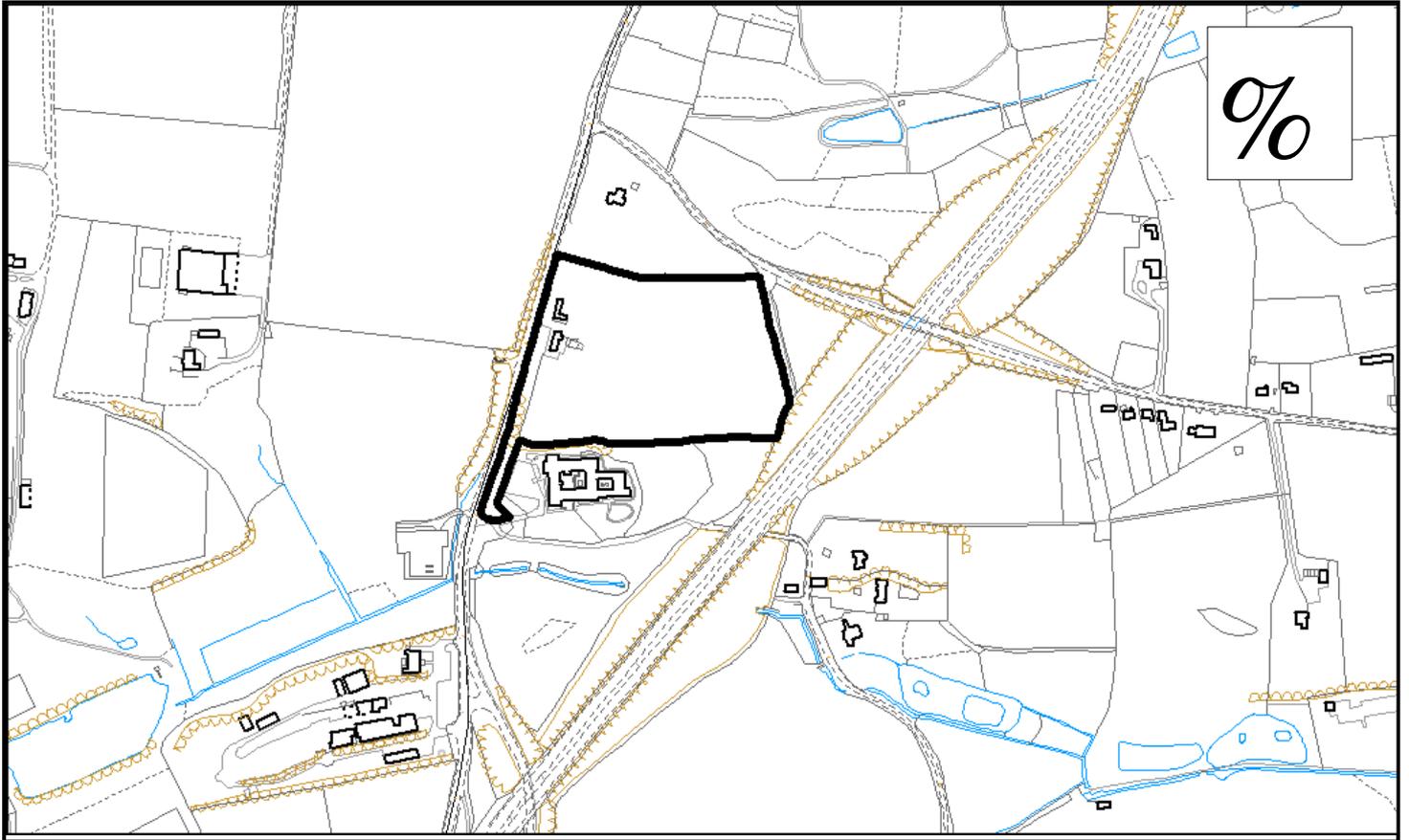
The development shall be carried out in accordance with the contamination assessment by GVA Grimley and submitted with the application. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until the developer has submitted and obtained written approval from the Local Planning Authority for an investigation and risk assessment. Where the need is identified, a written, detailed remediation scheme in relation to that contamination must be approved by the Local Planning Authority and be complied with, subject to the approval in writing of the Local Planning Authority. 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 risk to workers, neighbours and other offsite receptors.

### **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.

Your attention is drawn to the comments of the Environment Agency as set out in their letter dated 16 October 2009 (copy attached).



**Application No:** 081633

**Location:** Gun Hill Garage, Ipswich Road, Dedham, Colchester, CO7 6HR

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

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**7.2 Case Officer: Andrew Tyrrell**

**OTHER**

**Site:** Ipswich Road, Dedham, Colchester, CO7 6HR

**Application No:** 081633

**Date Received:** 13 July 2009

**Agent:** Nigel Cant Planning

**Applicant:** D Hales Limited

**Development:** Retrospective application for the erection of perimeter security fencing.

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval

## **1.0 Planning Report Introduction**

1.1 This application is one of 3 applications for the Gun Hill Garage site on this committee agenda. The applications have raised much general interest, with numerous comments being received. One recurring theme is that all 3 applications should be considered together, thus all have been included on the agenda so that a comprehensive consideration can be given to the overall site. Although it is useful to consider them as a whole, it must be noted that each application should still be determined on its merits. Therefore any refusal of one of them does not warrant refusal of the others unless there are material planning arguments against that specific proposal. In other words, each application should be considered on its own merits.

## **2.0 Site Description**

2.1 Gun Hill Garage is located at the top of Gun Hill, outside of the village of Dedham, adjacent to the A12. To the north is a protected lane, Coles Oak Lane. There is also one adjacent dwelling, Sandilands. Ipswich Road is to the west, whilst the A12 is to the east of the site. To the south, there is a residential care home.

2.2 The site changed ownership early last year. Since then, the new owners have undertaken a series of works without planning permission. These works included the replacement of the perimeter fencing, landscaping, new office buildings, and the installation of 3 tiered "racking" to store damaged vehicles. These works were the subject of enforcement investigation, which consequently led to applications being submitted to regularise the planning permissions for the site.

## **3.0 Description of Proposal**

3.1 This application relates to the perimeter fencing. This is a mixture of palisade fencing and wooden close-boarded fence. The fencing is already in situ, thus the application is retrospective.

## **4.0 Land Use Allocation**

4.1 The site lies within the Dedham Vale Area of Outstanding Natural Beauty (AONB). It is also designated as part of a Countryside Conservation Area (CCA). Nearby, to the south west, is a Site of Importance for Nature Conservation (SINC) and immediately north of the site boundary is a protected lane, Coles Oak Lane.

## **5.0 Relevant Planning History**

5.1 On 9 January 1995, the Council granted a lawful use certificate for the site for use as a car breakers yard and scrap yard for the storage of damaged vehicles and spare parts associated with the car-breaking activities. As this was a Certificate of Lawfulness there are no conditions attached to this, and the description is relatively vague. Consequently, there are limitations to the available planning controls.

5.2 Planning application 081628 gained committee approval for an extension to the main industrial building near the road frontage and for 2 additional portacabins and a shipping container. This was the most recent application until the 3 currently being considered.

## **6.0 Principal Policies**

6.1 The following adopted Local Plan policies are relevant:

- DC1 – Development Control Considerations
- CO2 – Dedham Vale Area of Outstanding Natural Beauty
- CO3 – Countryside Conservation Areas
- CO4 – Landscape Features
- CO5 - Habitats
- CO7 – Protected Lanes
- UEA11 - Design
- P1 – Pollution (general)
- P2 – Light Pollution
- P4 – Contaminated Land
- EMP4 – Employment Uses in the Countryside

6.2 In addition, the following adopted Core Strategy policies are also relevant:

- SD1 - Sustainable Development
- UR2 – Built Design and Character
- PR2 – People Friendly Streets
- ENV1 – Environment

6.3 At a national level, Planning Policy Statement 1 (PPS1) sets out the Government stance on development within the rural area, with the aim of protecting the wider countryside and enhancing its quality, character and amenity value. Local Planning Authorities are also instructed through Planning Policy Statement 7 (PPS7) to strictly control new development in open countryside and have particular regard for statutory landscape or wildlife designations.

## **7.0 Consultations**

- 7.1 The Landscape Officer surveyed the site and has concluded that the site forms part of a protected landscape with a designated AONB at a national level and CCA (assessed ALCI) at a local level and adjacent to a locally Protected Lane. The Landscape and Visual Impact Assessment (L&VIA) would appear for the most part satisfactory, however it is recommended the following points are addressed in any revision:
1. The L&VIA needs to be expanded to include reference to the Colchester Borough Landscape Character Assessment, Landscape Character Area B6 & A7, noting any relevant guidelines e.g. B6 Landscape Management Guideline 4 and giving the Landscape Strategy Objective for both areas.
  2. The L&VIA needs to be expanded to include reference to the Dedham Vale AONB & Stour Valley Management Strategy 2004-2009 as required under the CROW Act, particularly Policies LFB7 & SP8.
- 7.2 Also, regarding part 5.2 (Mitigation) of the L&VIA, in order to comply with the above and help screen long and mid-range views from the west the site frontage needs to be enclosed with native hedging with, crucially, native hedgerow trees. Also to Coles Oak Lane (view illustrated in V6) the current screen fencing needs to be proposed as enclosed with a high banded native hedge using a palette and form to complement existing distinctive landscape structure of the Protected Lane.
- 7.3 ECC Highways Authority originally believed that the application encroached into highways land contrary to the Highways Act 1980, s137. However, they have since confirmed that the land subject to the fencing has been stopped up, thus there would be no issues with the proposal to erect fencing at this site.
- 7.4 Environmental Control have requested the standard demolition and construction notes be placed on any permission.

