

# Planning Committee

Town Hall, Colchester  
20 August 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!

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## Private Sessions

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

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## **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  
20 August 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 - 9**

To confirm as a correct record the minutes of the meeting held on 6 August 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. 090843 Greenways, St Fillan Road, Colchester (St John's) **10 - 18**

Proposed additional partial basement and other minor amendments to previous scheme for a 66 bedroom care centre approved under application no. 090215.

2. 090498 Avon Way House, Avon Way, Colchester, CO4 3TZ (St Andrew's) **19 - 35**

Erection of 133 new student bedrooms in 30 flats split into 6 no. separate buildings.

3. 090800 Villa 7, Turner Village, Turner Road, Colchester, CO4 5JP **36 - 45**

Replacement building on the site of Villa 7 Colchester General Hospital. New building to be used for health related, educaation, training and research.

4. 090829 Glance Lodge, De Vere Lane, Wivenhoe, CO7 9AU (Wivenhoe Quay) **46 - 54**

Erection of a detached dwelling with associated parking facilities.

5. 090874 North Lane, Marks Tey, Colchester (Marks Tey) **55 - 59**

Continued use of site as a temporary public pay and display car park for a 3 year duration (previously approved under C/COL/05/1918).

6. 090880 St John's Shopping Centre, St John's Walk, Colchester (Castle) **60 - 65**

Erection of redbrick wall and automated decorative steel double

gates across entrance of rear access road to St John's Shopping Centre, together with an automated system to comprise amaglock with push button to exit and key pad to enter/fob reader, resubmission of 090649.

7. 090884 42 Peppers Lane, Boxted, Colchester, CO4 5HL  
(Fordham and Stour)

**66 - 70**

Variation of condition 1 (The buildings hereby permitted shall be used solely for the stabling of horses and storage of associated equipment and foodstuffs in connection with and for the private and personal enjoyment of the occupants of the application property. No commercial uses including a livery, riding school, industrial or other storage uses shall take place whatsoever) of planning approval 072199 to allow the owners of the adjacent property to keep a horse at the stables for private use.

8. 090811 Church Lane, Little Tey  
(Marks Tey)

**71 - 75**

Retention of earth bund for temporary period of three years.

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

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



**PLANNING COMMITTEE  
6 AUGUST 2009**

*Present :-* Councillor Stephen Ford\* (Chairman)  
Councillor Sonia Lewis\* (Deputy Mayor)  
Councillors Helen Chuah\*, Mark Cory\*,  
John Elliott\*, Theresa Higgins\*, Jackie Maclean,  
Jon Manning\* and Ann Quarrie\*

*Substitute Members :-* Councillor Laura Sykes  
for Councillor Mary Blandon\*  
Councillor Richard Martin  
for Councillor Andrew Ellis\*  
Councillor Peter Higgins  
for Councillor Ray Gamble

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

### **63. Minutes**

The minutes of the meeting held on 23 July 2009 were confirmed as a correct record.

### **64. 090331 Ribbons, Maypole Road, Tiptree, CO5 0EJ**

The Committee considered an application for the construction of a new two bedroom detached bungalow in the rear garden of Ribbons, Maypole Road, Tiptree. 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 refused on the grounds that it is contrary to policies PPS1, PPS3, UR2 of the Core Strategy and DC1 and UEA11 of the Local Plan, specifically:

- the principle of backland development is considered to be unacceptable, irrespective of the adjacent site;
- the proposal fails to meet current highway safety requirements by depriving the existing dwelling of a workable vehicular access and could result in vehicles having to wait within the carriageway while opposing vehicles leave the existing access;
- the proposal fails to provide a workable vehicular turning space for the

new property so vehicles cannot enter and leave the property in a forward direction; and

- the proposal does not provide the minimum amenity space.

**Councillor Theresa Higgins and Councillor Jackie Maclean (in respect of her acquaintance with the applicant) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**65. 090738 and 090739 Green Farm Barn, Copford Green, Copford**

The Committee considered a planning application and a listed building application for a full repair to the main barn and a subsidiary barn, the demolition of a large modern granary structure and two small modern outbuildings and the conversion of the main barn to a residential use and conversion of the subsidiary barn to a commercial drama studio. The two applications are resubmissions of 082059 and 082060 respectively. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. With respect to the barn conversion to a dwelling, it included the insertion of full height glazed midstreys to get as much light into the building. As much as was possible of the volume of the internal space would be retained. Bedrooms and bathroom would be located at first floor level. With respect to the conversion of Barn 2 to a drama studio, it comprised a service area, a studio area and car parking. There was a service road around the perimeter of the site with an entrance/exit onto the highway at each end, and the Highways Authority required service vehicles to enter at one entrance and leave by the other in the same direction. An attempt had been made to find an alternative commercial use for the listed barn to maintain the structure which had failed.

Members of the Committee were concerned about the potential for noise nuisance from the proposed drama studio and preferred that it be sound proofed to avoid the risk of such nuisance occurring in the future. It was also suggested that more recent technology had overtaken CD players and these should also be included in the condition regarding the use of voice/music players. It was explained that it would be possible to add a condition for soundproofing to Barn 2. In response to a query about the location of the car parking area for Barn 2, it was explained that the car park was sited away

from the listed building and the garden of Shire Barn. There were concerns about accessibility to Barn 2 and the lack of provision of disabled parking, but upon inspection of the plans it was considered there was provision for access by disabled users into the barn and a parking space could be widened to provide for disabled users of the facility.

*RESOLVED* (UNANIMOUSLY) that in respect of planning application 090738:-

(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, see also Amendment Sheet, together with the following additional conditions/amendments to conditions:

- additional condition requiring details to be submitted for a sound proofing scheme for Barn 2;
- condition restricting the use of Barn 2 to a drama studio shall be expanded to specifically exclude its use as a dance studio;
- condition restricting the use of a single standard domestic CD player shall be expanded to include other domestic music equipment such as i-Pods and MP3 players;
- condition regarding noise levels shall be redrafted in order that the noise level at the boundaries of the site are properly quantified;
- a note to be added to the decision notice advising the applicant that Barn 2 shall be made accessible by disabled persons and a car parking space for use by disabled persons shall be made available and retained thereafter.

*RESOLVED* (UNANIMOUSLY) that in respect of listed building application 090739, consent be granted with conditions and informatives as set out in the report.

## **66. 090786 Wormingford Road, Wormingford, CO6 3NS**

The Committee considered an application for the continued use of land for storage of sealed metal containers for storage of domestic contents and siting of two additional containers. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that, subject to the receipt of accurate revised drawings and to no objections from the Highway Authority and to conditions and informatives as set out in the report, the application be approved for a further temporary period of 3 years ending on or before 31 August 2011.

**67. 090822 47 Belle Vue Road, Wivenhoe**

The Committee considered an outline application for a new three bedroom dwelling on land adjacent to the site address in respect of scale and access; all other matters including, siting, design and landscaping are reserved for further consideration. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. Off-street car parking was provided by means of a shared drive through to the rear garden where a double garage and turning area was located to serve the existing dwelling at no. 47 and the proposed new dwelling at no. 49. A parking turntable had been part of a previous scheme but there is no reference to a turntable in the current scheme.

Members of the Committee expressed concerns about a possible impact on the amenity of neighbours from the off-street parking arrangement, but it was explained that it was unlikely to affect the amenity of anyone other than the occupiers of the two dwellings it served. It was suggested that the garages be located further back into the rear garden to allow sufficient space in front of the garages for parking second vehicles and turning, but this could impact on the occupiers of properties in Stanley Road. Members of the Committee were reminded that this was an outline application for scale and access only and that issues regarding design would need to be considered as part of the reserved matters application.

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

**68. 090833 and 090834 26 North Hill, Colchester, CO1 1EG**

The Committee considered an application for an advertisement, 090834, and a listed building application, 090833. The applications are for a new fascia sign to a restaurant. The application included elements of a hanging sign which was non-existent, and swan necked lighting, for which detail was insufficient so these two matters were specifically excluded from any consents. 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. A fascia had been in this position for some years however following a recent fire the fascia had been replaced in an orange colour which, together with swan-neck lighting brackets, are both unauthorised. The proposed new colour of the fascia is ocean blue which was considered to be more appropriate for the listed building.

John Egan addressed the Committee on behalf of Colchester Civic Society and objectors to the application pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He did not believe the sign was either appropriate for a listed building nor did it make a positive impact on the area. A fascia can add interest and variety in a street but this one did not. If this low standard of fascia were to be allowed others will slip through on the grounds that they are not any worse. He wanted a high standard to prevail. There are other well designed and restrained fascias in North Hill and the High Street for the owner to emulate.

Members of the Committee questioned if the new design was acceptable in the conservation area. It seemed to be excessively large for the building when compared with the adjoining fascia and it was queried whether this there had been a similar sized sign since the planning permission in 1960 when the unit became a car showroom. It would have been preferable if the owner had consulted the planning service prior to installing the sign. Other members of the Committee considered the sign to be more attractive than the existing and to be sympathetic and fit in well in the area.

It was believed that the sign had been the same size and form since the 1960 permission and now occupiers have applied boarding over the fascia and the sides in a bright orange material and added illumination. The size and type is established but the colour has changed and swan neck lights added. Some shop owners do ask for advice on shop signs.

*RESOLVED* (MAJORITY voted FOR) that application 090833 for listed building consent be granted with conditions and informatives as set out in the report, see also Amendment Sheet.

*RESOLVED* (MAJORITY voted FOR) that application 090834 for advertisement consent be granted in respect of the new proposed fascia signage only with conditions and informatives as set out in the report, see also Amendment Sheet.

**69. 090668 Fishponds Field, Shop Lane, East Mersea,**

The Committee considered an application for alterations and extensions to an existing stable block and the erection of a manege. 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.

#### **70. 090699 and 090700 3 Church Street, Colchester, CO1 1NF**

The Committee considered planning application, 090699, and listed building application, 090700, for a change of use from A2 (Professional Services) to a mixed use of A3/A4 (Restaurant and Bar), the demolition of an unsightly 20<sup>th</sup> century rear flat roofed extension and reconstruction of new extension, and minor associated works to the interior of the original building. The applications are resubmissions of 081552 and 081555 respectively. 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.

John Egan addressed the Committee on behalf of Colchester Civic Society pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He reiterated the comments of the Colchester Civic Society set out in the report. They were supportive of the restaurant use but not of the drinking establishment use. The access statement states it will be used principally as a restaurant with no intention of it becoming a drinking establishment and he wanted the stated intention to be made a condition. Once permission is granted it cannot be taken away and any subsequent owners have permission for a drinking establishment. Colchester Civic Society want a diverse town centre. If the impact on residents is not taken into account the authority would be failing in its duty to protect them.

Members of the Committee compared this application with a similar one in the High Street which was resisted because there were too many restaurants taking the town centre area over 70%. There was support for a condition to prevent it from becoming predominantly a drinking establishment. Members hoped it would be a restaurant of quality.

It was explained that the High Street has a different designation and that change of use was from retail to restaurant. This is a listed building and the

internal layout comprises a series of rooms more suited to the restaurant use with the bar areas being a subsidiary element. There is a location factor because the premises is close to theatres and thus more suited to restaurant use than drinking establishment. If there are concerns a condition could be added to the effect that it is approved for mixed use and the balance should not go more in favour of A4 drinking establishment use. Residents' views are taken into account. The application does not refer to dancing or any other forms of entertainment which may be termed a venue. It will be run as a European style facility offering restaurant services from coffee and pastry to a full meal or a glass of wine. A full menu will be available at all times. It was confirmed that there was a lift, disabled toilets and a level threshold access.

*RESOLVED* (UNANIMOUSLY) that in respect of planning application 090699, the application be approved with conditions and informatives as set out in the report, see also Amendment Sheet, plus an additional condition to require maintenance of the mixed use and to prohibit a dominance of drinking establishment use.

*RESOLVED* (UNANIMOUSLY) In respect of listed building application 090700, the application be approved with conditions and informatives as set out in the report, see also Amendment Sheet.

## **71. Enforcement Report // Buffalo Tradings, 12 Barrack Street, Colchester**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the removal of shutters at 12 Barrack Street, Colchester with a compliance period of three months.

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

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

Mr Balamathima addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the proposed enforcement action. He was away for some time and only came back 6 months ago. He asked for a twelve month period of time in which to remove the shutters and be able to arrange for new shutters. He has been advised that he cannot have flat shutters because of the size of the shop.

In response to a query from members of the Committee it was confirmed that it would be possible for the applicant to put in an application for replacement

shutters within the three month period. If the applicant put in an application shortly before the expiry of the three months it was confirmed that the authority would still go ahead with the enforcement action.

*RESOLVED* (MAJORITY voted FOR) that an enforcement notice be served at 12 Barrack Street, Colchester, requiring the removal of shutters with a compliance period of three months.

## **72. Enforcement Report // Hip Hop Heaven, 3 Montrose House, Eld Lane, Colchester**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the removal of shutters at 3 Montrose House, Eld Lane, Colchester with a compliance period of three months.

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

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. These premises were in the conservation area. The proprietor was advised of alternatives and at one stage was going to replace with demountable shutters. An application for retention of the shutters was refused and it is now recommended that the structure be removed.

