

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 26 May 2022 at 18:00

The Planning 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. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling 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 (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. At Planning Committee meetings, other than in exceptional circumstances, only one person is permitted to speak in support of an application and one person in opposition to an application. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

<https://colchester.cmis.uk.com/colchester/HaveYourSay/HYSPlanning.aspx>.

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 26 May 2022 at 18:00

The Planning Committee Members are:

Members of the Committee, the Chair and Deputy Chair to be appointed at the Annual Meeting.

The Planning Committee Substitute Members are:

All members of the Council who are not members of this committee and who have undertaken the required planning skills workshop training:-

Councillors:

Tracy Arnold	Lyn Barton	Molly Bloomfield	Michelle Burrows	Roger Buston
Nigel Chapman	Helen Chuah	Mark Cory	Pam Cox	Adam Fox
Mark Goacher	Jeremy Hagon	Dave Harris	Mike Hogg	Michael Lilley
Sue Lissimore	Andrea Luxford-Vaughan	Jackie MacLean	Roger Mannion	Sam McCarthy
Sam McLean	Patricia Moore	Steph Nissen	Beverly Oxford	Gerard Oxford
Kayleigh Rippingale	Lesley Scott-Boutell	Paul Smith	Leigh Tate	Dennis Willetts
Martyn Warnes	Barbara Wood	Julie Young	Tim Young	

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

Please note that Agenda items 1 to 2 are normally dealt with briefly.

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days 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.

Live Broadcast

This meeting will be audio livestreamed to this Committee Page.
[· Colchester Borough Council \(cmis.uk.com\)](http://cmis.uk.com)

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Substitutions

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

3 Urgent Items

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

4 Declarations of Interest

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

5 Have Your Say

At meetings of the Planning Committee, members of the public may make representations to the Committee members. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make representations in support of each planning application. Each representation may be no longer than three minutes (500 words). Members of the public wishing to address the Committee need to register their wish to address the meeting by e-mailing

democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date.

These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each

6 Minutes of Previous Meeting

No minutes of previous meetings are submitted for approval at this meeting.

7 Planning Applications

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

- | | | |
|------------|--|----------------|
| 7.1 | 220149 Land to the South of, Veronica Walk, Colchester | 7 - 24 |
| | Redevelopment of site to involve the demolition of the existing garages on site, and provision of 3 no. new dwellings. | |
| 7.2 | 220150 Land to the rear of, Hedge Drive Colchester | 25 - 44 |
| | Redevelopment of site to involve demolition of the existing garages on site, and provision of 3 no. new dwellings. | |
| 7.3 | 211105 Land and Building adj, Little Doves Day Nursery, Lower Road, Peldon | 45 - 64 |
| | Demolition of agricultural building and erection of replacement building for office use, (Class E(g)(i) (195 sqm) and car parking. | |
| 7.4 | 220865 115 Butt Road, Colchester, CO3 3DL | 65 - 76 |
| | Relocation of existing advertisement and erection of new 48 sheet billboard. | |
| | Planning Committee Information Pages v2 | 77 - 88 |

8 Exclusion of the Public (not Scrutiny or Executive)

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).

Part B
(not open to the public including the press)



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Item No: 7.1

Application: 220149

Applicant: Colchester Borough Council

Agent: Mrs Rebecca Howard

Proposal: Redevelopment of site to involve the demolition of the existing garages on site, and provision of 3 no. new dwellings

Location: Land to the South of, Veronica Walk, Colchester

Ward: Greenstead

Officer: Nadine Calder

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposal, the design, scale and form, its impact on neighbouring amenity in terms of outlook, light and privacy and provision of parking. These matters have been considered alongside planning policy requirements and other material matters, leading to the application being subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site lies within the defined settlement limits for Colchester. It currently accommodates two flat-roofed blocks of garages which are offered for rent (managed by Colchester Borough Homes). A total of 19no. garages are on site.
- 3.2 The site is roughly rectangular in shape and is bounded by residential development to all sides, with a small area of open space lying directly to the west of the site. Vehicular access to the site is gained from Veronica Walk to the north east while pedestrian access to Hickory Avenue and Erica Walk is provided to the south and west respectively.

4.0 Description of the Proposal

- 4.1 The proposal includes the demolition of the existing garages and the construction of a terrace of three dwellings, comprising one 3-bed and two 2-bed dwellings with associated landscaping, parking and private amenity provision. The proposal is to be 100% affordable and would be owned by Colchester Borough Council and managed by Colchester Borough Homes. All dwellings would be designed to Part M Cat 2 standards. The palette of materials includes red brick, buff brick, and rock panel cladding.