## **8.0 Parish Council's Views**

- 8.1 Dedham Parish Council have stated that the fencing is not sympathetic to its AONB and Countryside Consideration Area setting, recommending that the colour be changed to blend in with the environment. They also requested that the landscaping scheme be agreed prior to the fencing being approved so that boundaries are well screened. They also note that the visibility splay for the adjacent property at Sandilands is now blocked by the close-boarded fence.

## **9.0 Representations**

- 9.1 Dedham Vale Society has stated that the approach to the Dedham Vale will be spoilt and the development is contrary to Policy CO2 of the Local Plan as it would undoubtedly impact upon the AONB. There is no overriding national need for it and there are alternative sites within the borough. [This is a comment on all applications at the site, not specific to the fencing],

9.2 The 13 authors of objections received have raised the following points:

1. The fencing's height and industrial nature will have an adverse impact on the AONB as it is seen from public areas (including footpath no 2 and Coles Oak Lane) and is out of keeping and unsympathetic.
2. The fence needs to be painted to blend into the countryside, perhaps camouflage or dark green matt finish.
3. Planting would help screen the site, perhaps a hedge in front of the fence or indigenous/evergreen trees.
4. The palisade fence should be matt black with thorny climbing plants grown against it.
5. The application should include a comprehensive hard and soft landscaping scheme.
6. Trees planted should be mature or at least semi-mature – not saplings
7. Proposal relies on planting outside their ownership in parts (northern area, southern view from A12)
8. Additional screening is needed to site frontage form Ipswich Road.

9.3 The wooden fencing is evidently more favourable to the palisade fencing, with some objectors accepting the wooden fence either in its current form or painted green. Thus there is some difference of opinion over this matter and some support it.

## **10.0 Report**

10.1 The fencing in its current form is not considered to be sympathetic to its AONB setting. However, the harm caused at present is considered to originate from the colour and finish of the fencing. The wooden closed boarded fence is a stark, unpainted finish that draws attention. Similarly, the palisade has not been dulled down and glints in the sun due to its metallic surfaces.

10.2 It is recommended that the colour be changed to blend in with the environment. The sheen of the palisade also needs to be addressed in painting. Therefore, a dull matt finish in a green to dark green tone would be considered more appropriate and would reduce the visual impact on the fencing. This can be secured by condition.

10.3 This would address most of the objections to the application, which relates solely to the fencing. Other objections are resolved by the additional landscaping scheme that does not form part of this application.

10.4 Should the fencing be painted, then it is considered that a green fence would not draw attention due to the natural tree cover that hides most of the site. It should also be acknowledged that this is not an opportunity to hide a site which has existed for some time, merely to make the unauthorised fencing recently placed around the perimeter of the site acceptable. There has always been some form of fencing around the site.

10.5 The fencing is already in place, therefore the standard three year time limit conditions is not necessary. This also means that the painting of the fence can not be secured prior to development, so a three month period to paint the fence is considered adequate time.

## **11.0 Conclusion**

11.1 This application relates solely to a perimeter fence, part close-boarded wooden fencing and part palisade security fencing. This fence is required due to previous thefts at the site; however the fencing that has already been erected at the site without the benefit of planning permission is not acceptable. The report above outlines conditions that could be used to make this unauthorised fence acceptable, and on the basis of these conditions the fence is considered to satisfy development plan policies.

## **12.0 Background Papers**

12.1 ARC; Core Strategy; TL; HA; HH; PTC; DVS; NLR

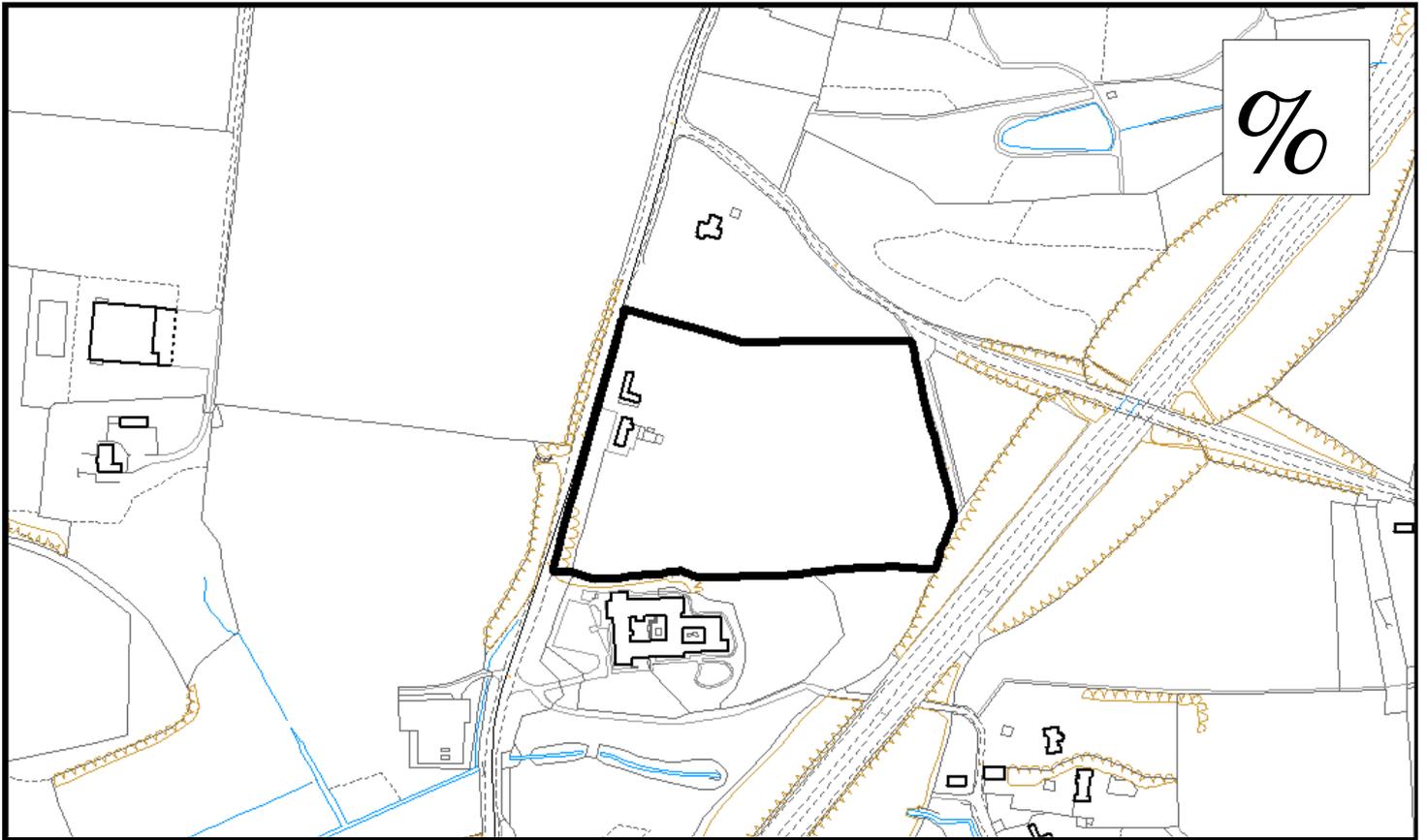
## **Recommendation - Conditional Approval**

### **Conditions**

1 - Non-Standard Condition

Unless otherwise agreed in writing by the Local Planning Authority, within 3 calendar months of the date of this permission all fencing shall have been painted in a matt finish paint of a green to dark green colour that will have been previously agreed in writing by the Local Planning Authority.

Reason: The fencing currently erected on site without the benefit of planning permission is considered to be too stark in its surrounding context and is consequently detrimental to the Area of Outstanding Natural Beauty, whereby a natural green colour would blend it into its surrounding and make the fencing acceptable.



**Application No:** 090795

**Location:** Gun Hill Garage, Ipswich Road, Dedham, Colchester, CO7 6HR

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

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### 7.3 Case Officer: Andrew Tyrrell

## OTHER

**Site:** Ipswich Road, Dedham, Colchester, CO7 6HR

**Application No:** 090795

**Date Received:** 17 June 2009

**Agent:** Nigel Cant Planning

**Applicant:** D Hales Ltd

**Development:** Construction of bunding and landscape planting (part retrospective) as resubmission of 082052.

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval

### 1.0 Planning Report Introduction

1.1 This application is one of 3 applications for the Gun Hill Garage site on this committee agenda. The applications have raised much general interest, with numerous comments being received. One recurring theme is that all 3 applications should be considered together, thus all have been included on the agenda so that a comprehensive consideration can be given to the overall site. Although it is useful to consider them as a whole, it must be noted that each application should still be determined on its merits. Therefore any refusal of one of them does not warrant refusal of the others unless there are material planning arguments against that specific proposal. In other words, each application should be considered on its own merits.

### 2.0 Site Description

2.1 Gun Hill Garage is located at the top of Gun Hill, outside of the village of Dedham, adjacent to the A12. To the north is a protected lane, Coles Oak Lane. There is also one adjacent dwelling, Sandilands. Ipswich Road is to the west, whilst the A12 is to the east of the site. To the south, there is a residential care home.

2.2 The site changed ownership early last year. Since then, the new owners had undertaken a series of works without planning permission. These works included the replacement of the perimeter fencing, landscaping, new office buildings, and the installation of 3 storey "racking" to store damaged vehicles. These works were the subject of enforcement investigation, which consequently led to applications being submitted to regularise the planning permissions for the site.