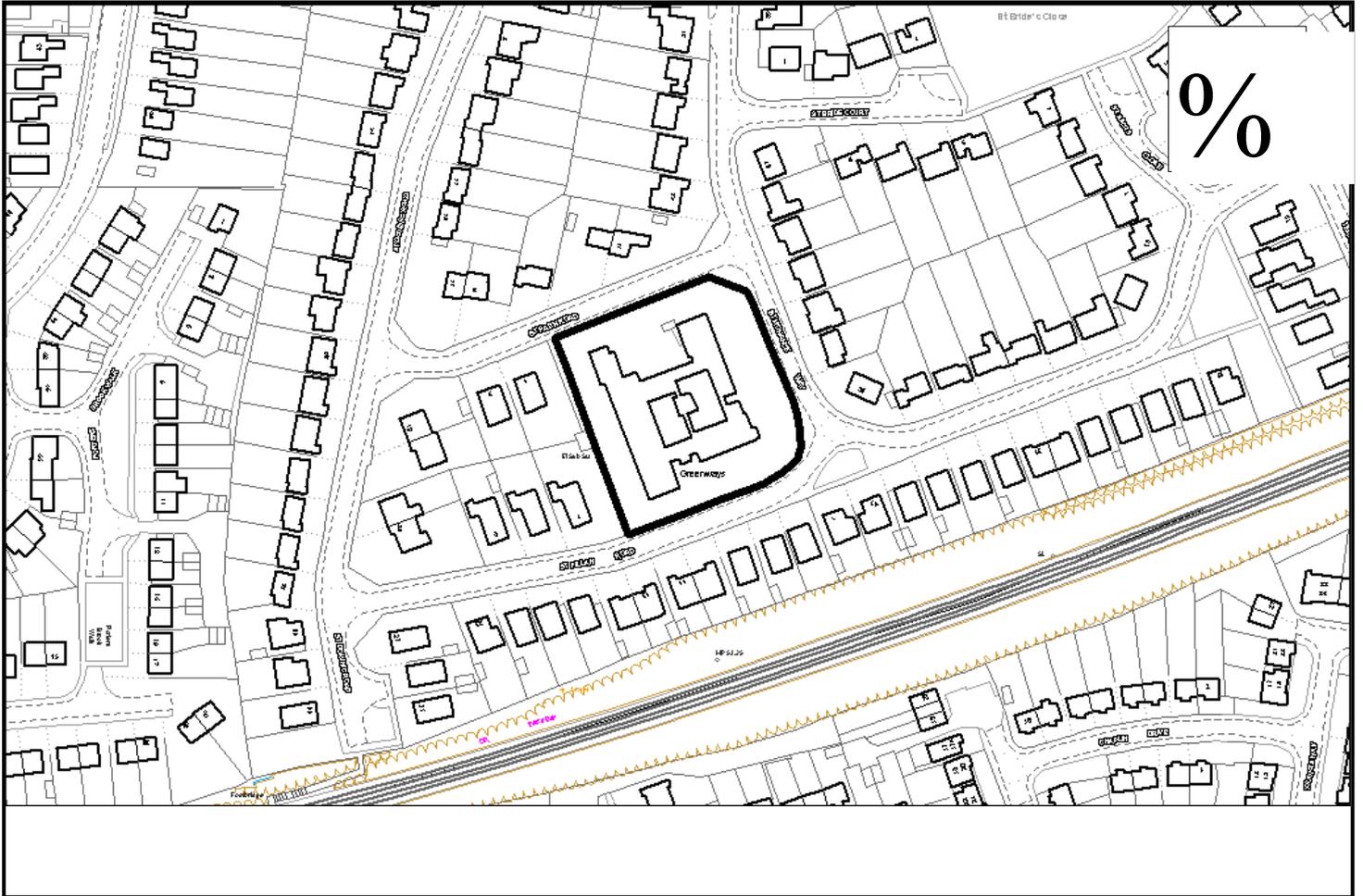
Members of the Committee were very concerned about this and requested that some thought be given to assisting shop keepers in an area where increasingly higher levels of security is required. This is a problem which needs to be addressed through planning channels. The shutters in situ act as a ledge for pigeons. It was agreed that some guidance was required. It would be possible for the planning service to produce some guidance within three months. Solid shutters give a wrong impression to people in the area but it needs a balance between security and good aesthetics. There was a need to think about how to design a modern shop front to integrate a security grill.

In this case members wanted to extend the period of time for compliance to six months in order that the proprietor could have the benefit of the guidance to be produced.

*RESOLVED* (MAJORITY voted FOR) that –

- (a) an enforcement notice be served at 3 Montrose House, Eld Lane, Colchester, requiring the removal of shutters with a compliance period of six months; and
- (b) the planning service be requested to produce a guidance note on ways

in which security grills can be incorporated into modern shop fronts without detriment to conservation areas or causing a feeling that the area is unsafe, to be available within three months of the date of this committee meeting.



**Application No:** 090843

**Location:** Greenways, St. Fillan Road, Colchester, CO4 0PT

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

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **20 August 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: Bradly Heffer**

**EXPIRY DATE: 25/09/2009**

**MAJOR**

**Site:** St. Fillan Road, Colchester, CO4 0PT

**Application No:** 090843

**Date Received:** 26 June 2009

**Agent:** Stephen Bradbury Architects Ltd

**Applicant:** Excelcare Equities Ltd

**Development:** Proposed additional partial basement and other minor amendments to previous scheme for a 66 bedroom care centre approved under application number 090215.

**Ward:** St Johns

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

### 1.0 Planning Report Introduction

1.1 This report relates to proposed variations to a previously-approved redevelopment scheme on a site known as 'Greenways' St. Fillan Road Colchester.

## **2.0 Site Description**

2.1 The site identified as 'Greenways' is a level area of land bounded by St Faith Road to the north, St. Monance Road to the east and St. Fillan Road to the south. To the west lies established residential development. The given area of the application site is 0.41 hectares. The site is currently occupied by a series of single and two story buildings, utilised as a care centre for elderly persons. A key feature on the site is the established vegetation on the boundaries. The wider area consists of established residential development that comprises part of the estate of St. Johns.

## **3.0 Description of Proposal**

3.1 The proposed development is to replace the existing buildings on the site with a new care centre for elderly persons. The building would incorporate 66no. bedrooms, and would consist of a two storey development of four ranges, each facing a boundary of the site. The submitted plans include two vehicular accesses (off St. Monance Way and St. Fillan Road) serving a total of 22 parking spaces.

3.2 The proposed building would be constructed using a combination of brick, render, re-constituted stone and a tiled roof. The boundaries of the site would be defined by a series of brick walling and railings (on the north, east and south boundaries) and fencing (on the western boundary).

3.3 Members will recall that a recently submitted scheme has been approved on this site under ref. 090215. This current proposal varies from the previous approval as follows:

- Kitchenettes are added to each bedroom, requiring that the useable space within each bedroom is widened by 337 mm.
- A basement (of 398 square metres net area) would be provided in order to move the kitchen, laundry, plant room, staff changing rooms, staff resource room, storage and cinema into this space.
- Minor revisions to include relocation of the ground floor fire escape door, relocation of the service lift, provision of a ramped access to the basement and reduction of the northern wing by 1 metre to accommodate the ramp.

3.4 Members are advised that the planning application is accompanied by a Design and Access Statement and an Arboricultural Impact Assessment which are available to view on the Council's website.

## **4.0 Land Use Allocation**

4.1 Residential

## **5.0 Relevant Planning History**

5.1 090215 - Demolition of existing drop-in daycare centre and non-operational 36 bed care centre. Replace with 66 bedroom care centre. Application approved at the Committee meeting held on 27th May 2009.

## **6.0 Principal Policies**

- 6.1 Adopted Review Borough Local Plan  
DC1 – General policy and principles  
UEA 11 – Design  
UEA13 – Development, including extensions, adjoining existing or proposed residential property.
- 6.2 LDF Core Strategy  
Policy H3 – Housing Diversity

## **7.0 Consultations**

- 7.1 Both the Highway Authority and the Environmental Control Team has advised that the comments made under the previously-approved application also apply to this current proposal. Both consultees previously recommended the inclusion of conditions on the grant of any planning permission.
- 7.2 The Council's Landscape Officer states:

'The proposal would appear not to have any substantially detrimental effect on public amenity in landscape terms; I would therefore have no objection to this application.'  
Conditions are also recommended.

## **8.0 Representations**

- 8.1 As a result of neighbour notification one letter has been received in which objection is raised to the scheme. The points of objection can be summarised as follows:
- The proposal will give rise to parking problems in the area.
  - The development will disturb existing wildlife living on the site including hedgehogs.

## **9.0 Report**

- 9.1 As mentioned previously in this report, the redevelopment of this site to provide a care home facility was approved under application 090215. This current scheme varies from that approval in that a basement is now proposed, to accommodate various rooms previously contained within the main building. This adjustment in accommodation has arisen following a proposal to provide kitchenette accommodation within each of the 66 bedrooms. Various other internal and external alterations are proposed, the main one of these being the provision of a ramped access (to the new basement area) which would be visible from ground level.
- 9.2 As a planning judgement it is felt that the revisions proposed under this current application are acceptable as amendments to the previously-approved scheme. The overall appearance of the proposed building is essentially the same as that approved. Importantly, the revisions have not resulted in changes to the positions of windows in relation to shared boundaries etc. Therefore the impact of this revised scheme on amenity is considered to be equivalent to the previously-approved development.

- 9.3 The comments received from the neighbouring resident are fully acknowledged and appreciated. Members will recall that the issue of parking provision was a main concern when the original planning application was submitted. It is noted that the number of parking spaces proposed under this scheme is the same as the previously-approved development i.e 22 spaces. This number accords with the adopted standards for this type of use which equates to 1 space per resident staff and 1 space per three bedrooms. Members should note that the use would not involve staff being resident on site. Rather a shift system of staffing would be in place.
- 9.4 As regards the issue of impact on wildlife it is noted that the site does not fall within an area specifically identified as being of ecological importance. That said, were species to be found that are protected this would be controllable under separate legislation. Members should note that the original application did go before the Council's Development Team and, as a result, a mitigation package was agreed. If Members accept the recommendation of approval an identical requirement would be attached to this current planning application.

## **10.0 Background Papers**

10.1 ARC; Core Strategy; HA; HH; TL; NLR; 090215

### **Recommendation**

That the application is deferred in order that a Unilateral Undertaking can be completed to secure the required contribution to open space and recreation. Upon successful completion of the Unilateral Undertaking the Head of Environmental and Protective Services be authorised to issue a delegated planning permission for the development, subject to the following conditions:

### **Conditions**

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

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

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

2 - Non-Standard Condition

Prior to occupation of the development visibility splays with dimensions of 2.4m by 43 m as measured from and along the nearside carriageway shall be provided on both sides of both accesses. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

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

### 3 - Non-Standard Condition

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

Reason: To provide adequate intervisibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to policies 1.1 and 3.4 in appendix G to the Local Transport Plan.

### 4 - Non-Standard Condition

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

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

### 5 - Non-Standard Condition

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

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

### 6 - 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 level 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. Conditions 07 and 08 shall comply with this standard.

Reason: In order to ensure that the development does not cause noise nuisance to nearby residential property.

### 7 -Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained so as to comply with Condition 6. 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 ensure that the development does not cause noise nuisance to nearby residential property.

#### 8 - Non-Standard Condition

The building hereby permitted shall not come into beneficial use until there has been submitted to and improved in writing by the Local Planning Authority as scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to the building hereby permitted coming into beneficial use and thereafter be retained and maintained to the agreed specification and working order.

Reason: To protect local properties from nuisance caused by fumes and odours.

#### 9 - Non-Standard Condition

Foul water drains serving the kitchen shall be fitted with grease traps maintained in accordance with the manufacturer's instructions prior to the building hereby permitted coming into beneficial use. Such equipment as shall have been installed shall be retained and maintained to the agreed specification and in good working order.

Reason: In order to avoid pollution of the local water system.

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

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard 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.

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

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

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

#### 12 - 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.

#### 13 - C10.15 Tree & Natural Feature Protection: Protected

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

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

#### 14 - 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.

#### 15 - 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.

#### 16 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement received, which forms part of this permission, and no other work shall take place that would affect the trees unless otherwise agreed in writing by the Local Planning Authority.

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

#### **Informatives**

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

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

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.

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



**Application No:** 090498

**Location:** Avon Way House, Avon Way, Colchester, CO4 3TZ

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

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**7.2 Case Officer: Bradly Heffer**

**MAJOR**

**Site:** Avon Way House, Avon Way, Colchester, CO4 3TZ

**Application No:** 090498

**Date Received:** 27 April 2009

**Agent:** Mr Mark Lister

**Applicant:** Mr Owain Thomas

**Development:** Erection of 133 new student bedrooms in 30 flats split into 6no. separate buildings.

**Ward:** St Andrews

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

## **1.0 Planning Report Introduction**

**1.1 Members will recall that this planning application was originally reported to Committee at the meeting held on 23<sup>rd</sup> July 2009. At that time the following report was submitted:**

## **2.0 Site Description**

2.1 This planning application seeks permission for the erection of new student accommodation on a site known as Avon Way House, Avon Way, Colchester.

2.2 The originally submitted proposal was for the erection of 6 No. buildings containing a total of 30 flats, that could accommodate 133 student bedrooms. Since the submission revised plans have been submitted that reduces the number of flats to 29, and the overall number of bed spaces to 119. The number of buildings i.e. 6 remains unchanged. This revision results from a relocation of units away from a mains easement and established vegetation on the site.

2.3 The submitted plans (as amended) show the provision of three new blocks located on the north-eastern boundary of the site with dwellings in Pickford Walk.

2.4 A further two blocks would be located at the south-eastern end of the site adjacent to CBC-owned open space. The final building would be provided as an extension to an existing building, again towards the north-eastern end of the site.

- 2.5 In terms of design the submitted scheme proposes a contemporary approach, but utilising traditional design references in terms of materials (including brick and render). The majority of the site for this proposal is currently occupied by three storey apartment buildings, whilst the eastern end of the site is occupied by a bungalow and an electricity sub-station. Vehicular access is taken via an existing access point on to Avon Way. The site is bounded to the north-east, north-west and south-west by established residential development while to the south lies open land.
- 2.6 The application is accompanied by supporting documentation, including a Design and Access Statement, which may be viewed on the Council's website.

### **3.0 Land Use Allocation**

- 3.1 Residential

### **4.0 Relevant Planning History**

- 4.1 None

### **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan  
DC1 - General Development Control Criteria  
UEA11 - Design  
UEA13 - Development including extension adjoining existing or proposed residential property
- 5.2 Local Development Framework Core Strategy (December 2008)  
H2 - Housing Density  
UR2 - Built Design and Character  
PR1 - Open Space  
TA2 - Walking and cycling  
TA5 - Parking

### **6.0 Consultations**

- 6.1 The Highway Authority raises no objections, subject to the imposition of conditions on a grant of planning permission.
- 6.2 The comments of the Planning Policy section on the originally submitted scheme were as follows:-

"The proposal is to erect 133 student bedrooms (in 30 flats, each comprising a number of bedrooms with ensuite facilities and a shared kitchen/diner) around the NE margins of the site, which was formerly used as parking and ancillary areas. According to the application details, the existing built development (shown within the blue line) comprises 74 flats; however, the total number of bedrooms has not been stated.