5.0 Land Use Allocation

- 5.1 The site lies within the defined settlement limits for Colchester but has no other allocation.

6.0 Relevant Planning History

- 6.1 There is no planning history that is particularly relevant to this proposal. The proposal was however the subject of preliminary discussions in late 2020/early 2021 which helped inform the final scheme

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP7 Place Shaping Principles

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

7.3 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

ER1 - Energy, Resources, Waste, Water and Recycling

- 7.4 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

- 7.5 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

n/a

- 7.6 The site does not lie in a Neighbourhood Plan Area.

- 7.7 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
Open Space, Sport and Recreation
Sustainable Construction
Managing Archaeology in Development.

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Arboricultural Officer does not object to the proposal.
- 8.3 The Archaeological Advisor confirmed that there are no archaeological issues arising from the proposed development.
- 8.4 The Contaminated Land Officer does not object to the proposed development subject to conditions, including site characterisation, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination and a validation certificate.
- 8.5 Environmental Protection did not provide any comments on the proposal.
- 8.6 The Landscape Advisor does not object to the proposal subject to conditions.
- 8.7 The Highway Authority does not object to the proposal subject to conditions, including all off street parking to be provided in precise accordance with the details contained within the current Parking Standards, the provision of details for cycle storage and the provision of a construction management plan.

9.0 Parish Council Response

- 9.1 This area is non-parished.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 Four letters of objection were received, the main reasons for objecting were as follows:
- Impact on/loss of parking;
 - Loss of garages; and
 - Unacceptable noise as a result of construction works.
- 10.3 A further general comment was received from Colchester Cycling Campaign, requesting that convenient secure cycle parking should be provided at one space per bedroom that is as convenient as the car garages/parking.

11.0 Parking Provision

- 11.1 The proposal provides two parking spaces per dwelling plus two visitor spaces and the provision therefore complies with (exceeds) the adopted standards. It is also proposed to formalise a part of the site and provide five unallocated (but properly laid out) parking spaces to the north west of the proposed dwellings. However, the scheme affects currently tenanted garages. This will be further assessed in the main body of the report below.

12.0 Accessibility

- 12.1 With regard to the Equalities Act and compliance with policies DP12 and DP17 that detail requirements in terms of accessibility standards the scheme involves a wheelchair unit and has been designed to be inclusive, accessible and adaptable. As the development will be owned and managed by Colchester Borough Homes there is the scope and budget to manage the units in accordance with the needs of the occupants.

13.0 Open Space Provisions

- 13.1 The proposed dwellings have adequate amenity space overall.

14.0 Air Quality

- 14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

15.0 Planning Obligations

- 15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

Principle of Development

- 16.1 The application site lies within the settlement boundary for Colchester and an area that is residential in character where development such as that proposal is considered to be acceptable in principle in policy terms; subject to the development satisfying all other aspects of the Development Plan. These are assessed in detail in the following paragraphs.

Affordable Housing Need

- 16.2 Providing more affordable homes is a key corporate strategic priority of the Council, because of the unmet demand that exists. To this extent, the Council has set up a Housing Company, Colchester Amphora Homes Limited (CAHL), to develop mixed-tenure housing schemes with 30% affordable homes alongside private sale property. CAHL have also been appointed to deliver

100% affordable housing on a number of sites, including the development of garage sites.

- 16.3 This application is one of several submitted concurrently by CAHL for affordable housing on under-used Council owned, Colchester Borough Homes (CBH) managed garage sites. These applications are the result of ongoing work by the Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives.