### **3.0 Description of Proposal**

- 3.1 This application is solely for works relating the earth bunds proposed at the site, as well as some landscape works. The landscape works include some remedial works to mitigate damage caused to trees T1, T6 and T7 shown on the plans. The application does not relate to fencing, racking or any other development including a new access (which was drawn in the wrong place on an early version of the landscape plans and has caused some concern).
- 3.2 In the north east corner of the site, it is proposed that an earth bund be built outside of the existing perimeter fence to help screen the site from Coles Oak Lane. This earth bund would be 3.5m wide at ground level and topped with a 1m wide native hedge.
- 3.3 In the south east corner, the views into the site from northbound traffic on the A12 are to be screened by a second earth bund. This will also be topped with a native hedge.
- 3.4 The western boundary, which fronts Ipswich Road, would be supplemented by additional planting. This would screen the site at the most visible part of the site.
- 3.5 More detail is set out on the landscape plans submitted, which can be seen on the Council's website. The latest version is drawing number LSDP 10505.01 revision E.

### **4.0 Land Use Allocation**

- 4.1 The site lies within the Dedham Vale Area of Outstanding Natural Beauty (AONB). It is also designated as part of a Countryside Conservation Area (CCA). Nearby, to the south west, is a Site of Importance for Nature Conservation (SINC) and immediately north of the site boundary is a protected lane, Coles Oak Lane.

### **5.0 Relevant Planning History**

- 5.1 On 9 January 1995, the Council granted a lawful use certificate for the site for use as a car breakers yard and scrap yard for the storage of damaged vehicles and spare parts associated with the car-breaking activities. As this was a Certificate of Lawfulness there are no conditions attached to this, and the description is relatively vague. Consequently, there are limitations to the available planning controls.
- 5.2 Planning application 081628 gained committee approval for an extension to the main industrial building near the road frontage and for 2 additional portacabins and a shipping container. This was the most recent application until the 3 currently being considered.
- 5.3 Application 082052, which was the first application attempting to offer a landscape scheme for this site, was refused last year. The reasons for refusal included that the northern boundary should be screened with a hedge, which should hide the fencing on this boundary.
- 5.4 The site has been in car-related operation since pre-1948, when the modern planning system was created. Thus, there was a lack of control over the activities from this historic use. It currently operates under a lawful use certificate.

## **6.0 Principal Policies**

6.1 The following adopted Local Plan policies are relevant:

DC1 – Development Control Considerations  
CO2 – Dedham Vale Area of Outstanding Natural Beauty  
CO3 – Countryside Conservation Areas  
CO4 – Landscape Features  
CO5 - Habitats  
CO7 – Protected Lanes  
UEA11 - Design  
P1 – Pollution (general)  
P2 – Light Pollution  
P4 – Contaminated Land  
EMP4 – Employment Uses in the Countryside

6.2 In addition, the following adopted Core Strategy policies are also relevant:

SD1 - Sustainable Development  
UR2 – Built Design and Character  
PR2 – People Friendly Streets  
ENV1 - Environment

6.3 At a national level, Planning Policy Statement 1 (PPS1) sets out the Government stance on development within the rural area, with the aim of protecting the wider countryside and enhancing its quality, character and amenity value. Local Planning Authorities are also instructed through Planning Policy Statement 7 (PPS7) to strictly control new development in open countryside and have particular regard for statutory landscape or wildlife designations.

## **7.0 Consultations**

7.1 The Arboricultural Planning Officer has stated that they agree with the findings of the Tree Survey & Arboricultural Implication Assessment. It provides sensible remedial options for the damage that may have occurred. Details of the retained arboricultural consultant and details of the report format they will be providing during remedial/further construction works is required prior to agreement. Confirmation in writing that said consultant will monitor the moving of the fencing/continued presence of protective fencing during further construction and the remedial works is also required. Conditions are recommended to secure these requirements.

7.2 The Landscape Officer has said that, regarding the Landscape & Visual Impact Assessment dated 08 March 2009, proposal drawing, and Landscape Consultation No 457/08/CON; the amended proposal would appear to satisfactorily address all the concerns raised. There are recommended conditions.

- 7.3 Essex County Council have confirmed that the land required for the earth bund is not in highway ownership and that a stopping order dated 4 June 1962 was placed on this part of Boxhouse Lane ceasing its use as a public highway. The applicants have also provided evidence of ownership. Whilst ECC have also requested conditions relating to a new access, this was drawn in the wrong place on an early version of the landscape drawings where actually there is no new access proposed nor covered by this application. Thus, these comments/conditions are not relevant and should not be attached to any permission given.
- 7.4 The Highways Agency has no objection. They have requested that they be informed of any decision made.
- 7.5 Environmental Control have requested that a standard informative relating to demolition and construction works be added to any approval.

## **8.0 Parish Council's Views**

- 8.1 Dedham Parish Council's views will be reported on the Amendment Sheet.

## **9.0 Representations**

- 9.1 The Dedham Vale Society have stated that the landscape proposals should not be approved in advance of the other applications, which is resolved by considering them all at the same time. They also remind the Council of the protection to the AONB offered by policies in the Core Strategy and other development policies.
- 9.2 The Ward Member has stated that the application is premature insofar as it seeks to hide the industrial racking on the site, which has not been approved in itself. They add that the previous application for the portacabins included a condition that these were not stacked, limiting the height to single storey, however the racks exceed this height.
- 9.3 There have been 7 letters of objection relating to this application. The issues raised include:
1. There is general concern about the phasing of the applications/ timing of decision when the racking is the main concern.
  2. The landscaping is generally not considered to be comprehensive enough.
  3. The Coles Oak Lane views from the northern boundary are not adequately screened.
  4. The landscaping relies on external factors such as unsustainable trees, whereas the applicant should be responsible for concealing their activities.
  5. This proposal should include semi-mature and mature trees of indigenous and evergreen species.
  6. The photos included with the application are from a time when foliage coverage is good, but this is misleading for the winter months.
  7. The approval of the landscaping could prejudice the case against the racking and set a precedent for the other unauthorised operations on the site.

## 10.0 Report

- 10.1 As stated above, there is general concern about the phasing of the applications. Originally, the applications for the racking and perimeter fence were submitted first. However, they were subsequently found to be invalid as they did not satisfy the requirements of the Local List. This resulted in the landscape application herein becoming valid prior to these other applications. However, they have been held together until now so that all decision can be considered at the same time. The concern seems to be based on the belief that approval of the landscaping could prejudice the case against the racking and set a precedent for the other unauthorised operations on the site. However, as each case should be determined on its own merits it is considered that even if this landscaping were approved it would not prejudice the racking. All that an approval would confirm is that these landscape works would either preserve or enhance the AONB. They are separate to any consideration of the racking, and do not therefore presume that the racking is or is not acceptable in its own right.
- 10.2 There is also concern that the landscaping is not comprehensive enough. Particular concern seems to centre around views into the site from Coles Oak Lane on the northern boundary. This is a protected lane, and part of the AONB. Previously, one of the reasons for refusing the last landscape proposal was that the fence that has been erected at this boundary is not broken up with natural screening. A native hedge was considered to be appropriate. Therefore the revised submission addresses these previous concerns.
- 10.3 In consultation on the current application, the Landscape Officer has considered the revised information with regard to the site and considers that the landscape proposals are satisfactory to ensure that there is no significant harm to the AONB. The additional bund and planting shown on the revisions to the landscape drawing, alongside the new Landscape and Visual Impact Assessment, are comprehensive enough to meet with the Landscape Officer's approval. On that basis the case officer would also recommend that the applicants have gone far enough to mitigate the harm caused by their activities. It should be remembered that the use of the site is historic; therefore completely screening the site is not something that the Council can justifiably seek to achieve. The real question is whether or not these works are acceptable on their own merits.
- 10.4 Should the Council approve this application, this does not preclude that the racking is acceptable. Merely that the landscaping would not harm the AONB. Until the landscaping reaches maturity it could still be possible to argue that this landscaping, whilst acceptable in terms of itself, does not go far enough to justify the racking (which might still have an adverse impact if the trees do not adequately screen them). This is a separate matter for consideration under application 081631.

10.5 Additionally, although in parts it might be possible to argue that the landscaping relies on external planting outside of the applicants control, it should be noted that this planting is within an AONB and therefore has protection as it is on Article 1(5) land. The fact that there is screening on land outside the applicants' control means that other people have the ability to retain planting that screens the site from view. Some of this is within public land, whilst other trees are in private ownership of third parties. The Council would be able to investigate the unauthorised removal of trees in the AONB.

## **11.0 Conclusion**

11.1 In conclusion, the Trees and Landscaping Team have stated that they are satisfied with the proposals presented for landscape works. The case officer is inclined to agree with their recommendations. Any approval would need to be subject to suitable conditions. As some of the works relates to unauthorised land movements that have occurred there is a need to ensure that the timetable for implementing the agreed works is secured, otherwise the approval of permission would not guarantee that the works would actually be undertaken.

## **12.0 Background Papers**

12.1 ARC; Core Strategy; AO; TL; ECC; HA; DVS; HH; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

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

Unless otherwise agreed in writing by the Local Planning Authority, the landscape works shall be carried out in the first planting season following this approval and shall be implemented in full accordance all respects strictly in accordance with the approved plans.

Reason: To ensure the development will be carried out as approved and to a suitable timetable as the works are required to screen the site and mitigate its currently unacceptable appearance within the Area of Outstanding Natural Beauty, as identified within the application.

##### **2 - 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.

### 3 - Non-Standard Condition

Within 3 calendar months of the date of this permission, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the Local Planning Authority.