This is an unusual application in that although it is intended as student accommodation it is built off-site from the University of Essex, within a predominantly residential area of Colchester (approximately 1500m walk from the heart of the campus and approximately 1000m walk from Hythe Station; an Urban Gateway).

Neither the Core Strategy nor the Local Plan contains policies specifically related to student accommodation.

Relevant considerations will include: whether or not the proposal is appropriate to the character and amenity of the surrounding area; the appearance of the development and whether or not it creates a safe and attractive environment for its users; and, the accessibility of the site to the University and other facilities (including parking provision). Policies relating to these matters include DC1 and UEA11 to 13 in the adopted Local Plan and TA1, TA2, TA5, PR1 and UR2 in the adopted Core Strategy.

With regard to parking provision, it is noted that number of parking spaces is set to be reduced for the whole of the Avon Way House site from 100 existing spaces to 55 spaces. Current standards are set out in the EPOA Vehicle Parking Standards as maximum standards. On the basis of these units being considered Class C3 (residents living together as a single household), a standard of 1 space per dwelling is recommended as appropriate for main urban areas where access to public transport is good. The provision of 55 spaces for 104 units is clearly well-below this standard. The application states that one of the objectives is to minimise car use and increase walking and cycling as a result of the location in relation to the University and other amenities. In this respect the provision of an extra 20 bicycle spaces appears low and is also well below the recommended EPOA minimum standards. The application also states that the use of public transport will be actively promoted, but does not provide any details of how this is to be achieved.

The site is on the fringe of the area indicated as having High Accessibility in the Core Strategy (defined as within 800m of an Urban Gateway), where indicative densities of over 50 dwelling units per hectare are supported in the Core Strategy H2 (but outside of the area of Very High accessibility where indicative densities of over 75 dwelling units per hectare as supported). In terms of the number of flats (rather than the number of bedrooms) the density appears to be approx 70 flats per hectare within the red-lined application site; whereas, over the whole Avon Way House site, the density appears to set to increase from approx 62 to approx 87 flats per hectare. If this development were intended as housing for persons on the open market, a case for refusal could be made on the basis that the location does not justify the intensity of development proposed. However, on the basis of the accommodation being intended solely for students, the application can be considered on its merits. It is legitimate to ask whether appropriate provision is made for walking and cycling and how use of public transport is to be promoted, in order to discourage the use and ownership of cars by occupants of the development.

If planning permission is granted for this development it is recommended that occupancy is tied to student accommodation.

Consideration should be given to a contribution towards public open space, sports and recreation facilities in accordance with the adopted SPD."

Any comments received on the amended proposals will be reported to Committee.

- 6.3 Environmental Control has no objection to the proposals, subject to the imposition of conditions and an informative.

6.4 The Council's Landscape Officer would require the imposition of conditions and recommends the following minor revisions to the submitted scheme:-

1. In order to help soften the street scene the proposed tree cover needs to be increased along the main access into the site, be included to the Avon Road frontage through inter-planting between existing stock and included as a linear feature leading down to the Buffet Way access.
2. The hedge bounding the south-eastern boundary of the site needs to be strengthened though gapping up the weak open area to the southern corner of the site where it abuts the adjacent footpath.
3. Block C needs to be drawn back a minimum of 5m from the south-eastern boundary in order to safeguard the boundary hedge whilst allowing sufficient light to enter the proposed building.

6.5 The Environment Agency has commented and requires the provision of a condition on any approval that secures a scheme for the provision and implementation of water, energy and resource efficiency measures during the construction and occupational phases of the development.

## 7.0 Representations

7.1 As a result of neighbour notification six letters of objection have been received from Local residents. The points of objection can be summarised as follows:-

1. The proposal will give rise to parking problems in the highway.
2. The development is extremely close to properties in Pickford Walk and will deprive these properties of light and privacy. The buildings would appear overbearing and therefore detrimental to the amenity of the occupiers.
3. The occupants will cause noise disturbance for surrounding residents.
4. The variation in land level means that the buildings would appear particularly overbearing to occupiers of dwellings in Pickford Walk.
5. The blocks identified as A and B are particularly overbearing and should not be built.
6. The University has large areas of undeveloped land and this should be utilised instead of this site.
7. The building will detrimentally affect the living conditions and parking facilities of those living on the site at present.

7.2 The following comment has been received from Mr Russell MP:-

"I have been contacted by residents of Pickford Walk who are most concerned about the effect that this development would have on their private homes.

There is serious concern regarding the proposed blocks A and B in view of the much shorter distances which they have from Pickford walk as compared to Block C.

The scale of development and the height of three storeys would have a very significant impact upon the occupants of numbers 38 to 48 Pickford Walk due to the close proximity to their homes.

From my constituents' long experience of the normal student lifestyles at Avon Way House, and the inevitable consequent noise and late hours, they do feel that life would be made unpleasant for them if this overdevelopment were allowed to take place.

There are good reasons therefore to refuse Blocks A and B on the grounds of overdevelopment and impact on the nearest dwellings in Pickford Walk. I would appreciate confirmation that my constituents' views will be taken on board in judging the application please."

7.3 Furthermore, e-mail correspondence confirms that Ward Councillors also object to the proposal.

7.4 The following comment has been received from Colchester Civic Society:-

"Colchester Civic Society considers the design visually unpleasant. Parking policy at other student accommodation has led to on-street parking to the detriment of neighbouring residents and businesses.

This application should not be approved unless the Council are happy that the proposed dwellings will not lead to more on-street parking in this area."

## **8.0 Report**

8.1 Members will note that the site for this proposal is located in a residential area, as allocated in the adopted Local Plan and, therefore, the principle of residential development taking place on the site is considered to accord with the relevant land use allocation. Clearly, however, there are a number of issues that need to be examined in some detail as part of the proper consideration of this planning proposal.

8.2 With regard to the design and layout, examination of the site and its surroundings reveals that the majority of building forms follow a traditional approach i.e. mainly brick structures with pitched tiled roofs. The character of the area is of an established residential estate, located on the periphery of the eastern side of the town. Members will note that the proposed design of the buildings does not follow the established dwelling design in this location. Nevertheless, it is felt as a planning judgement that the location could accommodate a different architectural approach without causing harm to visual amenity. The size of the buildings is similar to those formed in the surrounding area (which is generally a mix of two and three storey development). Additionally the contemporary design does incorporate traditional finishes such as brick and render which are also found elsewhere on the estate. Whilst the elevational treatment of the proposed buildings is different from that existing, it is felt that this proposal would represent an opportunity to introduce visual interest into the area while not appearing incongruous.

8.3 As regards the position of the buildings it will be noted by Members that the majority of built form would be located along the north-eastern boundary in Pickford Walk. It is fully appreciated that the development would impact on the amenity of these dwellings but it is considered that this impact would not be unacceptably detrimental. The new buildings would face towards the fronts of dwellings in Pickford Walk, and therefore private garden areas would not be overlooked. Additionally, at the nearest point the proposed buildings would be 13 metres distant from the frontage of the Pickford Walk dwellings. This distance exceeds the 10 metre minimum distance identified in the Essex Design Guide that is required to allow sufficient daylight between dwellings. Members are advised that the Design and Access Statement submitted with the application includes a Daylight/Sunlight Assessment.

- 8.4 In terms of difference in land levels, it is acknowledged that the buildings on the application site will sit higher than the dwellings in Pickford Walk. For example, at its highest point, the block located nearest Avon Way would be approximately 8.8 metres high. However, the design of the building incorporates a curved roof feature that results in an eaves height (where the building faces Pickford Walk) of approximately 5.6 metres for the main roof and 6.8 metres for a flat roofed projection. This is not considered to be excessive in relation to the houses in Pickford Walk, which have an eaves height of approximately 5 metres. The overall height difference (to the highest part of the roof) between the northernmost dwelling in Pickford Walk and the building identified as Block A is approximately 2 metres. The remaining proposed blocks would not, it is felt, impinge on the amenity of the surrounding dwellings due to their relative remoteness.
- 8.5 Members will also note that one of the key concerns expressed by local residents is the potential for parking problems if the proposed scheme were to go ahead. The submitted scheme does result in a significant reduction in the amount of on site parking that could be available.
- 8.6 The submitted planning application forms indicate that the current number of car parking spaces would reduce from 100 to 55. Currently the number of disabled spaces would increase from 0 to 4 and cycle parking would increase from 20 to 40 spaces.
- 8.7 By way of further explanation of the parking provision, the following information has been received from the applicant company:-

"I refer you to the above referenced planning application and recent objections concerning the provision of on and off site car parking. The foundation of this objection is, first and foremost, based on the assumption that there will be inadequate parking provision for students for the duration of the construction works and thereafter, together with the impact that this will have on the local area.

Although the construction work will reduce the number of car parking spaces available to students, we do not feel that this will offset Avon Way House students parking on the surrounding streets, causing a disruption to the local neighbourhood.

In the 2008/2009 Academic Tenancy Period, the maximum number of car parking licences issued at any one time was 23, in spite of the fact that the building had at various points in the year been at near-maximum occupancy. Pre-sales of car parking licenses for the upcoming Academic Year have thus far totalled 2 cars; these figures certainly suggest that demand is to be no higher than it has been previously and, despite the building works, we are able to offer parking to circa 25 student cars in addition to offering emergency vehicle access and parking, staff parking and delivery and refuse collection access.

Access to the car park will still be strictly controlled and only those customers who have booked and signed to a licence agreement to park at Avon Way House will be given right of entry, any other cars found parking at Avon Way House without permission will be clamped or removed without notice.

With this in mind, Mansion Student intends to advise all of our resident customers that should they not be in possession of a valid parking licence for the site then they will be unable to park and will be strongly encouraged to leave cars at home.

In addition, one of the major benefits for choosing to live at Avon Way House is the building's location and, in particular, its proximity to the University. Using the public footpath, the main Wivenhoe campus of Essex University can be reached in

approximately 10 minutes. Should a resident wish to use public transport to travel; there is a regular bus service that stops directly outside this building; this bus then stops at a connecting stop for both Colchester Town Centre and all major 'Educational Establishments and Campus.'

As far as construction works are concerned, whilst we acknowledge that students and local residents may be concerned about potential disturbances, I assure you that we are actively investigating every means possible to minimise any disruption to either local residents and students during the works. As an added measure, should any student, booked for 2009/10 have any genuine and irreconcilable issues pertaining to the works, we are committed to meet and discuss any issues on an individual basis.

I trust that this information consolidates our car parking methodology, both during the works and thereafter, supported by our expectation for more sustainable and carbon friendly travel."

- 8.8 It is acknowledged that a significant reduction in car parking spaces would result from the development but it is also important to note that the occupancy of the dwellings would be by students attending Essex University. The scheme as presented to Members includes provision of cycle/footpath links to the existing network to the south of the application site, in order to encourage students to walk or cycle to the Campus.
- 8.9 It is also noted that the Highway Authority would require the provision of travel packs as a condition of permission being granted - in order to encourage travel by bus. It is considered that the combination of these elements, plus the restrictions to be imposed by the applicant company (as discussed above) would adequately address the overall loss of vehicular parking spaces. Additionally, specific conditions would require submission of further details of cycle parking, to be agreed with the Council.
- 8.10 The comments received from local residents, the Ward Members and MP are fully acknowledged and appreciated. However, it is felt that the scheme can be accommodated on the application site without harm being caused. Dealing with the individual issues raised, as listed previously in this report, the following comments are made:-
1. The issue of car parking provision has been discussed previously in this report.
  2. The proximity of the new development to those existing dwellings in Pickford Walk is acknowledged, but in overall impact terms is considered reasonable for the reasons previously mentioned in this report.
  3. The potential for noise nuisance caused by the future occupiers of the building is a matter for Environmental Control to address, if this issue should arise.
  4. The variation in height level is acknowledged but the overall distances between dwellings, and the design of the buildings would, it is felt, successfully mitigate the overall impact in visual terms.
  5. Blocks A and B are the closest, physically, to the dwellings in Pickford Walk and therefore the impact of these buildings on residential amenity is a key planning consideration. The occupiers of the dwellings in Pickford Walk will undoubtedly experience significant change as a result of the development taking place. However, it is felt that the impact of this change would not be overly detrimental. The new development would face on to the front of these properties, and the distance between existing and proposed buildings is similar to that found in suburban situations elsewhere.
  6. The fact that the University owns large areas of land is acknowledged. However, this application stands to be determined on its own merits.

8.11 Members are advised that the application was reported to the Council's Development Team. The finally agreed package of mitigation to be secured under a S106 Agreement includes a contribution to open space and recreation, and provision of links from the site to the foot and cycle path to the south, in order to encourage non-car travel to the University from the application site. This package has been agreed with the applicant company and a draft agreement is being produced by the Council's solicitor.

## **9.0 Additional Report**

9.1 As a result of the meeting Members resolved to defer determination of the application in order that the following issues could be considered:

- The proximity of Blocks A and B with properties in Pickford Walk, including siting, reduction of heights, lowering of slab levels, infilling between existing blocks and proposed blocks along the south east boundary to remove the need for new blocks adjacent to Pickford Walk
- An increase in car and cycle parking provision
- The Highway Authority to be asked to consider a Section 106 contribution towards a solution for pedestrians crossing the A.133

9.2 Members are advised that following the meeting the applicant company has advised that it has withdrawn Blocks A and B from the current application. Members are therefore being asked to consider the provision of Blocks C, D and E only under this current planning application. The removal of blocks A and B from the planning application deals with a number of issues that were raised as part of the deferral. If and when an application is submitted for the provision of these accommodation blocks in the future, the impact of the proposed development on the dwellings in Pickford Walk can be reconsidered.

9.3 As regards car parking provision, the applicant company has not proposed an increase in spaces following deferral. However, the following response has been made in relation to this issue:

### **Car Parking**

Committee members raised the issue of car parking at Avon Way generally. Whilst we accept there may be a perceived parking problem within the local area, we feel that it is important to point out the following:-

- A significant number of surrounding properties are occupied by students, which are most likely to attract domestic UK based students. In these 'HIMO' properties, parking is completely unregulated.
- The existing Avon Way development is fully let for 2009/10, with a waiting list of 150+ students. As part of their application form, students have to indicate whether they require parking or not. To date we have requests that only 3 no. students for parking spaces.
- During 2008/09 the development was fully let, with total demand not exceeding 21 spaces at any one time.
- Access to the proposed development will be fully managed and gated as part of our proposed new scheme.