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

### 4 - Non-Standard Condition

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

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

### 5 - 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.

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

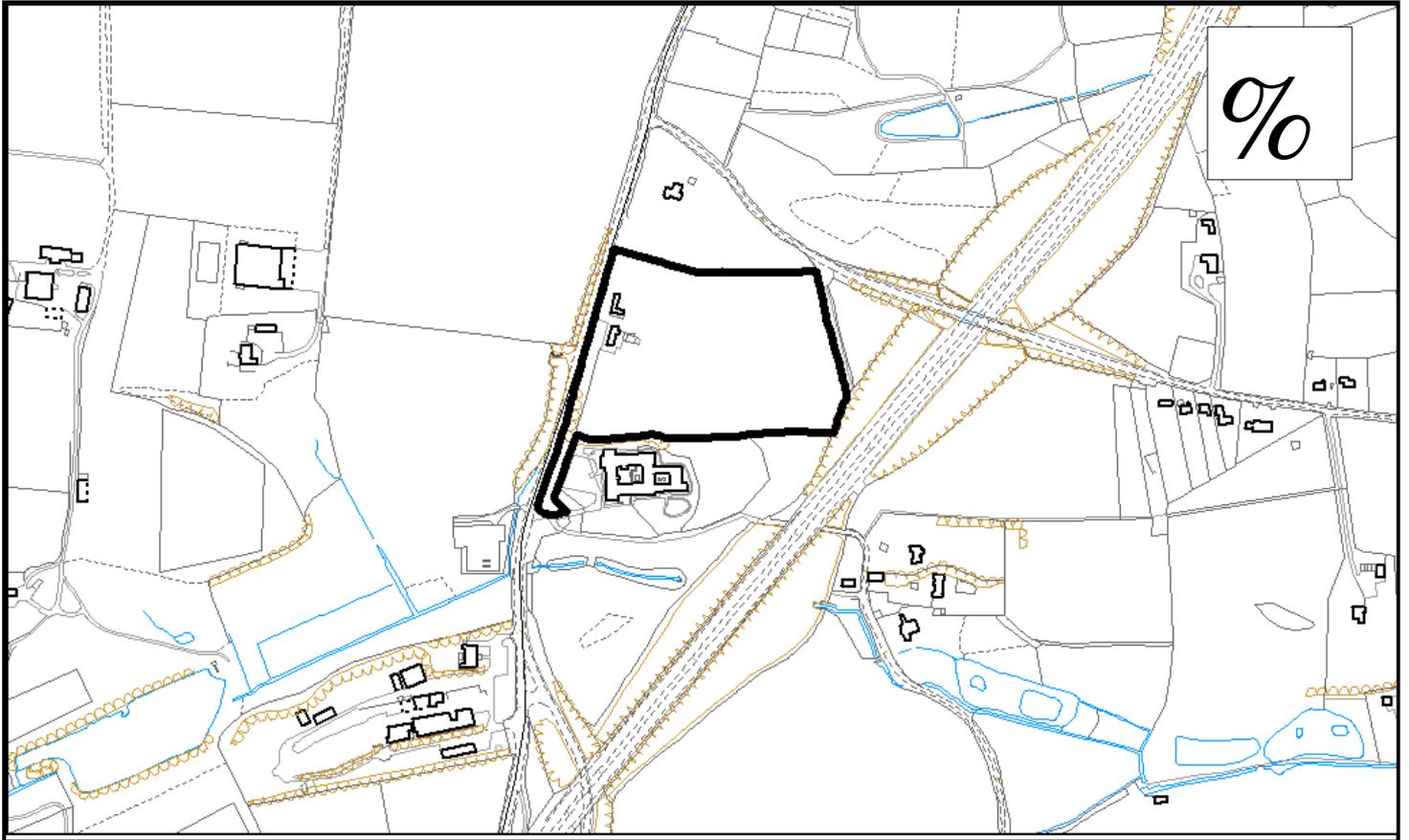
All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its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

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

### 7 -Non-Standard Condition

The approved development shall be carried out in full accordance with the Arboricultural Report submitted to and approved in writing by the Local Planning Authority.

Reason: To adequately safeguard the continuity afforded by existing trees.



**Application No:** 081631

**Location:** Gun Hill Garage, Ipswich Road, Dedham, Colchester, CO7 6HR

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

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#### 7.4 Case Officer: Andrew Tyrrell

**MINOR**

**Site:** Ipswich Road, Dedham, Colchester, CO7 6HR

**Application No:** 081631

**Date Received:** 13 July 2009

**Agent:** Nigel Cant Planning

**Applicant:** D Hales Limited

**Development:** Erection of storage racking (Part retrospective)

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval on the basis that landscaping scheme under ref: 090795 is also approved

### 1.0 Planning Report Introduction

- 1.1 This application is one of 3 applications for the Gun Hill Garage site on this committee agenda. The applications have raised much general interest, with numerous comments being received. One recurring theme is that all 3 applications should be considered together, thus all have been included on the agenda so that a comprehensive consideration can be given to the overall site. Although it is useful to consider them as a whole, it must be noted that each application should still be determined on its merits. Therefore any refusal of one of them does not warrant refusal of the others unless there are material planning arguments against that specific proposal. In other words, each application should be considered on its own merits.
- 1.2 This application was originally made in October 2008, however it was made invalid thereafter as there was inadequate information regarding the assessment of the landscape and visual impacts. At that time, the application had been called in by Councillor Garnett, for the reasons that:
1. The site is clearly visible from the AONB.
  2. It is a Countryside Conservation Area.
  3. It can be seen from public highways and footpaths, to the detriment of the users of these routes.
  4. It is an opportunity to regularise some of the site and correct a long standing intrusion into the countryside caused by the stacking of cars.

## **2.0 Site Description**

- 2.1 Gun Hill Garage is located at the top of Gun Hill, outside of the village of Dedham, adjacent to the A12. To the north is a protected lane, Coles Oak Lane. There is also one adjacent dwelling, Sandilands. Ipswich Road is to the west, whilst the A12 is to the east of the site. To the south, there is a residential care home.
- 2.2 The site changed ownership early last year. Since then, the new owners have undertaken a series of works without planning permission. These works included the replacement of the perimeter fencing, landscaping, new office buildings, and the installation of 3 tier “racking” to store damaged vehicles. These works were the subject of enforcement investigation, which consequently led to applications being submitted to regularise the planning permissions for the site.

## **3.0 Description of Proposal**

- 3.1 This application is a retrospective application for the storage racking. These racks are 3 cars high, allowing the cars to be stacked on “shelves” rather than one on top of another as was previously the case.
- 3.2 The racks are made of steel tubing, similar to scaffolding. There are 5 racks overall, set out in parallel lines. The racks run from east to west.

## **4.0 Land Use Allocation**

- 4.1 The site lies within the Dedham Vale Area of Outstanding Natural Beauty (AONB). It is also designated as part of a Countryside Conservation Area (CCA). Nearby, to the south west, is a Site of Importance for Nature Conservation (SINC) and immediately north of the site boundary is a protected lane, Coles Oak Lane.

## **5.0 Relevant Planning History**

- 5.1 On 9 January 1995, the Council granted a lawful use certificate for the site for use as a car breakers yard and scrap yard for the storage of damaged vehicles and spare parts associated with the car-breaking activities. As this was a Certificate of Lawfulness there are no conditions attached to this, and the description is relatively vague. Consequently, there are limitations to the available planning controls.
- 5.2 Planning application 081628 gained committee approval for an extension to the main industrial building near the road frontage and for 2 additional portacabins and a shipping container. This was the most recent application until the 3 currently being considered.
- 5.3 Last year, application 082052 for landscape works to attempt to mitigate the harm caused by the racks was refused. At that time, the landscaping proposed was not sufficient.

## **6.0 Principal Policies**

6.1 The following adopted Local Plan policies are relevant:

DC1 – Development Control Considerations  
CO2 – Dedham Vale Area of Outstanding Natural Beauty  
CO3 – Countryside Conservation Areas  
CO4 – Landscape Features  
CO5 - Habitats  
CO7 – Protected Lanes  
UEA11 - Design  
P1 – Pollution (general)  
P2 – Light Pollution  
P4 – Contaminated Land  
EMP4 – Employment Uses in the Countryside

6.2 In addition, the following adopted Core Strategy policies are also relevant:

SD1 - Sustainable Development  
UR2 – Built Design and Character  
PR2 – People Friendly Streets  
ENV1 – Environment

6.3 At a national level, Planning Policy Statement 1 (PPS1) sets out the Government stance on development within rural areas, with the aim of protecting the wider countryside and enhancing its quality, character and amenity value. Local Planning Authorities are also instructed through Planning Policy Statement 7 (PPS7) to strictly control new development in open countryside and have particular regard for statutory landscape or wildlife designations.

## **7.0 Consultations**

7.1 Environmental Control have no comments on this application.

## **8.0 Parish Council's Views**

8.1 Dedham Parish Council recommends refusal based on:

1. The facility being a scar on the landscape, AONB and Countryside Conservation Area.
2. The application making no reference to how contaminated soil/water run off is being treated and Blackbrook is being protected.
3. This application not including the mitigating landscape needed to totally screen the site.
4. The stacking being too high, and should be two-tier only until any planting has matured to a level where a third tier would also be screened.

8.2 The Parish Councils second letter confirmed that their views had not changed since the original submission, stating that despite the Landscape Officers satisfaction with the revised plans they expect greater screening in the north/north west sections adjacent to Sandilands, to screen the AONB.

## 9.0 Representations

- 9.1 Dedham Vale Society has stated that although the racking will make the site safer, 3 cars in height will mean that the racking is more visible. They suggest the racking be restricted to 2 tiers in height. The approach to the Dedham Vale will be spoilt unless this limitation is imposed. The development is contrary to Policy CO2 of the Local Plan as it would undoubtedly impact upon the AONB, there is no overriding national need for it and there are alternative sites within the borough.
- 9.2 Some 12 different authors have objected, although some have written twice because of the invalidation that occurred originally (which resulted in two consultation periods). Of the objections received, the following points were raised:
1. The cars are unsightly and can be seen from many public walkways in the surrounding areas, including Gun Hill, Dedham Road, Coles Oak Lane (which is a protected lane), Boxhouse Lane, as well as Footpath numbers 2 and 4.
  2. The industrial development is visible from surrounding properties.
  3. The structures and the cars on them are out of keeping with the character of the area and unsympathetic to the locality.
  4. There should be no racking at all, but if there is to be any the impact could be avoided if the racking were restricted to 2 cars in height.
  5. No additional racking should be allowed in future.
  6. Indigenous/evergreen trees are needed to screen the north, east and west boundaries.
  7. Peripheral planting of trees and hedging would help mitigate the impact of this eyesore, as could a camouflaged fence.
  8. The site use has changed and has intensified, bringing more traffic.
  9. Such large scale development should not be allowed in an AONB.
  10. Large-scale structures should not be found in high quality landscape areas as found in the case law decision of Brinkman Brothers vs Chichester District Council (A:T/APP/X98/L3815/003017/P6).
- 9.3 In addition to these comments, some objections referred to matters not directly relating to the racks themselves. These matters have not been included herein as it would cause confusion. All objections received can be viewed on the file and on the website.

## 10.0 Report

### Introduction

- 10.1 The consideration of the acceptability of the racking proposal is simplest if dealt with if considered in three complimentary stages: firstly, is it acceptable as it stands on site today? If not, then would it be acceptable if there were additional landscaping, such as the scheme covered by application 090795; then finally on the basis that if the answer to the preceding stages is no, then the final question is what would be acceptable? Depending on these answers there are various options available.

Is the racking considered to be acceptable as it stands on the site at present (i.e. with no additional landscaping)?

- 10.2 The current 3-tiered racking systems are located within the centre of the site. The racking structure itself is most notable from close view, notably from the north east, Coles Oak Lane approach, the western Ipswich Road frontage and the A12 to the south east. However, it is not just the racking itself that causes harm, but the cars that are more prominent from longer distance views. These cars were not stacked to this height prior to introduction of the racks, thus this remains a problem directly associated with the racking system.
- 10.3 It is considered this the wider impact caused by the racking means that the development is not acceptable at present. It is inadequately screened and has a wider impact on the AONB. Therefore, to be acceptable, it is considered that there would need to be suitable mitigation to reduce the impact on the Dedham Vale AONB. The question is then whether or not suitable mitigation can be achieved, has been proposed, and can be secured by condition.
- 10.4 It is the case officer's view that the racking currently causes adverse harm to the wider AONB and is not acceptable without mitigation.

Would the racking be acceptable if there were additional landscape works to screen the development?

- 10.5 As stated above, the answer to this depends on whether or not suitable mitigation can be achieved through the landscaping of the site, if there is a suitable landscape scheme that has been proposed, and if the landscape works can be secured by condition. The fact that the landscaping scheme is under a separate application somewhat confuses matters, however it is considered that this can still be handled as set out below.
- 10.6 Usually the landscape work would be secured by conditions requiring the landscaping to be agreed prior to development commencing, and then to be implemented in the first planting season following commencement of development. That is not possible on this application, as the racks are already in place. As landscaping is considered to be paramount to any approval of planning permission for the racking, it is felt that the racking should be removed unless this landscaping is provided. Therefore, the conditions used need to set out the dependence of that permission on the landscaping works being implemented in full, and within a suitable time period. Enforcement would then have to intervene if the condition was breached, and appropriate action determined in due course if it should become necessary.
- 10.7 The details of the landscape scheme are considered under application 090795. Other persons consulted have voiced concern that the landscape proposals are not adequate, however it is the view of the landscape officer that the scheme submitted is adequate mitigation for the racking system at 3-tier height. Based on this, your officers would be minded to recommend approval, with a condition that the racks are removed if the landscape scheme is not implemented in the first planting season. This is the recommended course of action. However, alternative actions are detailed below.

### What else might be acceptable if the landscaping proposed is not?

- 10.8 If the racking is considered to be too high at its current height, regardless of the landscape mitigation scheme proposed, this is not necessarily reason to refuse it outright. The Government advice set out in Circular 11/95 states that where refusal of planning permission can be avoided by use of conditions this is the route that should be taken. Thus, prior to refusing the application consideration of any conditions that could be used to make the application acceptable should be contemplated.
- 10.9 As stated above, it is the Landscape Officers opinion that the mitigation proposed in application 090795 is adequate to screen the development once established. Therefore, taking their expert advice the case officer does not recommend that the racking is conditioned to a lower height. However, if members do not agree then consideration should be given to limiting the height of the racks to two tiers in height rather than refusal. If the third tier is considered to be the one causing the most harm, which is a common theme of objections received, then Members could request a condition to restrict the height of the racking rather than refuse it outright. The applicants will still be able to appeal against such a condition if they feel it unreasonable, however the focus of the appeal would be more precise. This would be more reasonable than outright refusal, and should avoid any costs implication should an appeal be allowed, as the Council would have demonstrated rationality.

### Landscape Implementation

- 10.10 Due to the fact that the applicant has chosen to submit the proposals under three separate applications there are problems over which conditions can be used on which decision. A condition must relate to the development proposed, therefore in separating the application only conditions relating to each individual application can be used. This means that a condition placed on this application relating to the landscape works would be unlikely to pass the "six tests" for validity of planning conditions as it does not relate to the development proposed herein, but another application.
- 10.11 It is proposed that to tackle this problem the racks only be granted on a temporary permission. Granting a temporary permission for the racking at 3-tier height would allow time for the landscape proposal to be implemented. When the temporary permission expires, a permanent permission could be considered. At that time, the Committee could consider a fresh application and at that time either approve or refuse it on a permanent basis. This also provides reassurance that the applicant will pursue the landscape proposal to the best of their effort; as if this has not been implemented then it would be a firm foundation for refusing permanent permission for any racking. If the applicants have not implemented the landscape works necessary to screen the works then any subsequent applications could be refused on the basis that the applications had not secured adequate mitigation to allow permanent racking at the site.

## Other

- 10.12 The common theme of objections was that cars are unsightly and can be seen from the surrounding areas/properties. Such large scale development should not be allowed in an AONB. If it were allowed then the height should be reduced and there must be landscaping to screen it. Reference was also made to the case law decision of Brinkman Brothers Vs Chicester District Council (A:T/APP/X98/L3815/003017/P6). This relates to poly tunnels that cover large areas of land. However, the sentiments of the comments are acknowledged and the response set out by the report and recommendations is with the objection comments in mind.

## **11.0 Conclusion**

- 11.1 In conclusion, based on the Landscape Officer's assessment of the mitigation proposed in application 090795, it is considered that the racking system already constructed at the site would be acceptable if the specified mitigation were provided through landscape works. These works would be required to be carried out in the first planting season, and then protected in perpetuity by conditions placed on that approval. Thus, provided that conditions placed on this permission ensure that the racks are removed if the planting is not implemented than the long term establishment of the planting, and subsequently the future screening of these racks, would be secured.
- 11.2 If members believe that the racks should be reduced to two tiers rather than three then the conditions below would need to be amended to reflect this. This should be explored prior to refusal, but if it were still considered that two-tier height racking would not be acceptable then reasons for refusal would need to be based on this application not including adequate landscape measures within the application to ensure that this particular proposal did not have an adverse impact on the AONB.
- 11.3 It is considered that there are conditions available that would secure an acceptable scheme.

## **12.0 Background Papers**

- 12.1 ARC; Core Strategy; HH; DVS; PTC; NLR

## **Recommendation**

Given the above, the application is recommended for approval. This approval is recommended only on the basis that the landscaping scheme submitted under separate cover (090795) is also approved, and subject to conditions set out below to ensure that if that permission were not implemented then the racks would be removed.

## **Conditions**

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

The development hereby permitted shall be removed on or before January 1st 2011, unless otherwise agreed in writing by the Local Planning Authority.

Reason: This application does not contain any mitigation measures within it to ensure that the racking system is not detrimental to the AONB, instead it relies on other applications that can not be secured by conditions herein, and no Legal Agreement has been offered to link the applications; therefore, only a temporary permission can be granted at the current time until adequate landscape mitigation has been secured to make this development acceptable on a permanent basis.

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

The development hereby approved shall be no more than 3 tiers in height, and shall have no more than 3 cars stacked above one another.

Reason: For the avoidance of doubt as to the scope of this permission, as this is considered to be the maximum height that would be acceptable in the Area of Outstanding Natural Beauty without harm to the surrounding area by virtue of increased visibility from mid-long distance views.

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

No additional storage racking shall be erected at the site unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission, as further racking would be closer to the boundaries of the site and could be detrimental to the Area of Outstanding Natural Beauty by virtue of increased visibility from mid-long distance views.