- Should demand exceed supply, The Mansion Group are willing to formally restrict tenants from bring a vehicle through restrictive covenants within their tenancy agreements. This could be imposed as a condition if necessary.

We believe there is more than sufficient car parking provision within the proposed development and any perceived reduction is in line with realistic demand and sustainable objectives.”

**9.4** The following comments have been received from the applicant company in relation to infill blocks and cycle parking:

1. **Infill Blocks** – The Committee raised the possibility of offsetting Blocks A & B with further infill Blocks similar to Block F. The Mansion Group currently do not own the freehold of the areas the Committee suggested we infill. For this reason, we cannot seek to develop these areas at this time.
2. **Cycle storage** – Although we have sufficient capacity within our existing cycle store, The Mansion Group will provide an additional external cycle store at an agreed location. The capacity of said cycle store will conform to planning requirements. I trust this can be dealt with by condition.

**9.5** With reference to the A133 crossing point the following comment has been received from the Highway Authority:

‘The Highway Authority takes the view that as a new signalised junction with pedestrian/cycleway facilities, as part of the design of the new Science Park off Clingoe Hill, is to be delivered by Agreement with the Developer, there is no need for any further crossings and consequently a Section 106 contribution from this proposal is not necessary.’

**9.6** Members should note that the signalised junction was approved under planning application COL/07/2997 and the approval was dated 4<sup>th</sup> March 2008. On this basis the construction of this junction must commence prior to 4<sup>th</sup> March 2010.

**9.7** On the basis of the above it is recommended that Members grant planning permission for the development, as amended. A specific condition that removes Blocks A and B from the approval has been added to the recommended list of conditions.

## **10.0 Background Papers**

10.1 ARC; Core Strategy; PP; HH; HA; TL; NR; NLR; CC; OTH

### **Recommendation**

That the application is deferred in order that a S106 Agreement can be secured, which includes the following elements:-

1. A contribution of £78,540 to open space, sport and recreation as required by the Council's SPD and
2. two pedestrian/cycle links from the site to the cycle and footpath network at the south of the site.

Upon satisfactory completion of the agreement as described above, the Head of Environmental and Protective Services be authorised to issue a planning permission for the submitted development, subject to the following conditions:-

### **Conditions**

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

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

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

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

The development shall accord with the amended drawings hereby returned stamped approved.

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

#### **3 – B6.6 Site Characterisation**

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

#### 4 - B6.8 Submission of Remediation Scheme

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

#### 5 - B6.9 Implementation of Approved Remediation Scheme

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

#### 6 - B6.10 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

#### 7 -B6.13 Validation Certificate

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

#### 8 - B7.3 Programme to be Agreed

No demolition whatsoever shall take place until such time as a programme has been submitted to, and agreed in writing by the Local Planning Authority stipulating the extent and timing of such operations.

Reason: In order to safeguard amenity in this location.

#### 9 - B7.4 Fencing Around Site

Neither demolition nor any other site works shall commence until the frontage of the site has been enclosed by a continuous solid fence in accordance with details to be agreed in writing by the Local Planning Authority. Such fencing shall remain in place until clearance/building works have been completed.

Reason: To protect the amenities of the locality.

#### 10 - B9.1 Refuse Bins

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

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

#### 11 - B9.2 Recycling Facilities

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

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

#### 12 - C3.1 Materials (general)

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

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

### 13 - C3.21 Hard Surfacing

Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site including roads/driveways/car parking areas/courtyards/etc shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In the interests of visual amenity and to ensure a satisfactory form of development.

### 14 - 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.

### 15 - 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.

#### 16 - 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.

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

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

Reason: In the interests of visual amenity and to ensure a satisfactory form of development.

#### 18 - Non-Standard Condition

The Developer shall be responsible for the provision and implementation of a Transport Information and Marketing Scheme for sustainable transport, approved by the Local Planning Authority, to include vouchers for 12 months free bus travel within the inner zone for each eligible member of every new bedroom, valid for exchange during the first 6 months following occupation of the individual dwellings. Details of the uptake of the vouchers shall be provided to the Essex County Council's Travel Plan Team on a 6 monthly basis.

Reason: In the interests of promoting sustainable development and transport in accordance with Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

#### 19 - Non-Standard Condition

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport with EPOA Vehicle parking Standards and Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

#### 20 - Non-Standard Condition

Prior to commencement of development details of the provision of two suitable cycleway/footway links to the existing network south of the site shall be approved in writing with the Local Planning Authority and prior to occupation of the development these links shall be provided within the site and shall be maintained free from obstruction at all times for that purpose.

Reason: To promote the use of sustainable means of transport with EPOA Vehicle parking Standards and Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

### 21 - Non-Standard Condition

Prior to the commencement of development a scheme for the provision and implementation of water, energy and resource efficiency measures, during the construction and occupational phases of the development shall be submitted to and agreed, in writing, with the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development. The scheme shall be constructed and the measures provided and made available for use in accordance with such timetables as may be agreed.

Reason: To enhance the sustainability of the development through better use of water, energy and materials.

### 22 - Non-Standard Condition

The occupation of the buildings hereby approved shall be limited solely to persons attending the University of Essex as students.

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

### 23 – Non Standard Condition

**The permission hereby granted expressly excludes Blocks A and B as shown on the submitted plans returned stamped approved.**

**Reason: For the avoidance of doubt as to the scope of the permission hereby granted and to reflect the request of the applicant to remove these particular buildings from the submitted planning application.**

### Informatives

The applicant is advised that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Section on 01206 282436.

It should be borne in mind that, unless otherwise stated, the base for Conditions 18-21 is Policy 1.1 in Appendix G to the Local Transport Plan, 2006/2011 as refreshed by Cabinet Members decision dated 19 October 2007.

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by phone on 01206 838696 or by email on [www.highways.eastarea@essex.gov.uk](mailto:www.highways.eastarea@essex.gov.uk).

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.

Informatives requested by Anglian Water Authority:-

1. There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted:-

*"Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the applicant will need to ask for the assets to be diverted under Section 185 of the Water Industry Act 1991, or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence."*

2. There is sufficient water resource capacity to supply this development. However, in line with national and regional government policy Anglian Water would wish to see measures taken by the developer to ensure that buildings are constructed to high water efficiency standards. This can be achieved through the design of efficient plumbing systems and the installation of water efficient fixtures and appliances in line with the Code of Sustainable Homes. This will minimise the growth in demand for water from the new development and help to ensure the sustainable use of our regions water resources.

3. The development can be supplied from the network system that at present has adequate capacity. The developer may submit a formal requisition for a water supply main under Section 41 of the Water Industry 1991 or enter into an agreement to lay the water main ready for adoption by us under Section 51a of the Act.

4. The foul flows from the development can be accommodated within the foul sewerage network system that at present has adequate capacity. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

5. The development can be accommodated within the public surface water network system which at present has sufficient capacity on a like for like basis. The developer should notify Anglian Water of its intention to connect to the public surface water sewer under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection and the maximum rate of discharge which should be made. Attenuation may be required and this could affect the site layout.

6. The foul drainage from this development will be treated at Colchester Sewage Treatment works that at present has available capacity for these flows.



**Application No:** 090800

**Location:** Villa 7, Turner Village, Turner Road, Colchester, CO4 5JP

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

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**7.3 Case Officer: Andrew Tyrrell**

**EXPIRY DATE: 21/08/2009**

**MINOR**

**Site:** Villa 7, Turner Village, Turner Road, Colchester, CO4 5JP

**Application No:** 090800

**Date Received:** 26 June 2009

**Agent:** Roff Marsh Partnership

**Development:** Replacement building on the site of Villa 7 Colchester General Hospital. New building to be used for health related, education, training and research.

**Ward:** Mile End

**Summary of Recommendation:** Conditional Approval

## **1.0 Planning Report Introduction**

1.1 This application is referred to the committee as a consequence of the objection from the Parish Council. The officer recommendation is to approve the development. No other objections have been received.

## **2.0 Site Description**

2.1 The Villa is one of eight similar properties. Collectively these have some group value, however they are not listed and this is not a conservation area. The properties have similar rhythms and scales, although they are not identical in design. Overall there is a strong regimented form.

2.2 The buildings are of varying structural standards, with some in a poorer state than others. Villa 3 has recently had approvals for alterations and expansions in the central courtyard to allow this to be brought back into use. Other buildings have remained in use, whilst many are redundant and have been sealed for some time.

2.3 Villa 7 has not been used for several years as it has been undermined in parts by the roots of the adjacent mature Oak.

## **3.0 Description of the Proposal**

3.1 The proposal is a joint venture between the hospital and university. It would provide modern facilities in a new building that respected the rhythm of the Villas as a whole. The facility is a Laparoscopy training, education and medical facility which would allow laparoscopic surgery to be televised into the lecture theatre, as well as externally. Laparoscopy is a micro surgery technique involving the abdomen.

3.2 The current building is not capable of conversion for this use, thus it is proposed to demolish this building. A new building would be constructed to a reduced footprint, whilst in the same approximate position. The design of the new buildings is contemporary, but attempts to reflect the spatial characteristics of the adjacent row of Villas. Thus it is a modern interpretation of a historic built form.

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

4.1 The land is allocated for hospital use. There is a public footpath nearby, to the north of the application site, through the main hospital site.

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

5.1 There is no relevant history for this unit. Recent trends have seen some of the Villas brought back into administrative uses relating to the hospital. Villa 3 (for example) has this month received permission for alterations and extensions to allow its practical use.

#### **6.0 Principal Policies**

6.1 The following Local Plan policies are relevant:

- DC1 – Development Control Considerations
- CO4 – Landscape Features
- UEA11 – Design
- P4 – Contaminated Land

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

- SD1 – Sustainable Development
- SD2 – Delivering facilities and Infrastructure
- UR2- Built Design and Character
- TA2 – Walking and Cycling
- TA5 - Parking

#### **7.0 Consultations**

7.1 The Arboricultural Officer has advised that provisionally they are in agreement with the tree survey supplied already, but an Impact Assessment and Method Statement are also required. This matter is being pursued prior to the committee meeting.

7.2 Environmental Control have requested conditions regarding noise levels, sound insulation, light pollution, contamination and remediation. However they have raised no objection.

7.3 The Design and Heritage Unit have been consulted. They are satisfied that the scheme is of sufficient quality to merit approval. Discussions on this scheme have been ongoing throughout the year and the design has progressed to a satisfactory conclusion.

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

- 8.1 Myland Parish Council state that this is an area of local historic and architectural interest and the proposed materials are totally out of keeping with the original villas that still remain and will have a detrimental visual impact on this area. Myland Parish Council has previously applied for an area of special interest status for these villas. They support the development of the centre, but believe that it should be in similar materials to the villas. They also make other comments about the internal arrangements and layout in relation to future expansion, however these are not relevant to the planning merits of the case and there is a reason for the internal layout which was discussed at pre-application stage in any case. Therefore, the Parish Council comments on such matters seem to be beyond the scope of planning and irrelevant to the consideration of this case as presented.

## **9.0 Representations**

- 9.1 None received

## **10.0 Report**

### Parish Council Comments

- 10.1 It will be seen that Myland Parish Council state that this is an area of local historic and architectural interest. Whilst that might be, there is no statutory designation and therefore this area should be treated as any other. It is not a Conservation Area, nor a Listed Building. Indeed, the fact that they have unsuccessfully attempted to get a protective designation and failed indicates that the buildings are not quite worthy of such a status. This is probably down to their differing state of health.
- 10.2 It is correct that the proposed materials are totally out of keeping with the original villas. However, a red brick "Georgian" building is of limited practical use to the hospital. Instead, what is proposed is a functional building that will allow Colchester to host cutting edge technology in this field of medicine. To achieve this, and to reflect the nature of the use, the design is purposely intended to be fresh, contemporary and modern. However, this can still be achieved in a respectful manner without the need to produce a carbon copy of the existing building. The urban designers are satisfied that this building will not have a detrimental visual impact on this area.

### Scale, Massing and Form

- 10.3 The composition of the main façade has been designed to proportions that mirror the surrounding Villas. These buildings have some disparity in individual features, but collectively form a strong regimental rhythm in their scale, massing, and form. The modern interpretation of this pattern is considered to be satisfactory and preserves the sense of character that stems from this rigid built form.

- 10.4 The façade is dominated by a central entranceway extended upwards through the use of a Brise Soleil. This is a shading device, and a popular way of controlling solar gain and adding stylish features to a building. As an architectural feature, it aids this building retain the vertical emphasis seen on other Villas through their projecting central entrance ways. This institutional pattern is then reinforced through the regular window pattern, again a strong feature of other Villas.
- 10.5 The height of the building is directly comparable to the existing building and other Villas, with a complimentary roof form. Where other Villas have chimneys, this building would pay homage to these features through more contemporary ventilation flues and wind catchers.

#### Impact on Trees

- 10.6 Adjacent to the existing Villa 7 is a mature oak Tree. The existing building is within the root zone of the tree. Consequently, evidence of some brick and mortar movement caused by the underlying roots can be seen on the south east and south west corners of the building. Essentially, this renders the existing building unusable and the problem will only get worse. The proposal to redevelop the site allows the root protection area to be taken into account in construction. The footprint of the new building would also be reduced. Overall, this development has the potential to be better for the retention and use of a building (although not the original) in this location, as well as for the health of the oak.
- 10.7 The application included a tree survey which was found to be satisfactory. However, to ensure that the development has minimal impacts on the adjacent trees it was necessary for an Arboricultural Impact Assessment and Method Statement to address construction issues which needed to be completed. This was provided to the Council on the day of this report being written, thus the Arboricultural Officer has not had time to respond and any condition necessary will be provided via the amendment sheet.

#### Other Issues

- 10.8 The scheme does not meet any thresholds for S106 contributions. However, it is a positive development for the town's hospital and university that provides at least 10 jobs.

### **11.0 Conclusion**

- 11.1 This is a scheme, negotiated by officers for several months at pre-application stage, is a comprehensive scheme that has evolved into a modern interpretation of a historical building form. It offers a fresh development respectful of the remaining Villa buildings whilst being able to offer high-tech facilities. On this basis, the committee are asked to support the development of this medical facility.

### **12.0 Background Papers**

- 12.1 ARC; Core Strategy; TL; HH; DHU; 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**

Prior to the commencement of development, an investigation and risk assessment, must be submitted to and approved, in writing, by the Local Planning Authority in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report 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' and the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P4 of the adopted Local Plan 2004.