**7.5 Case Officer: Nick McKeever**

**OTHER**

**Site:** Mersea Road, Abberton, Colchester, CO5 7NR

**Application No:** 091226

**Date Received:** 25 September 2009

**Agent:** Johnson Dennehy Planning Partnership

**Applicant:** Mr & Mrs Mussi

**Development:** Alterations and extensions to existing dwelling house to include creation of natural wildlife conservation water feature

**Ward:** Pyefleet

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 The following information is reproduced from the Design & Access Statement that accompanies the application:-

“The site of Oxley House, Mersea Road, Abberton has an area of approximately 7.7 hectares (19 .1 acres) and enjoys a frontage to Mersea Road of approximately 25 metres (80 ft). The site is 'L' shaped with the east/west leg 320 metres (1050 ft) in length and the north/south leg some 420 metres (1400 ft) in length.

At present the site is occupied by a single detached part two storey, part single storey dwelling known as Oxley House.

The proposals involve the demolition of a single storey storage building attached to the north elevation and the provision of a single storey extension comprising dining area, lobby, bootroom, cloakroom and new boiler room having an overall floor area of 54 square metres (580 sq ft), In addition a double width carport and single garage will be constructed on the east elevation comprising 72 square metres (770 sq ft).

The existing double garage currently within the main body of the existing dwelling will be converted into a study and the existing boiler room within the present garage will be relocated. The existing garage and boiler room comprise 32 square metres (350 sq ft).

In addition to the alterations and extension to the dwelling house the clients wish to take this opportunity of creating a natural wildlife conservation water feature on land to the west of the existing dwelling comprising a pond and island covering some 0.3 hectares as shown on the accompanying plans.

The single storey extension will have a traditional flat roof to match existing with a black stained weatherboarded fascia capped with aluminium angle trim. The walls will be constructed in facing brickwork to match existing and all new glazed openings will be framed in white powder coated aluminium to match existing.”

1.2 The Design and Access Statement includes a particularly detailed section on biodiversity and creation of wildlife habitats in relation to the creation of the pond/water feature. The Design and Access Statement can be viewed in full on the Council website.

1.3 The application is also supported by an Environmental Desktop Study. This Study concludes that the proposals would be possible without conflicting with any contamination issues.

## **2.0 Land Use Allocation**

2.1 Abberton Village Envelope  
Countryside Conservation Area/Langenhoe Coastal Farmland (CBC Landscape Character Assessment)

## **3.0 Relevant Planning History**

3.1 None

## **4.0 Principal Policies**

4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
H8 – Extensions to dwellings in the countryside  
H12 – Extensions to gardens in the countryside

4.2 Core Strategy  
ENV1 & ENV2

## **5.0 Consultations**

5.1 The Spatial Policy Team consider that this application does not raise any substantive issues of a policy nature. The application site lies outside of any settlement boundary and is within a Countryside Conservation Area. The application should be considered in relation to Policy ENV1 in the Core Strategy and the Landscape Character Assessment. Local Plan policies H8, CO3 and CO5 are saved policies and are also relevant to the proposal.

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

6.1 Abberton Parish Council has no objections.

## **7.0 Representations**

7.1 Three letters have been received. One of these is in support of the proposal. The comments in the remaining two are summarised as follows:-

- Is the application for a change of use from agricultural land to private amenity land? The plans show the areas around the water feature as 'private amenity areas'. It is considered that the land is classed as agricultural.
- What provision is made for filling ponds – natural, bore hole or spring?
- What provision for overflow – underground, or new ditch and where will it link to neighbouring downhill property.

## **8.0 Report**

8.1 It is considered that the single storey addition to the dwelling does not raise any issues in terms of the relevant Local Plan Policy H8. The flat roof is in keeping with the character and appearance of this 1960's style property. The extension is also compliant with Policy UEA13 in that it will not have any impact upon residential amenity. The nearest residential property, Manwood Tye, is located approximately 120m to the east.

8.2 The comments of the neighbours regarding the use of the land where it is proposed to locate the pond/water feature are appreciated, given that the area around the feature is shown on the drawings as being 'private amenity area'. Whilst the land at Oxley House was, and remains, used for agriculture (Orchards), the land immediately adjacent to the rear of the house contains an area of lawn with no intervening enclosures in between. Beyond this grassed area lies a small belt of fruit trees but these appear to be neglected and not used productively as part of the overall agricultural use. In essence this area has a domestic appearance and relates intimately to the use of the dwellinghouse. On this basis it could be regarded as being part of the domestic curtilage. In this respect it is distinct from the remaining land. The remaining areas of orchard are physically separated either by established trees (i.e. other than fruit trees) or by the access road to the house. The submitted drawings show this relationship very clearly.

8.3 Notwithstanding these characteristics, it is acknowledged that the proposed use of this nature is in keeping with its overall rural setting and will encourage the biodiversity of this area. In this respect it is acknowledged that the Design & Access Statement covers in considerable depth this particular matter. On this basis it is compliant with the Local Plan Policy H12 and the Core Strategy ENV1.

8.4 The application does not provide details of the drainage or water sources appertaining to the pond/water feature, other than a sustainable drainage system is to be used. Further clarification is being sought and will be made available for presentation to the Committee.

## **9.0 Background Papers**

9.1 ARC; Core Strategy; PP; PTC; NLR

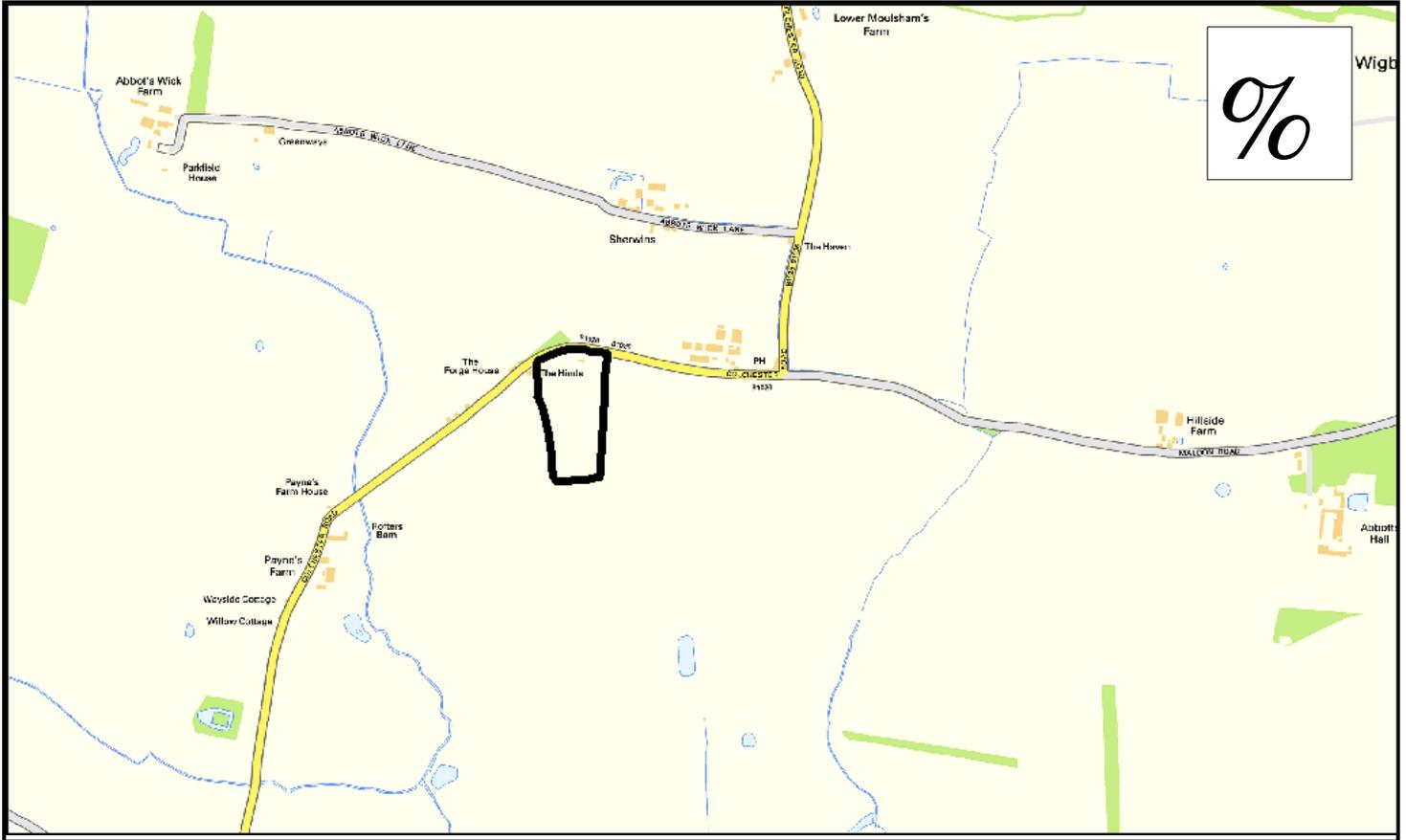
## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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



**Application No:** 091245

**Location:** Bellwood, Colchester Road, Great Wigborough, Colchester, CM9 8HG

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

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## 7.6 Case Officer: Nick McKeever

## OTHER

**Site:** Bellwood, Colchester Road, Great Wigborough, Colchester, CM9 8HG

**Application No:** 091245

**Date Received:** 6 October 2009

**Agent:** Mr Laurance Hunnaball

**Applicant:** Mr Sean Parrish

**Development:** Proposed conservation woodland and meadow with support facilities

**Ward:** Birch & Winstree

**Summary of Application:** Conditional Approval

### 1.0 Site Description

- 1.1 The site is a 2.76 ha parcel of agricultural land located within an area of open countryside between Great Wigborough to the east and Salcott cum Virley to the south west. To the west is a small group of dwellings, to the east is Brooklyn Farm and the former Kings Head P.H. (now converted into a dwellinghouse).
- 1.2 The site currently contains an unauthorised mobile home with associated gravel hardstanding, together with an open-sided structure used to provide shelter for a tractor used by the Applicant to maintain the land. The Applicant currently resides in the mobile home.
- 1.3 The site is accessed via an existing farm access onto the Colchester Road, located adjacent to the eastern corner of the site. To aid road safety it is proposed to recess the existing field gate further into the field to enable a vehicle to pull into the site in order to open and close this gate.
- 1.4 The frontage of the site onto the Colchester Road was until recently enclosed by an established hedge which contains a high percentage of elm trees. The elms are diseased and, with the help of the tree specialists at Essex County Council and Colchester Borough Council, the applicant has stated that a programme is in place to repair and maintain all boundary hedgerows.