### 3 – Non-Standard Condition

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P4 of the adopted Local Plan 2004.

### 4 - B6.9 Implementation of Approved Remediation Scheme

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P4 of the adopted Local Plan 2004.

### 5 - Non-Standard Condition

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P4 of the adopted Local Plan 2004.

## 6 - Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 3 above. This certificate is attached to the planning notification.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P4 of the adopted Local Plan 2004.

## 7 -C3.1 Materials (general)

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

Reason: The application has insufficient detail for approval to be given to the external materials; and to ensure that the development has a satisfactory appearance in order to protect and enhance the visual amenity of the area.

## 8 - C10.15 Tree & Natural Feature Protection: Protected

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

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

## 9 - 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.

#### 10 - 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.

#### 11 - Non-Standard Condition

Any lighting shall fully comply with the figures specified in the current "Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light" for Zone E3. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Any installation shall thereafter be retained and maintained to the standard agreed.

Reason: As there is insufficient information within the application to ensure that there is no light pollution caused by the proposed development.

#### 12 - Non-Standard Condition

Prior to the first use of the approved building, a competent person shall ensure that the rating of noise level emitted from the site (plant, machinery, equipment) shall not exceed 5dBA above the background building hereby approved. 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 and confirmation of the finding of the assessment shall be provided in writing to the Local Planning Authority.

Reason: In order to ensure that there are no disruptive noise levels outside of the main site.

#### 13 - Non-Standard Condition

Any plant, machinery or equipment on the premises hereby approved shall be constructed, installed and maintained so as to comply with the noise condition in Condition 12. 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.

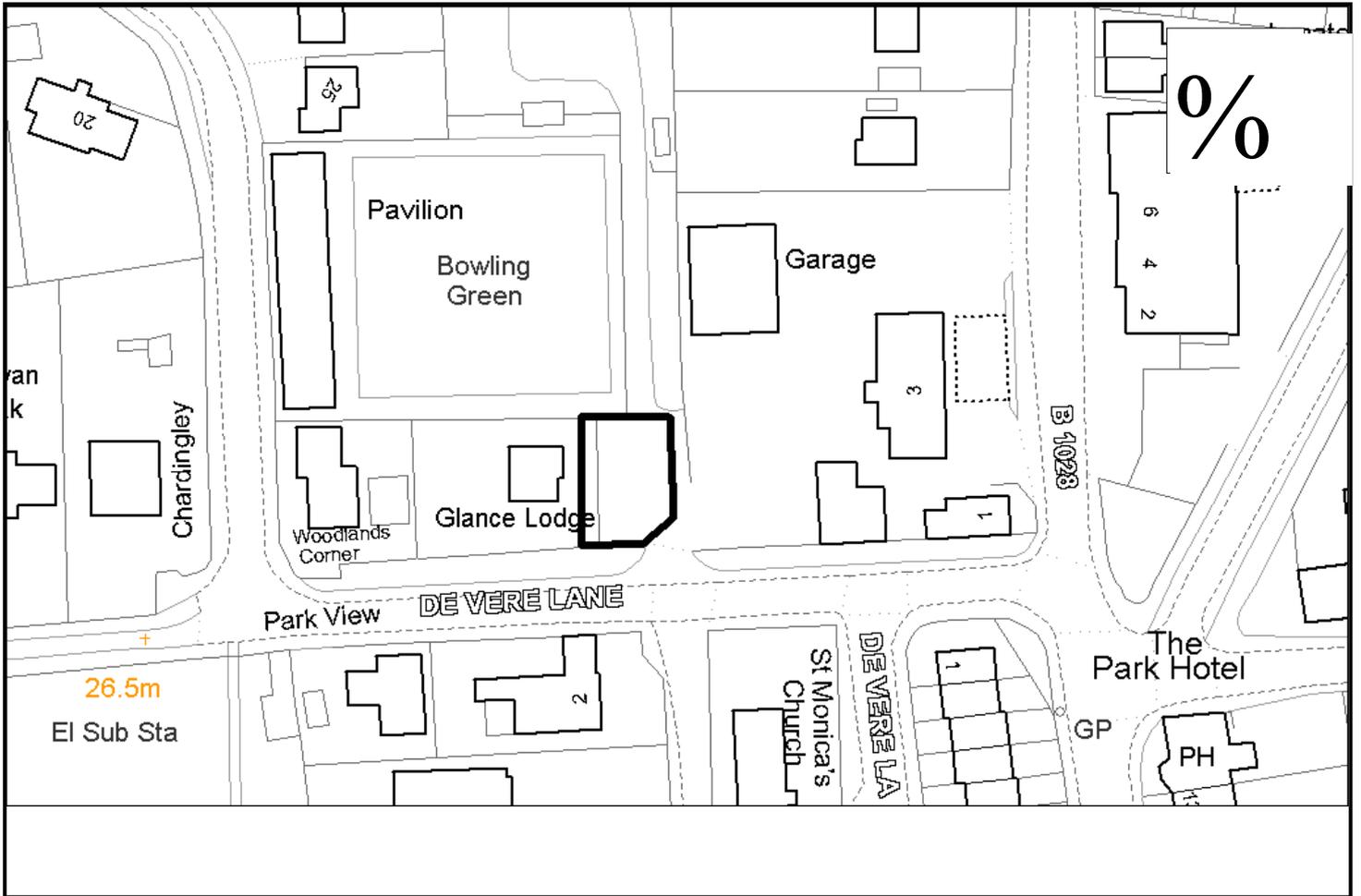
Reason: In order to ensure that there are no disruptive noise levels outside of the main site.

### **Informatives**

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

The applicant is advised that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Section on 01206 282436.

PLEASE NOTE for the purposes of noise assessments, a competent person is defined as someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience.



**Application No:** 090829

**Location:** Land East of, Gance Lodge, De Vere Lane, Wivenhoe, Colchester, CO7 9AU

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

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**7.4 Case Officer: Andrew Tyrrell**

**EXPIRY DATE: 25/08/2009**

**MINOR**

**Site:** Glance Lodge, De Vere Lane, Wivenhoe, Colchester, CO7 9AU

**Application No:** 090829

**Date Received:** 30 June 2009

**Agent:** Mr Steve Norman

**Applicant:** Mr A Sherwood

**Development:** Erection of a detached dwelling with associated parking facilities.

**Ward:** Wivenhoe Quay

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

## **1.0 Planning Report Introduction**

1.1 This planning application is referred to the Planning Committee because the Town Council have objected to the application and the officer recommendation is to approve it.

## **2.0 Site Description**

2.1 The site comprises part of the former garden of Glance Lodge, which is a chalet bungalow on the northern side of De Vere Lane, a small road off of the main B1028 just outside of the Wivenhoe Conservation Area, which contains a mixture of properties. The site contains no property at present, but is enclosed by domestic fencing, and is located to the rear or west of "Cedrics" (former) bus/coach garage site. The Bowling Green is to the north of the site and is accessed along the eastern boundary.

2.2 Glance Lodge itself is finished in cream weatherboard cladding. The driveway and parking area is gravelled. Further west, the dwelling approved in 2008 has been completed in red multi bricks and red tiles. The property here is two-storey and has a combination of gable and half-hipped roof elements, with small dormer windows.

## **3.0 Description of the Proposal**

3.1 The proposal is for a single dwelling, with associated parking spaces and amenity land. It would share an access with Glance Lodge, which is the donor property.

## **4.0 Land Use Allocation**

4.1 Residential

## **5.0 Relevant Planning History**

- 5.1 Application 080165 gave permission for a detached dwelling on land west of Glance Lodge, similar to this application. This property is two-storey and finished in brick with a red tiled roof. The dwelling combines gable and half-hip roofs. This property was then revised to allow additional living accommodation in lieu of the garage under permission 081057.
- 5.2 Opposite the site, F/COL/04/0972 gave permission for a single storey dwelling within the garden of 2 De Vere Lane.
- 5.3 The adjacent “Cedrics” site has permission for redevelopment for residential use. F/COL/05/2103 gave approval for 24 units.

## **6.0 Principal Policies**

- 6.1 The following adopted Local Plan policies are relevant:
- DC1 – Development Control Considerations
  - UEA11 – Design
  - UEA12 – Backland Development
  - P4 – Contaminated Land
  - T9 – Car Parking (Outside Central Colchester)
- 6.2 The following adopted Core Strategy policies are also relevant:
- SD1 – Sustainable Development
  - H1 – Housing Delivery
  - H2 – Housing Density
  - H3 – Housing Diversity
  - UR2 – Built Design and Character
  - PR2 – People Friendly Streets
  - TA5 - Parking

## **7.0 Consultations**

- 7.1 Environmental Control have asked for additional information regarding contamination. This has been requested. With a study underway at present further comments should be available by the committee meeting.
- 7.2 The DHU have advised that the design is satisfactory.
- 7.3 ECC Highways have no objections subject to several conditions as included below in the recommendation.

## **8.0 Town Council's Views**

- 8.1 Wivenhoe Town Council believe that this is massive overdevelopment of the site. The rear boundary line has been pushed back giving a false appearance; also the side boundary dimension needs confirmation on whether it is wide enough for emergency service vehicles to gain access to the rear. The proposal would cause a loss of light to nearby properties and there are insufficient car parking spaces based on current standards. Hedges and trees have also been felled already. There is virtually no garden space, contrary to policy and the adjacent Cedrics site is contaminated land. There has been some subsidence in De Vere Lane, which Anglian Water have investigated. If approval is granted the Town Council wish to be involved in S106 contributions.

## **9.0 Representations**

- 9.1 There is only one representation, a letter from the applicant responding to the Town Council comments. This is not detailed here in full, but essentially offers rebuttals to all points raised. The full letter can be seen online or on the file. Instead, the officer's response to the Town Council objection is included below in the main body of this report.

## **10.0 Report**

### Setting the Scene

- 10.1 Within the immediate proximity of this site there are 3 recent approvals (on 2 sites) for single dwellings in garden land. Thus, the principle of infill is established. The main issues then become whether or not this proposal is of equal (or better) standard to these approvals or whether there is a failing that would mean that it was less satisfactory than these permission and could be refused. The objections need to be considered in this light, as precedent has become a defining characteristic of this precise location within De Vere Lane owing to the frequency of infill so closely related.

### Design and Layout

- 10.2 The design of the property is similar to that approved west of Glance Lodge in some respects. The property is two-storey and has a primary main bulk and a subservient secondary element under two distinct roof forms. The main bulk runs from front to back in the site with a side pitch gable roof towards the road. The secondary form then extends out of the western side of this main element, with a lower twin-piled roof terminating in hipped ends with a central valley.
- 10.3 The property is finished in brick and weatherboard cladding. There is a bay window at ground floor level and a dormer window helps keep the secondary roof to almost "a storey-and-a-half" height. To the rear the master bedroom has a balcony.
- 10.4 Overall, this design is of at least equal standard to the previous approval to the west of Glance Lodge. On this basis, the design is considered to be acceptable in its setting.

10.5 In terms of the layout, Wivenhoe Town Council believe that this is massive overdevelopment of the site. They state that the rear boundary line has been pushed back giving a false appearance, also the side boundary dimension needs confirmation on whether it is wide enough for emergency services to gain access to the rear. Firstly, the development is comparable in scale and layout to that already approved to the west. Thus the scale of development is not considered to be overdevelopment or inappropriate to its setting. This is confirmed by the larger amenity area that can be provided. Secondly, the side accesses are equal to most established properties and fire services can access any part of a site within 40m of a public highway in the event of fire, which is the standard set out in the Essex Design Guide.

#### Impact on Surroundings

10.6 The Town Council state that the proposal would cause a loss of light to nearby properties. There is only one property that would be affected by the development in any such manner. This is the donor property. Whilst there would be some overshadowing and the new dwelling might appear overbearing on the outlook from their box dormer window (bedroom) it is usual from planning case law for planning authorities to take the view that this is the developer's choice as it only prejudices their own property. Essentially the trade off is the loss of some qualities of their existing home for the gain of an additional dwelling in their garden space, with any future occupiers who may take the property on choosing to do so with this knowledge. Consequently, amenity issues are normally only used for refusal where they are on "innocent" third parties who have no choice in the matter.

10.7 In terms of wider impact on the surroundings, the proposal is wholly contextual of this side of the street. Against the backdrop of Cedrics Garage this area is one that has seen concentrated development over the past few years. Even if this development does not occur (and less weight should be given to possible development in comparison with existing streetscene) the proposal would blend into De Vere Lane.

#### Provisions

10.8 The Town Council state that there are insufficient car parking spaces based on current standards. However, the adopted standards remain the 2001 EPOA standards, which this complies with.

10.9 According to the Town Council, hedges and trees have also been felled already. This is irrelevant to the consideration of this application. The trees were not protected therefore nothing improper has occurred.

10.10 The Town Council also believe that there is virtually no garden space. The garden area shown is some 8m x 12m approximately although the depth changes. This equates to 96 square metres, where the minimum standard is 75 square metres. Thus, this argument is not considered to carry significant strength.

## Other

- 10.11 The adjacent Cedrics site is contaminated land. This matter is being addressed prior to the committee meeting, but is likely to be acceptable subject to conditions based on preliminary surveys which were not detailed enough. The additional details should be available shortly after this report has been completed, and any changes will be reported via the amendment sheet.
- 10.2 The Town Council have added that there has been some subsidence in De Vere Lane, which Anglian Water have investigated. This is not a planning matter.
- 10.3 Finally, the Town Council ask that if approval is granted the Town Council wish to be involved in S106 contributions. However, the only contribution required by this scale of development is the standard Unilateral Undertaking for a provision towards Public Open Space. Thus, this request is unnecessary.

## **11.0 Conclusion**

- 11.1 In summary, the application is considered to be of equal or better quality than other development in this immediate proximity which have recently been approved. The proposal provides adequate provisions for future occupiers without harm to the surroundings environment. Subject to suitable contamination studies there are no issues that would justify a refusal, which is consistent with the lack of local residents' objections. The Town Council have not raised any significant planning arguments that offer reasons for refusal.

## **12.0 Background Papers**

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

**Recommendation** - Conditional Approval subject to the signing of a Unilateral Undertaking

### **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, shall be agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with agreed details.

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

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

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

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

### 4 – Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows or other openings shall be constructed above the ground floor in the west facing side wall of the building hereby approved.

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

### 5 - 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.

## 6 - C11.12 Landscape Works Implementation

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

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

## 7 –Non-Standard Condition

Prior to the proposed access being brought into use in conjunction with the first occupation of the development visibility splays with dimensions of 2.4 metres by 43 metres as measured from and along the nearside edge of the carriageway shall be provided on both sides of the access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

Reason: To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

## 8 – Non-Standard Condition

Prior to the proposed access being brought into use in conjunction with the first occupation of the development, the proposed vehicular access shall be provided with 1.5m x 1.5m pedestrian visibility splays on both sides relative to the highway boundary and shall contain no obstruction exceeding 0.6 metres in height.

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

## 9 – Non-Standard Condition

Prior to the first occupation of the dwelling hereby permitted, the parking and vehicular turning area as shown on the submitted plans shall be laid out and maintained free from obstruction at all times thereafter for that sole purpose.

Reason: To ensure that there is adequate parking and turning space for vehicles entering, using and exiting the site in the interests of highway safety.

## 10 - Non-Standard Condition

No unbound materials shall be used in the surface finish of the proposed private drive within 6 metres of the highway boundary.

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

## 11 - Non-Standard Condition

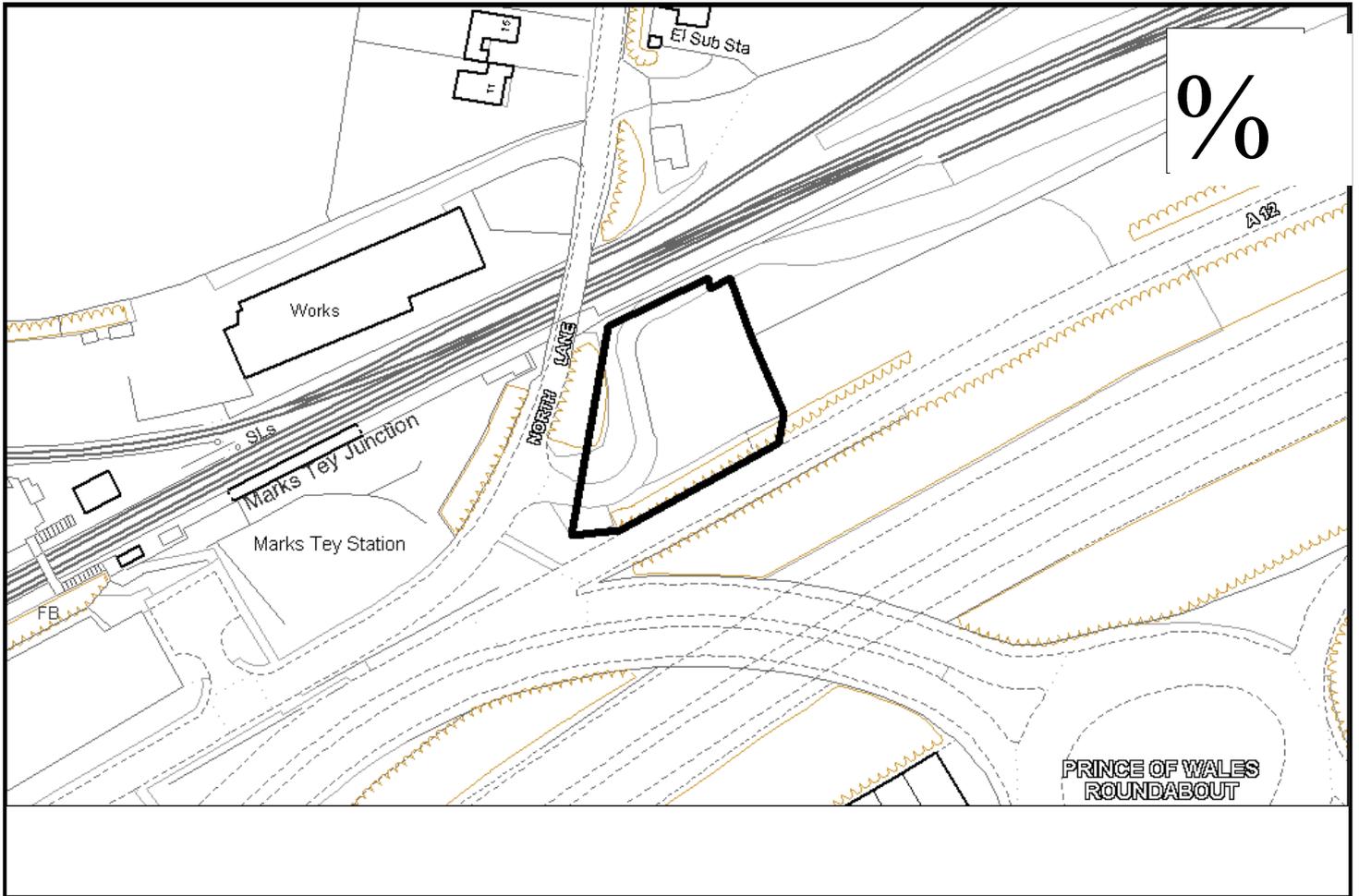
Any gates provided at the vehicular access shall only open inwards and shall be set back a minimum of 4.8 metres from the nearside of the carriageway.

Reason: To enable vehicles using the access to stand clear of the footway whilst the gates are being opened and closed in the interests of highway safety.

### **Informatives**

The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction 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.

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



**Application No:** 090874

**Location:** Land Opposite Marks Tey Station, North Lane, Marks Tey, Colchester, Essex

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

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**7.5 Case Officer: John Davies**

**EXPIRY DATE: 28/08/2009**

**OTHER**

**Site:** North Lane, Marks Tey, Colchester, Essex

**Application No:** 090874

**Date Received:** 3 July 2009

**Applicant:** Regional Car Parks

**Development:** Continued use of site as a temporary public pay & display car park for a 3 year duration (previously approved under C/COL/05/1918)

**Ward:** Marks Tey

**Summary of Recommendation:** Temporary Approval

## **1.0 Planning Report Introduction**

1.1 This application has been presented to Planning Committee as it relates to renewal of parking provision at a site near Marks Tey Station and in view of separate proposals for additional car parking on land to the north of the station by National Express East Anglia (NXEA) which are pending and likely to come back before Committee in the near future.

## **2.0 Site Description**

2.1 The application site comprises a parcel of land of 0.21 hectares in area on the south side of North Lane and bounded by the A120 to the south and the main railway line to the north.

2.2 The land has been used as commuter parking for people using the railway station since 1997 with the benefit of temporary permissions, the last of which expired in January 2007.

2.3 The access into the site from North Lane also serves land further to the east which is used as an aggregate depot and is therefore served by heavy lorries.

2.4 The condition of the car park is very poor. There are no marked parking bays and there is a loose gravel surface and the carriageway is pot holed in places. Cars can park freely subject to not causing obstruction of the road and other car park users. The site is not enclosed and it is highly visible from the A12 slip road to the south. The site appears to have been in this condition since it was first approved on the basis of what appears to be only a temporary use pending provision of more permanent, better quality parking elsewhere to serve the station.

### **3.0 Description of Proposal**

- 3.1 Continued use of site as a temporary public pay & display car park for a 3 year duration and previously approved under C/COL/05/1918. The car park would be operated, as now, between 5am and 7pm every day and on a pay and park basis. There is no staff presence on site, but it is patrolled during the day.
- 3.2 The site can accommodate a maximum of 73 car parking spaces. However, there are no marked bays and therefore typical capacity is around 60 spaces.

### **4.0 Land Use Allocation**

- 4.1 No notation  
Potential contaminated land

### **5.0 Relevant Planning History**

- 5.1 97/0908- Temporary use of land as car park- approved 6.11.97
- 5.2 T/COL/00/1118- Non compliance to condition 01 of COL/97/0908 to allow continued use of land for car parking- temporary approval 8.9.2000
- 5.3 C/COL/05/1918- Change of use of land as car parking- temporary permission granted 18.1.06

### **6.0 Principal Policies**

- 6.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
CO4- Landscape Features  
T9 – Car parking  
P1 – Pollution (General)  
P2 – Light Pollution
- 6.2 Adopted Core Strategy-December 2008  
TA1 – Accessibility and Changing Travel behaviour  
TA3- Public Transport  
ENV1- Environment

### **7.0 Consultations**

- 7.1 Highways Agency - no objection.
- 7.2 Highways Authority - no objection subject to standard informative regarding any works affecting the highway.
- 7.3 Environment Agency - no objection

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

- 8.1 Marks Tey Parish Council have no objection.

## **9.0 Representations**

9.1 None

## **10.0 Report**

- 10.1 The history of the use of this site goes back to 1997 when temporary permission was first granted. In that first permission conditions were imposed seeking cycle parking, fencing to the A12, a stable and free draining surface and maintenance of adequate visibility at the access. Cycle parking and a stable surface have not been provided and over the years permissions have been granted on the basis that the site was less than ideal but it provided necessary parking in the absence of better provision elsewhere to serve the station. The last approval also referred to the need for future parking proposals to be submitted as part of a comprehensive travel plan strategy that also considered proposals to improve access to the station for other non car modes namely, pedestrian, cycle and bus access.
- 10.2 Members should be aware of a separate planning application (082055) from NXEA for additional car parking to the north of the station comprising 150 spaces. A report on this application was on the agenda for the Planning Committee meeting of the 25 June, with a recommendation for refusal but was withdrawn by the Head of Environmental and Protective Services in order to give the applicants time to respond to the reasons for refusal which related to the suitability of the car park egress and justification for the amount of proposed parking. It is not known at the time of preparing this report when the application will go back before Committee nor what the recommendation will be.
- 10.3 The application site, the subject of this report, has been used for car parking continuously for over 10 years notwithstanding its poor appearance and condition. It would not be reasonable to refuse permission for a temporary continuance of the use unless there has been a material change in material considerations relating to the use. There are no such changes, although the determination of Application 082055 over the next year will be an important factor regarding possible alternative parking supply. It is clear from site inspections that the car park is generally well used based on demand from users of the station. The continued provision of this car parking is, in principle, in line with Government policy to encourage rail use for the longer part of peoples' journeys rather than driving all the way.
- 10.4 Former Policy T10 in the Local Plan promoted the provision of additional car parking at local railway stations and with priority to Marks Tey Station. The supporting statement indicated that there were serious problems at Marks Tey Railway Station needing attention as a priority. This policy was not 'saved' in September 2007 as it was considered too specific and already covered by Policy T9 on car parking.
- 10.5 When the last renewal of planning permission was approved in 2006 the Highway Authority sought various works to the car park to prevent vehicles manoeuvring at the entrance or parking inconsiderately. This appears to have been in response to complaints that cars were blocking the access road leading to lorries being obstructed. These requirements were imposed by conditions but appear not to have been complied with. The Highway Authority, however, has not requested such measures this time and they have not therefore been requested as conditions.

10.6 For the above reasons it is considered reasonable to allow the use for another 1 year, rather than 3 years as proposed by the applicants, so that the position can be reviewed at the end of this period in the light of the determination of Application 082055.

## **11.0 Background Papers**

11.1 ARC; ECC; HA; NR; PTC

### **Recommendation - Temporary Approval**

#### **Conditions**

##### **1 – Non-Standard Condition**

The use of the site as a car park shall be limited to a period terminating on 31st August 2010, and the use hereby permitted shall be discontinued and the land reinstated to a tidy condition on or before the expiration of the period as specified in this condition.

Reason: The Local Planning Authority supports the continued provision of car parking to serve users of Marks Tey Station in accordance with Policy T9 in the ARCBLP and Government policy which encourages use of the railway for journeys rather than the car. However, permission has been granted for only a one year temporary period given the poor condition and visual appearance of the car park and the lack of any measures to encourage access to the station by means other than the car.

##### **2 – Non-Standard Condition**

There shall be no obstruction to vision above ground level over the entire site frontage within a strip measuring 3 metres in width from the kerb line of North Lane so as to ensure adequate inter-visibility between drivers on the highway and those leaving the site.

Reason: In the interests of highway safety.

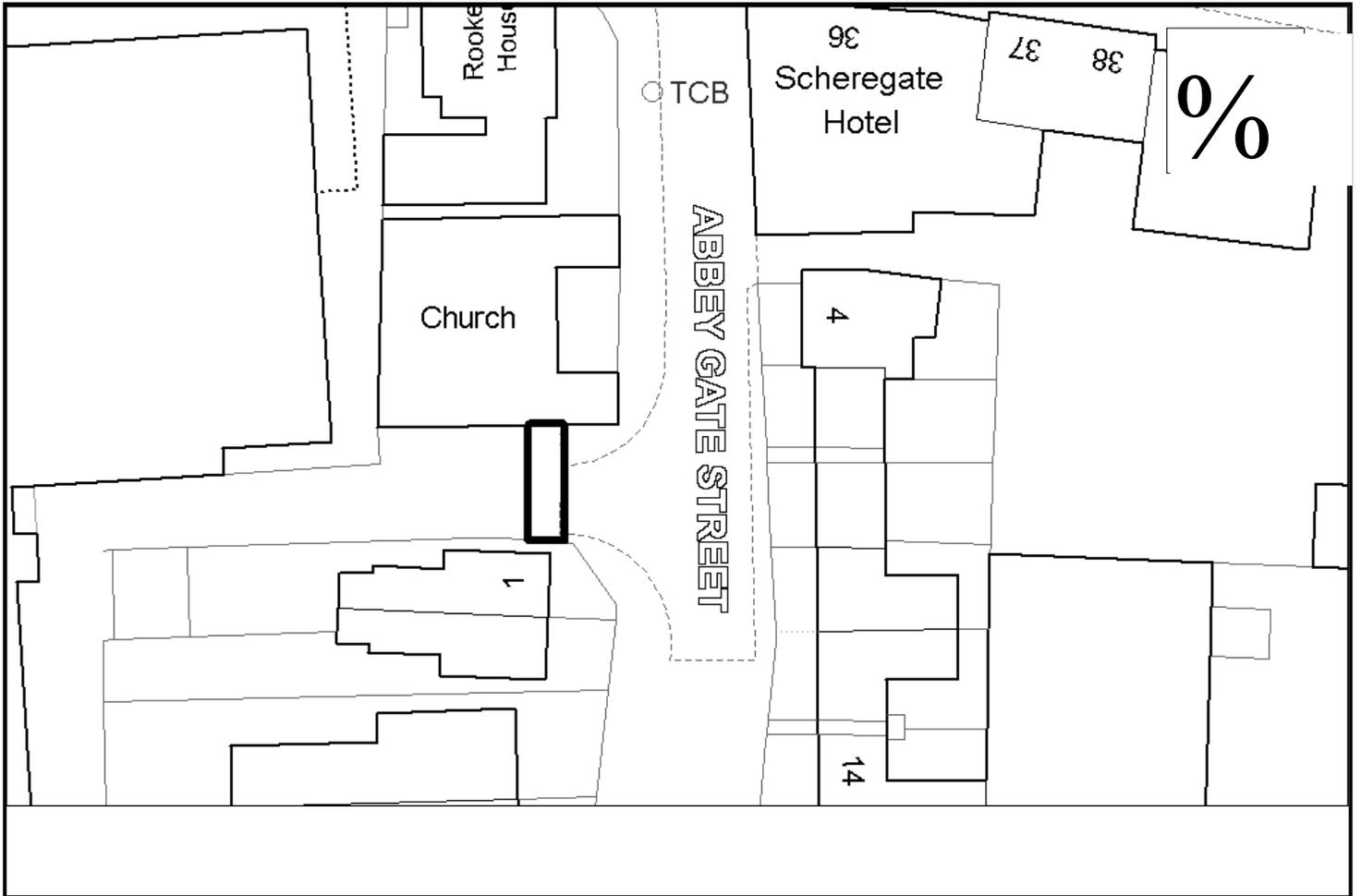
##### **3 – Non-Standard Condition**

The surface of the car park shall be maintained so as to prevent any loose or wet detritus being carried onto the highway.