### 2.0 Land Use Allocation

- 2.1 The Proposals Map - Adopted Review Colchester Borough Local Plan shows this land as forming part of a Countryside Conservation Area.
- 2.2 The Colchester Council Landscape Character Assessment defines this area as forming part of Great and Little Wigborough Coastal Farmland.

### **3.0 Relevant Planning History**

- 3.1 75/0259 – Erection of bungalow. Refused 28 April 1975
- 3.2 071709 – Use of agricultural land as Trout Farm and monitoring accommodation. Refused 12 November 2007. Dismissed on appeal 13 January 2009.
- 3.3 090342 – Application for temporary use of mobile home as monitoring accommodation for free range chicken unit, siting of 3 mobile chicken houses, erection of tractor shed, brood and feed shed. Refused 16 July 2009.

### **4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Landscape Features - CO4  
Nature Conservation – CO5
- 4.2 LDF Core Strategy  
Environment – ENV 1 & ENV2

### **5.0 Consultations**

- 5.1 The Highway Authority observes that the Applicant intends to remove the mobile home and that there will be no residential occupancy whatsoever of the site. In the absence of any information relating to the type of equipment to be stored in the implement shed, the Highway considers the dimensions of the implement store and toilet building to be excessive. If the local planning authority is satisfied that the size of the buildings are commensurate with their proposed use and are minded to recommend approval, the Highway Authority would not wish to object to the proposals as submitted.

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

- 6.1 Winstred Hundred Parish Council comments are as follows:-

"The Parish Council strongly objects to this application.

The entrance to this field lies on the inner curve of a fast bend on a road which at this point is only subject to the national speed limit. Despite the owner removing all his hedge recently the visibility from the gate to the right is very poor. The access is really only suited to occasional agricultural use. We fear that a serious accident will eventually happen here. Perversely the removal of the hedge has probably made traffic move even faster along this part of the road. The existing pole bam is in the line of sight for road users and if it remains in its current state or is developed into a tractor store as per the application it will constitute a traffic hazard.

We cannot support the proposals to allow three buildings on this site. If onsite storage is deemed necessary the tractor shed and implement store should be combined away from the roadside. We do not see the necessity for a permanent toilet/washroom building and believe that both the implement store and toilet building are excessively large.

The site lies in rural surroundings outside any village envelope and is within the Coastal Protection Belt. Colchester Borough's Adopted Core Strategy states that development that would adversely affect the open and rural character of areas within the Coastal Protection Belt will not be permitted.

The planting of trees as described in the application could be seen to breach this prohibition. While the Parish Council is not unhappy with the concept of tree planting, if permitted, it feels that the hard standing associated with the presence of the mobile home currently on the site should be removed and the area re-seeded. The site cannot qualify as an exception site in a rural area since there are no local facilities or services.

We believe that the only practical and acceptable future for this site is for it to be returned to its original agricultural use."

## **7.0 Representations**

7.1 None

## **8.0 Report**

- 8.1 The planning history on this site has a significant bearing upon this current proposal. In essence Mr Parrish has lived in a mobile home stationed on this site since 2005, the mobile home being located close to the site frontage. An appeal against an Enforcement Notice requiring the cessation of the land for the siting of a residential mobile home and associated development (hardstanding and the installation of a septic tank) was dismissed on 20 December 2005. The continued siting and occupation of the mobile home is the subject of on-going enforcement action.
- 8.2 Earlier this year, following the refusal of the application 090342, Mr Parrish completed an Undertaking to remove the mobile and to cease any residential use of the land. As part of this document he stated his intention to submit an application for the retention of the existing tractor shed, hardstanding and septic tank; hence the current application.
- 8.3 The proposals to use the land for the planting of trees to form a woodland habitat, together with a meadow area and a drainage pond, are in keeping with the rural setting. The woodland planting and meadow do not by themselves constitute either development or a change of use of the land and as such do not require planning permission.
- 8.4 Under the Town and Country Planning (General Permitted Development) Order 1995, Part 6 Agricultural Buildings and Operations, the erection of buildings on agricultural land of less than 5 hectares is not permitted development. On this basis the retention of the existing tractor shelter, together with the erection of the two other buildings, require planning permission.
- 8.5 In this context the two main issues are the siting and design of the buildings and the impact of them upon this rural landscape.

- 8.6 In terms of the external appearance and design of these buildings, they are commensurate with their setting, although the use of mineral felt roofs on the implement store and wc/washroom buildings is not acceptable. The roofs should either be clad in a black corrugated sheet material or a fibrous cement slate. If Members are minded to approve this application it should be conditioned accordingly.
- 8.7 It is noted that the implement storage shed is to be located a considerable distance from the road (approximately 230m as scaled from the submitted drawings) and adjacent to an existing boundary hedge. It will, therefore not appear as a significant structure when viewed from the Colchester Road.
- 8.8 The other two buildings are located in close proximity to the Colchester Road and until recently would have been screened to an extent by the established hedge and trees that enclosed the site frontage. Notwithstanding this, the proposed wc/washroom building with the dimensions of 3.9m x 2.7m and 3.35m in height, is a particularly modest structure. Whilst the tractor shelter is a larger building it is nonetheless relative modest, with an overall height of 3.85m, in comparison to the scale of modern agricultural buildings.
- 8.9 The application states that it is the intention to maintain the existing hedgerow and trees in accordance with general practice.

## **9.0 Conclusion**

- 9.1 It is considered that the proposed woodland planting and meadow do not require planning permission and , together with the drainage pond, will add to the biodiversity and can be supported on this basis. In any event these features are in keeping with the rural landscape. The buildings in terms of their scale, external appearance or, in the case of the implement storage shed, the remote location from the road and public views, will not have a significant or detrimental impact upon this rural landscape.
- 9.2 Permission is recommended subject to conditions relating to the approval of the external materials.

## **10.0 Background Papers**

- 10.1 ARC; Core Strategy; HA; PTC

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

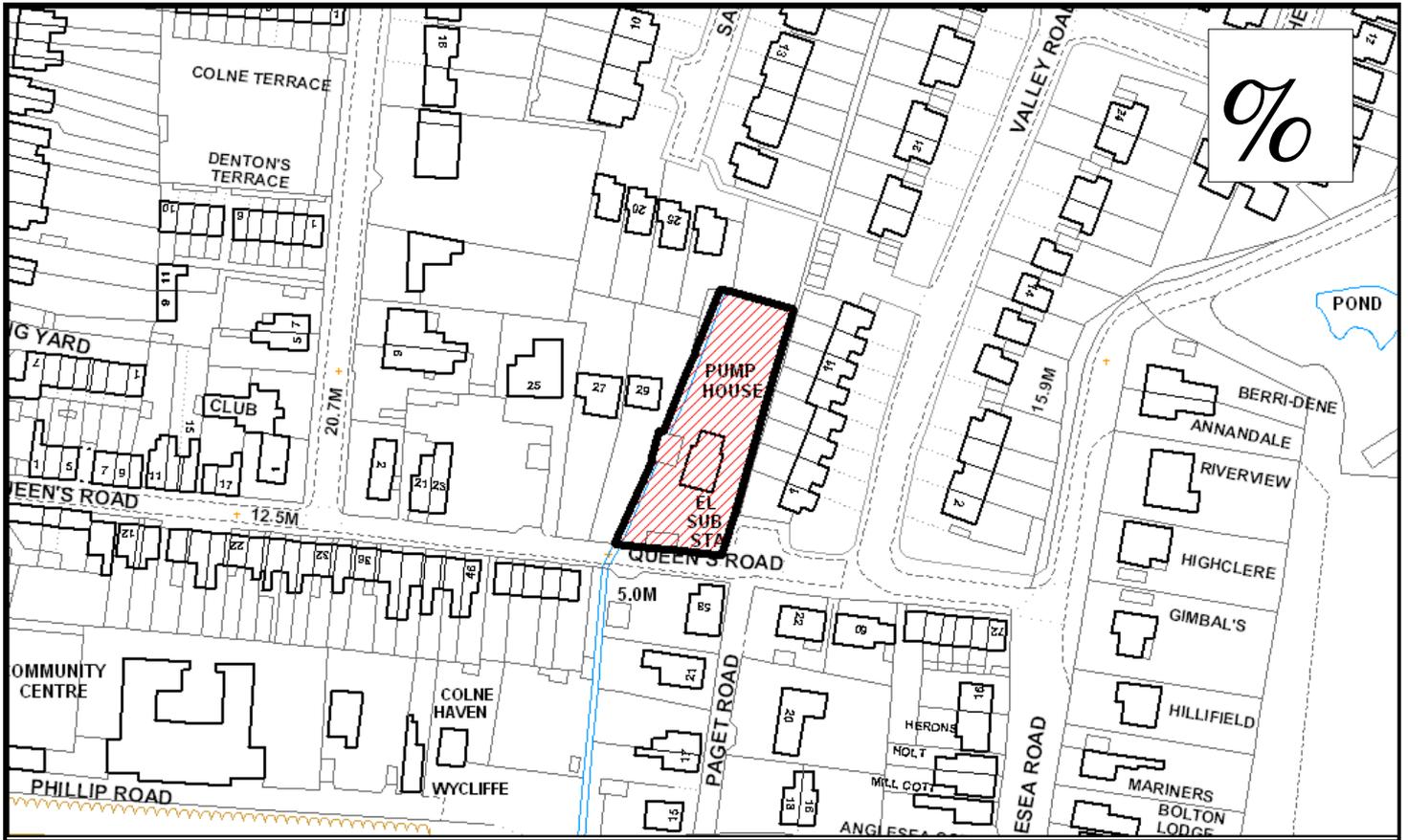
## 2 - Non-Standard Condition

Notwithstanding the external materials specified in the application or as shown on the drawings hereby approved the buildings shall be clad in timber, black stained featheredge weatherboarding, and roofed in black finished corrugated sheeting or slate or other material as may be agreed in writing by the local planning authority but excluding mineral roof felt.