Reason: In the interests of highway safety.

#### **Informatives**

The Local Planning Authority will review the future of this car park at the end of the one year period in the light of the availability of alternative permanent car parking provision and the long term suitability of this site for car parking. The Local Planning Authority also seeks the submission of a comprehensive travel plan for the station which promotes and encourages more access to the station by foot, cycle and bus. If the parking area, the subject of this application, is considered appropriate for permanent permission then a full landscaping scheme and measures to improve the appearance of the site, including better surfacing and means of enclosure, will be required.



**Application No:** 090880

**Location:** Shopping Centre, St Johns Walk, Colchester

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

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**7.6 Case Officer: Mark Russell**

**EXPIRY DATE: 01/09/2009**

**MINOR**

**Site: St Johns Walk, Colchester**

**Application No: 090880**

**Date Received: 7 July 2009**

**Agent: Workman Llp**

**Applicant: Threadneedle Pensions**

**Development:** Erection of red brick wall and automated decorative steel double gates across entrance of rear access road to St.Johns shopping Centre. Automated system to comprise amaglock with push button to exit and key pad to enter/fob reader. Resubmission of 090649.

**Ward: Castle**

**Summary of Recommendation: Conditional Approval**

## **1.0 Site Description**

1.1 The site comprises the entry point to a service road used for the St. Johns Shopping Centre (Wilkinsons, Iceland and so on) as well as for rear parking for residents of Abbeygate Street.

## **2.0 Description of Proposal**

2.1 The proposal is to gate the access way where it meets Abbeygate Street. This would be in the form of decorative arched gates which would be operated by a push button to exit and a key pad to enter. To the right of the access gate, and adjacent to the church, would be a stretch of red brick wall topped with railings, and measuring approximately 3 metres. To the left a shorter stretch of wall (approximately one metre) is proposed. The wall is to measure 2.2 metres in height, the gates are to measure between 2.2 and 2.5 metres.

2.2 The gates would be set back five metres from the edge of the carriageway at the request of the Highway Authority.

2.3 The previous application was refused for the following reason:

*“The applicant has not submitted, in a timely manner, sufficient information regarding the size and weight of traffic which use the access for Colchester Borough Council and the Local Highway Authority to fully assess the impact on the highway. The proposal does not allow vehicles to stand clear of the highway whilst opening the gates, thereby creating a hindrance to highway traffic detrimental to the safety and efficiency of the highway interest.”*

### **3.0 Land Use Allocation**

- 3.1 Mixed Use/Residential  
Colchester Conservation Area 1.

### **4.0 Relevant Planning History**

- 4.1 090649 - Erection of red brick wall and automated decorative steel double gates across entrance of rear access road to St. Johns shopping Centre. Automated system to comprise amaglock with push button to exit and key pad to enter/fob reader. Refused 7th July 2009.
- 4.2 090723 - Application for a lawful development certificate for an existing use operation for use of land as parking area comprising 4 spaces for private vehicles. Granted 24th July 2009.

### **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations;  
UEA1 – Conservation Areas;  
UEA11 – Residential Amenity
- 5.2 Core Strategy:  
UR2 – Built Design and Character
- 5.3 Local Transport Plan 2006/2011  
Appendix G

### **6.0 Consultations**

- 6.1 Highway Authority has raised no objections, with the conditions that any gates erected at the access shall be inward opening and recessed to a minimum of 4.8 metres from the nearside edge of the carriageway of the road.

### **7.0 Representations**

- 7.1 At the time of writing, 11 objections and one letter of support had been received.
- 7.2 All of the objections were from residents of Abbeygate Street (principally from the opposite – eastern – side of the road) and carried the same message: The development would deprive them of parking; part of the area behind the proposed gates was mistakenly included in the lease to Threadneedle Pensions and is by right a parking area for residents of Abbeygate Street who have easement over it; Colchester Borough Council has acknowledged this fact, but has not made amends.

7.3 The owner of 7 Abbeygate Street, which is on the same side as the application site, went further, stating:

"With all the houses on the west of the street we have a vehicular right of way down the road which the applicant is seeking to block. I own a piece of land at the back of my property which on certain occasions we need to use for parking. We anticipate that this need will increase in the future as we have a growing family."

The owners of numbers 9 and 5 also echoed this point.

7.4 Other points made were that an electronic gate would be open to vandalism and breakdown, that the gate could be dangerous in case of a fire, and that the inconvenience caused by any malfunction of the gate would lead to a devaluation of property. Finally it was felt, by one objector, that the wall and railings looked out of place in this location.

7.5 The letter of support for the application came from the owner of numbers 1 and 3 Abbeygate Street which immediately abuts the site. This support came in the form of four letters of varying length (from 2 to 22 pages) and covered a variety of points.

- Crime, vandalism, litter and the antisocial behaviour including vomit, excrement and lewd activities;
- Persistent problems with members of the public using the access road as a "public car park" and frequently, obstructing garages;
- Parked vehicles obstructing the fire escape;
- The writer has also contended that, as one of the objectors is a member of the Liberal Democrats, that any Members from that party should not participate in the debate and that a report to the Local Authority Ombudsman may follow;
- The issue of parking is an irrelevance – the construction of the wall and gate would not, in itself, alter the situation in respect of the parking;
- Many of the residents on the east side have roadside parking, those on the west side do not.

## **8.0 Report**

8.1 Clearly the matter of parking and access to the track leading to the rear of the St. John's Walk Shopping Centre is a very sensitive one for all involved.

8.2 There is a history to this site which is very involved, and relates to wider issues involving the body corporate of Colchester Borough Council. These issues need to be addressed, and the applicant was advised to resolve them prior to this resubmitted application (090649 having been refused on Highways grounds due to insufficient information). This, however, could not be insisted upon and the applicant has elected to resubmit.

- 8.3 The Certificate application 090723 ('Application for a lawful development certificate for an existing use operation for use of land as parking area comprising 4 spaces for private vehicles.') was submitted by the resident of 12 Abbeygate Street (on the east side) and was granted on 24th July. However, this was under Section 191 of the Town and Country Planning Act, and simply states that a piece of land has been used for an activity (in this case the parking of cars) for in excess of ten years, it does not affect issues of ownership or easement, which trump any Certificate.
- 8.4 Members are advised, therefore, that the application before them is a Planning application, under the provisions of the Town and Country Planning Acts, and that only Planning considerations are of relevance. Arguments over right of access, easement and leases are therefore not to be considered by this Committee.
- 8.5 The logical considerations are those of the physical form of the proposal, and its effect on the Highway, the Conservation Area, and the amenity of the residents.
- 8.6 Whilst one objector has stated that the design of gates does not fit in with Abbeygate Street, your Officer (who suggested the design) disagrees. The gates are ornate and help to bridge a visual gap between two groups of buildings. Whilst the space behind the proposed structure is unremarkable, and in fact visually disappointing, Abbeygate Street is of a generally high architectural quality, with many Listed Buildings. Therefore any treatment to this frontage needs to be well considered. The design of gate is attractive and well-detailed, and the walled section helps to enclose and conceal a section of land which is of a low quality and detracts from this attractive street.
- 8.7 The Highway Authority has advised as to the steps required to make this acceptable in their terms of reference – namely that the gates be inward opening and set back a minimum of 4.8 metres from the edge of the carriageway – and these demands have been met.

## **9.0 Conclusion**

- 9.1 The proposal is therefore seen as an enhancement to the Conservation Area, and does not raise any issues of residential amenity or highway safety. Approval is, therefore, recommended, notwithstanding any legal disputes.

## **10.0 Background Papers**

- 10.1 ARC; Core Strategy, HA, NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

#### 2 - Non-Standard Condition

The gates hereby approved shall be inward opening only and maintained as such at all times.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst they are being opened and closed, in the interests of highway safety.

#### 3 - Non-Standard Condition

The gates hereby approved shall be recessed a minimum of 4.8 metres from the nearside edge of the carriageway of the existing road.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst they are being opened and closed, in the interests of highway safety.

#### 4 - Non-Standard Condition

The gates hereby approved shall be coloured black, and shall remain so at all times.

Reason: In the interests of the visual amenity of this Conservation Area.

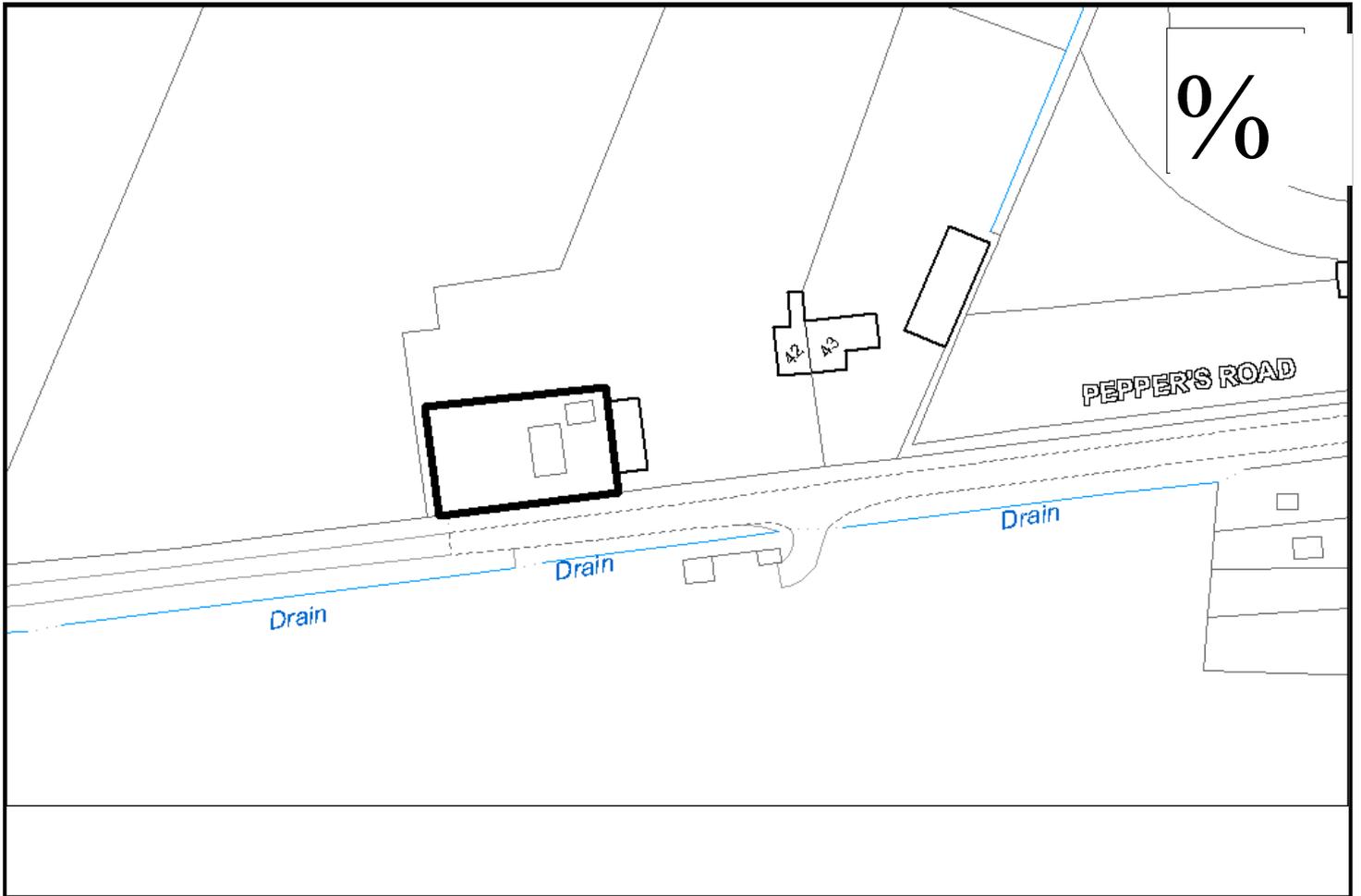
#### 5 - Non-Standard Condition

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

Reason: In the interests of the visual amenity of this Conservation Area.

#### **Informatives**

The applicant is advised to resolve the long-standing issues of easement and right of way prior to any works taking place. The applicant is further advised that Planning permission does not override any such easements, rights or deeds of covenant.



**Application No:** 090884

**Location:** 42 Peppers Lane, Boxted, Colchester, CO4 5HL

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

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**7.7 Case Officer: Jane Seeley**

**EXPIRY DATE: 31/08/2009**

**OTHER**

**Site:** 42 Peppers Lane, Boxted, Colchester, CO4 5HL

**Application No:** 090884

**Date Received:** 6 July 2009

**Agent:** Edward Gittins & Associates

**Applicant:** Mr And Mrs T Apps

**Development:** Variation of condition 1 (The buildings hereby permitted shall be used solely for the stabling of horses and storage of associated equipment and foodstuffs in connection with and for the private and personal enjoyment of the occupants of the application property. No commercial uses including a livery, riding school, industrial or other storage uses shall take place whatsoever) of planning approval 072199 to allow the owners of the adjacent property to keep a horse at the stables for private use.