## 3 - Non-Standard Condition

The existing mobile home and associated domestic paraphernalia shall be removed from the site prior to the use of either the implementation storage building or the wc/washroom building, in accordance with advance notice in writing to the local planning authority of the substantial completion of either of these buildings, or within a period of 3 months from the date of this permission, whichever is the sooner.

Reason: In the interest of the visual amenity of this rural area.



**Location:** The Pump House, Queens Road, Wivenhoe, Colchester, CO7 9JH

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

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3 December 2009

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Andrew Tyrrell</b>
<b>Title</b>	<b>High Hedge Complaint</b>		<b>☎ 282390</b>
<b>Wards affected</b>	<b>Pumphouse, Queens Road, Wivenhoe</b>		
	Wivenhoe Quay		

**This report concerns a high hedges complaint under the Anti-Social Behaviour Act 2003 by Mr Shirley of 5 Valley Road regarding a high hedge at The Pumhouse, Queens Road, Wivenhoe**

## 1.0 Decision Required

1.1 That the Committee authorise the serving of a Remedial Notice securing the reduction of the height of the hedge and maintenance at a height of not less than 5.88m in perpetuity.

## 2.0 Introduction

2.1 This report refers to a high hedges complaint made under Part 8 of the Anti-social Behaviour Act 2003, not a planning application. The Anti-social Behaviour Act 2003 does not specify which department within the Council should carry out this function. However, at Colchester Borough Council the function is completed by the Planning Service. The Council's role is to adjudicate on whether the hedge is adversely affecting the reasonable enjoyment of the complainant's property. In doing so, the Council must take account of all views and relevant factors, including the hedge owner's amenity and that of the wider neighbourhood. The scheme of delegation does not confer powers to officers to determine, thus a formal decision should be made by the planning committee.

2.2 The complaint is regarding a high hedge belonging to Mr Morris, resident of The Pumhouse, Queen's Road, Wivenhoe. The complainant is Mr Shirley, a resident in an adjacent property at 5 Valley Road, Wivenhoe. The complaint was made on 15 June 2009, and is founded on the argument that the hedge in question blocks light to the garden and windows of 5 Valley Road. The complaint is Colchester Borough Council reference 208133.

## 3.0 Assessing the Complaint

3.1 Based on its composition, form, growth habit, and past management the hedge subject to this complaint is considered to be a "high hedge". The key question is whether the hedge is capable of obstructing light or views. The answer to this is considered to be yes, as the leylandii hedge appears as a solid green wall. In such circumstances, the matter is straightforward: the hedge is evidently capable of blocking light or views. The question is whether or not it actually does.

- 3.2 In line with good practice, Planning and Arboricultural Officers visited the complainant to establish the nature of the problem and what has been done to try to settle the matter through negotiation. The owner of the hedge was also visited. Having discussed the matter with both parties it is clear that relations had broken down between the two parties and there was no more that could be done to resolve the dispute amicably.
- 3.3 It is not the role of the Council to mediate directly in high hedge disputes. Thus, it was decided that the hedge and its impact should be measured to determine whether or not it met with regulations guidelines or whether it should indeed be reduced in height. The calculation for establishing whether or not the hedge causes any adverse impacts are set out in the regulations, forming an objective calculation based on orientation, hedge height, distance to windows and distance to gardens. The measurements necessary to make this calculation were taken on 14 July 2009.
- 3.4 It was concluded that the hedge is sited approximately 10m from the rear elevation of 5 Valley Road and sited westward of this site. There is a footpath running alongside the hedge, between the hedge and the complainants' rear boundary. The garden of the complainants' property is approximately 8.85m in depth and is also approximately 6m in width.
- 3.5 The hedge was just less than 6m in height at this date, although there was some small variation along its entirety, and in parts it was as low as 5.8m. It should also be noted that the hedge is situated on land that lies approximately 1.05m lower than the complainants' property and garden.

#### **4.0 Obstruction of Light: Windows**

- 4.1 The British Standard *Lighting for buildings: Code of practice for daylighting* (BS 8206 Part 2) sets the standard for what is a reasonable amount of daylight and sunlight for people to receive in their houses. It works on the basis that properties should receive sufficient natural light during daylight hours to enable normal domestic tasks to be carried out without eyestrain. Additional guidelines on hedge height and light loss from the Building Research Establishment (BRE) also devised a method for calculating what height an evergreen hedge should be in order to deliver to the windows of a house the amount of daylight and sunlight recommended in the British Standard. They are intended for use in analysing the effect on the main rooms of a house (including living rooms, dining rooms, kitchens and bedrooms) and apply whether the hedge is opposite or to one side of the window, or at an angle to it. The guidelines also suggest suitable adjustments if the land is sloped or if the hedge is set back from the boundary.
- 4.2 Based on the BRE guidelines for assessing whether a hedge is obstructing light to windows, it was concluded that the hedge needed to be retained at a height of no more than 13.05m in height. This calculated height is more than twice that of the hedge as observed in July.

## **5.0 Obstruction of Light: Gardens**

- 5.1 The British Standard *Lighting for buildings: Code of practice for daylighting* (BS 8206 Part 2) does not apply to gardens. However, the BRE guidelines on hedge height and light loss therefore include a new method for calculating whether an evergreen hedge is likely to cause a significant loss of light to a nearby garden. The approach is based on the daylight and sunlight received in the garden as a percentage of that on unobstructed ground, over the whole year. The BRE guidelines apply to any type of garden, including small back yards with no lawn. Allowance is made for existing obstructions, such as the house and boundary fences, which could increase the relative impact of a hedge. Suitable adjustments are suggested to take account of sloping sites or where the hedge is set back from the boundary. The BRE guidelines have been refined and revised in the light of consultation and field testing. They provide the best available means for assessing the impact of a high hedge on light to a garden.
- 5.2 Applying the above standards concluded that there was a negative impact on the rear garden of 5 Valley Road should the hedge be more than 5.88m in height.

## **6.0 Action**

- 6.1 Since these measurements were made the complainants and the owner of the hedge were both notified of the findings. It was made clear in writing that the Council may, if they consider the circumstances justify it, issue a notice requiring the owner or occupier of the land where the hedge is situated to take action to remedy the problem and to prevent it recurring. This is known as a "remedial notice". However, prior to serving and Remedial Notice the owner of the hedge was invited to cut the hedge voluntarily. The first letter sent by the Council was dated 14 July 2009.
- 6.2 In the following weeks, Mr Morris obliged in part by cutting the hedge to a lower height. However, the hedge was not cut along its entirety, leaving the section of hedge running adjacent to 5 Valley Road at its previous height. This was subsequently monitored by the case officer.
- 6.3 On 25 September 2009 a second letter was sent to Mr Morris repeating the request that the rest of the hedge be cut. Following this letter, the case officer visited the site again at the start of October 2009. At the visit, Mr Morris had constructed a pole to a height of 5.88m which was held against several parts of the hedge. It was agreed that Mr Morris would cut the remainder of the hedge to a lower height. However, this has not yet occurred.
- 6.4 Any voluntary action does not resolve the need for a Remedial Notice to formalise the findings of the high hedge complaint in any case. Therefore, Mr Morris was told to expect a formal decision in due course.

## **7.0 Conclusion**

- 7.1 To conclude, the hedge meets the criteria for being considered a high hedge. Calculations taken by officers have found that the hedge should be maintained at a maximum height of no more than 5.88m. To date, the hedge has not been maintained at this height.

- 7.2 It is now recommended that a remedial notice be served on Mr Morris, ensuring that the hedge be maintained at a height of less than 5.88m in perpetuity. In line with the guidelines, the growth of the hedge should be compensated by initial cutting being set to a height 60cm lower than the maximum height; therefore the remedial notice should specify that the hedge is initially cut to 5.28m in height as measured from ground level at any place along the hedge immediately below it. The height at which the hedge should be maintained thereafter is 5.88m.
- 7.3 Any such Notice may thereafter be enforced through criminal prosecutions and/or by the Council entering the land and carrying out the necessary work if the owner or occupier fails to do so.

## INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

## INTERNAL CONSULTEES

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

## REPRESENTATIONS ETC

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

## EXTERNAL CONSULTEES (2 character codes)

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



## **Colchester Borough Council Environmental Control**

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

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

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

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

#### **Noise Control**

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

## **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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