**Ward:** Fordham & Stour

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

- 1.1 The stables are to the north of Peppers Lane of Boxted Straight Road. A PROW runs along the track. The stables are within the curtilage of No 42 Peppers Lane, a semi-detached property. The other semi-detached property is no 43. Within the grounds of No 43 is a residential annexe. Both No 43 and the annexe are owned by the applicant and are rented to separate tenants. Currently the annexe is being used by the daughter of the occupants of No.42 and as such has created a new unit of accommodation which is being investigated by the Enforcement Team.
- 1.2 The stables were granted retrospective planning permission in 2007. In 2008 permission was granted for the use of a field immediately to the west and north of the stables for equestrian uses. Both the use of the stables and the land is subject to conditions such that the use is in association with No 42 Peppers Lane and is not used for commercial equestrian purposes.
- 1.3 The tenant of No 43 is keeping a horse in the stables/paddock. This application seeks to vary the wording of Condition 1 of the planning permission for the stables to allow the stabling of horses and associated storage by the occupants of both Nos 42 and 43. The applicant's agent has advised that an application to vary the conditions of the permission for equestrian use of the field is to follow.

## **2.0 Land Use Allocation**

2.1 Special Policy Area – Boxted Straight Road.

## **3.0 Relevant Planning History**

3.1 072199 - Retention of private stable block and hay store – Approved 16.10.2007

3.2 081373 - Change of use of land from agriculture to private equestrian use – Approved 09.09.2008

3.3 082050 - Use of land as domestic curtilage – Approved 27.01.2009

3.4 090207 - Removal of conditions 1 and 2 (removal of householder permitted development rights) attached to planning approval 082050 for use of land as domestic curtilage – Approved 14.4.2009

## **4.0 Principal Policies**

4.1 Adopted Local Plan  
DC1- General DC considerations  
CO12 – New stable/extensions to existing stables

4.2 Core Strategy  
ENV 1 -Environment

## **5.0 Consultations**

5.1 None

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

6.1 Boxted Parish Council comment as follows:

“Please could this variation only apply to No 43 Peppers Lane as we are concerned that this might become a commercial venture. This would mean that only the occupants of 42 and 43 would be allowed horses on this shared site.”

## **7.0 Representations**

7.1 One email has been received raising the following issues:

- 1) When planning permission was granted for retention of the stables in 2007 only the immediate neighbour was notified.
- 2) No horses were on site until earlier this year.
- 3) The occupants of No 43 are tenants; there are 2 sets of tenants at this property, one in the house and one in an annexe - who will be keeping the horses?
- 4) The applicant's intended wording for Condition 1 does not limit the number of horses that can be kept

- 5) The proposed wording restricts commercial usage such as livery. When No 43 was advertised for let the advert stated that the stables and paddock were available by separate negotiation. The applicant is clearly intent on running a livery on a commercial basis.

## **8.0 Report**

- 8.1 Policy CO12 gives general support to stabling in the countryside but requires that new equestrian development is located in association with existing residential property to provide the necessary supervision. When planning permission was granted for the stables in 2007 a condition was attached which restricted the use to the occupants of the application property (ie No 42 Peppers Lane). This was to ensure that the stables were not used by persons unassociated with the dwelling as this could lead to pressure for a new dwelling to be provided in order to house the person supervising the horses.
- 8.2 No 43 is directly adjacent to the site, therefore the occupants can provide appropriate supervision of any horses in their ownership from that property. Accordingly it is not considered that varying the condition to allow the occupiers of both No's 42 and 43 Peppers Lane to use the stables for keeping horse conflicts with Policy CO12.
- 8.3 The applicant's agent has advised that it is the occupiers of No 43 rather than the occupiers of the Annexe to No 43 who are utilising the stables. Currently the annexe is considered to be ancillary to No 43 and therefore if the Condition is varied it would be possible for either set of tenants to use the stables. If at any time the annexe becomes a separate unit of accommodation the occupiers would not be able to use the stables.
- 8.4 An advert provided by the objector indicates that when a tenant was being sought for No 43 that the stabling and grazing was indicated as being potentially available. This is not evidence that the stables are being used for livery purposes. The stables are and will continue to be subject to a condition to prevent any type of commercial usage. If a livery or other commercial use does commence enforcement action can be instigated. It is not considered that a condition to limit the number of horses is justified. The number of horses in the stables will be naturally controlled by the size of the stable block.

## **9.0 Background Papers**

- 9.1 ARC; PTC; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

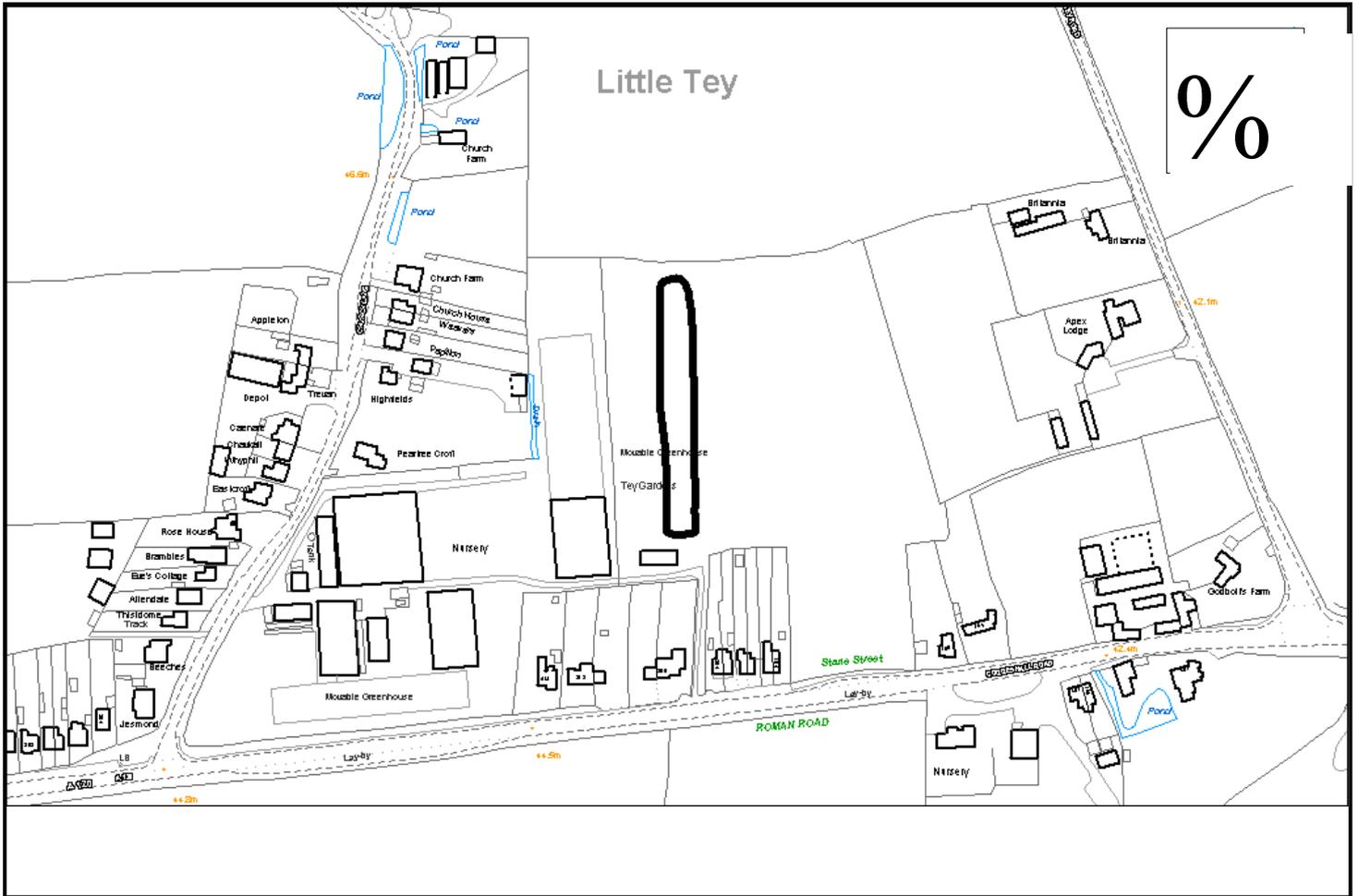
##### **1 - Non-Standard Condition**

The buildings hereby permitted shall be used solely for the stabling of horses and storage of associated equipment and foodstuffs in connection with and for the private and personal enjoyment of the occupants of No's 42 and 43 Peppers Lane. No commercial uses including a livery, riding school, industrial or other storage uses shall take place whatsoever.

Reason: For the avoidance of doubt as to the scope of this permission and to ensure that the use does not cause harm to the amenity of the surrounding area.

**Informatives**

You are reminded that with the exception of the condition varied by this permission all other conditions attached to Planning Permission 72199 remain relevant and enforceable.



**Application No:** 090811

**Location:** Tey Gardens Nursery, Church Lane, Little Tey, Colchester, CO6 1HX

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

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**7.8 Case Officer: John Davies**

**EXPIRY DATE: 17/08/2009**

**OTHER**

**Site:** Church Lane, Little Tey, Colchester, CO6 1HX

**Application No:** 090811

**Date Received:** 22 June 2009

**Agent:** Mrs Catherine Pollard

**Applicant:** Tey Gardens Llp

**Development:** Retention of earth bund for temporary period of three years

**Ward:** Marks Tey

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

- 1.1 The application site forms part of land formerly used by the Tey Gardens Nursery, which is no longer in use. Land on the corner of Coggeshall Road and Church Lane is now used for the storage of hard landscaping materials within an enclosed compound. The site of the bund is located to the east of this use and behind a row of houses fronting the main road.
- 1.2 A public footpath linking Coggeshall Road and Church Lane passes to the south of the bund. The area around the bund has an unkempt appearance with an abandoned greenhouse and Nissen-type building to the south-west while a balancing pond has been created to the west of the bound to assist with surface water drainage from the hard landscaping storage use.

## **2.0 Description of Proposal**

- 2.1 The proposal is for the retention of the earth bund for a period of three years. The submitted plan shows an earth bund approximately 129 m long and up to 5 m high. The letter submitted with the application states that the bund comprises top soil excavated from development of the adjoining site, Tey Gardens. This development was for use of the site for the storage and distribution of hard landscaping materials.

## **3.0 Land Use Allocation**

- 3.1 No notation

#### **4.0 Relevant Planning History**

- 4.1 081070 - Demolition of existing glasshouses and change of use from commercial horticultural nursery to storage of hard landscaping materials, formation of area of hardstanding, provision of balancing pond provision of staff car park and associated landscape planting revisions to planning permission 073133 - Approved 8.8.2008

#### **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
CO4-Landscape Features
- 5.2 Adopted Core Strategy  
ENV1- Environment  
ENV2- Rural Communities

#### **6.0 Consultations**

- 6.1 Landscape Officer - no objections.

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

- 7.1 Marks Tey Parish Council has no objection but has concerns over the grubbing out of hedges which affords a clear view of the storage area from local houses, Church Lane and the A120.

*Officer comment: It is noted on site that the Church Lane frontage to the hard landscape storage use is open following road widening works. However, the approved plans show hedge and tree planting along this boundary which are likely to be carried out during the next planting season.*

#### **8.0 Representations**

- 8.1 Three letters have been received in response to the application. One letter from a resident in Church Lane has no objection. However another resident in 'Papillion' in Church Lane objects on the following grounds:

- Visual impact from back garden boundary and obscures views over fields
- This is the second bund on the site

- 8.2 An objection has also been received from an occupier at 202 Coggeshall Road on the following grounds:

- Loss of view to rear of house due to mounds
- Danger from water filled pit especially to children
- Likelihood of the bunds remaining on site permanently

## **9.0 Report**

- 9.1 In support of the proposal the applicants state that the bund is for a temporary period only and is generally enclosed by existing residential development and screened by trees and hedgerows such that it is not intrusive in the wider countryside. Your officers generally concur with this view. The bund is well set back from main roads and obscured from views by houses and other structures. It is however a more imposing feature for users of the public footpath, however, the presence of derelict greenhouses and an old Nissen hut already have an adverse visual impact.
- 9.2 The objections raised by residents regarding loss of a view are not sustainable as these are not material planning considerations. With regard to Church Lane, the bund is in any case largely screened by trees along the rear boundary of the houses. With regard to Coggeshall Road the bund appears largely in end views and is sufficiently far from garden boundaries not to be considered as giving rise to over-shadowing, loss of light or visual intrusion.
- 9.3 The objectors refer to two bunds. There is a shorter, lower bund situated close to the rear boundary of houses on the east side of Church Lane. It is therefore much smaller and far less conspicuous than the bund the subject of this application. It is not proposed for retention as part of this application and clarification on its future will be provided prior to Committee.
- 9.4 With regard to reference to the water-filled pit. This is the balancing pond to the west of the bund. This is enclosed by a post and wire fence and there are signs warning of deep water.
- 9.5 The bund is covered by vegetation and has taken on a 'green' appearance which has helped it assimilate into the landscape. It is considered reasonable to allow it to be retained for a temporary period of 3 years at the end of which period it is expected that the bund will be removed.

## **10.0 Background Papers**

- 10.1 ARC; TL; PTC; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

- 1 - Non-Standard Condition

The retention of the bund shall be limited to a period terminating on 31st August 2012 and on or before this date the bund shall be completely removed from the site and the land shall be restored to a tidy condition.

Reason: The bund by reason of its size, form and location is not considered acceptable as a permanent landscape feature in a rural setting and close to a public right of way. However, temporary permission has been granted having regard to the case made in support of the bund for a temporary period by the applicant.

**Informatives**

You are advised that the bund is only considered acceptable for a temporary period as requested by the applicant and the Local Planning Authority expects that every effort will be made to secure the removal of the bund within the three year period. The Local Planning Authority is unlikely to be willing to agree to extend the temporary permission beyond this period in the interests of restoring the site to its previous condition as soon as possible.

## 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.