Design, Layout and Impact on Surrounding Area

- 16.4 At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development, and the Framework indicates that new development should respond to local character and should reflect the identity of its surroundings. This is reflected in Development Policy DP1 and Core Strategy Policy UR2 as well as Section 1 Plan Policy SP7 and emerging Section 2 Policy DM15. These policies state that all proposals should be well designed, having regard to local building traditions, and should be based on a proper assessment of the character of the application site and the surrounding built and natural environment.
- 16.5 The site is surrounded by residential rear gardens belonging to dwellings fronting Blackthorn Avenue to the east, Hickory Road to the south and Erica Walk to the west. The proposal comprises of a terrace of three dwellings. The surrounding area is characterised by mainly terraced dwellings, with a few semi-detached properties, all of which are of no particular architectural merit. The external materials for the proposed development include a mixture of red brick and buff brick with rock panel cladding to add visual interest to the development. The arrangement of the cladding feels a little awkward however, it does help in breaking down the massing of the building. While the proposed development would not follow the architectural approach of the surrounding area, it would be of an appearance that would enhance the visual amenity of the surrounding area. The use of brick for the main bulk of the proposed development would ensure that the proposal respects the character of existing built development that surrounds the site, with the introduction of contrasting materials elevating the appearance of the proposed development.
- 16.6 Paragraph 134 of the Framework makes it clear that great weight should be given to proposals that help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. Whilst the design of the proposed development in itself is not outstanding, as referred to in the Framework, it is considered that a more contemporary approach to the proposed development would create some visual interest in an area that is otherwise very repetitive in design and appearance. The visual amenity of the surrounding site would therefore be improved. As a result, the proposal is held to be acceptable in terms of its overall design, appearance and impact on the surrounding area.
- 16.7 In addition to the above, the area of open space to the west of the proposed dwellings currently lacks natural passive surveillance and does not serve any

real purpose. The application proposes a development that provides an active frontage to this area and introduces windows at both ground and first floor level which not only ensures that there is active surveillance of this area but also adds visual interest and may encourage an increased informal use of this area of open space. The proposal is therefore considered to have a positive impact on the surrounding area in this respect by discouraging anti-social behaviour.

Impact on Neighbour Amenities

- 16.8 As identified above, the proposed development would be located amongst existing residential development. Consideration needs to be given as to how the proposal would affect the occupants of nearby residential properties in terms of loss of light, privacy and overbearing impacts.
- 16.9 The development has been designed to front Veronica Walk and is thus located at a 90 degree angle to neighbouring properties to the east and west. Due to the intervening relatively long rear gardens, the development would retain a generous back to back distance to the nearest existing dwellings to the south while the existing area of open space would provide adequate separation between the development and neighbouring properties to the west. Residents to the east benefit from relatively generous rear gardens themselves, and the proposal would retain the existing footway running north to south along the rear of the neighbouring properties to the east, thus providing proper separation, while it is also proposed to provide a new hedge along the eastern boundary of the proposed development.
- 16.10 The proposed arrangement is considered to minimise any impact on neighbouring occupiers in terms of causing loss of light or appearing overbearing on their outlook. The first floor window in the eastern elevation would serve a landing and does therefore not raise any concern in terms of potential overlooking. The first floor windows in the western elevation, which have been introduced to provide natural surveillance to the existing area of open space and to add visual interest, would mainly overlook the area of open space as there is a generous distance between the rear gardens of neighbouring dwellings to the west and the proposed development. As such, it is considered that the proposed development would not adversely impact the privacy of neighbouring occupiers.
- 16.11 With regard to the proposed residential use of the site, it is considered that this is more compatible with the surrounding area than the current garage usage. The proposal to create three residential dwellings on this site is held to have the potential to create less vehicular movements (and associated noise and disturbance) to and from the site which would have a positive impact on the amenities of neighbouring occupiers of the site.
- 16.12 Taking into account the above, it is concluded that the proposed development is acceptable with regard to impact on the amenities of existing neighbouring occupiers as well as future occupiers of the proposed development.

Parking and Highway Safety

- 16.13 Adopted parking standards require the provision of two parking spaces per dwelling, plus 0.25 visitor parking spaces per dwelling. On this basis, the development would require a total provision of seven parking spaces to be policy compliant. The development provides eight parking spaces (two per dwelling plus two visitor spaces). Secure cycle storage can be provided within the rear gardens of the individual plots. The development would utilise an existing and active vehicular access and adequate turning facilities within the site are provided. The development has therefore not attracted any objections from the Highway Authority on highway safety or efficiency grounds. As such, the proposed development is held to be acceptable in this regard subject to relevant conditions.
- 16.14 The proposed scheme however affects tenanted garages. The proposal results in the loss of 19 garages. The garages are unallocated to local residents. They are managed by CBH and are rented out. Information submitted as part of the application states that five of the affected garages are rented out to tenants.
- 16.15 The consultation exercises that have been carried out by the applicant to inform tenants of the garages that the garages they are renting are on a site that has been selected for development potential for affordable housing as part of Colchester Borough Council's ambition to deliver 350 new council homes, has resulted in one response at the time of writing this report. Should any more responses be received before the Committee, they will be reported to Members via the Amendment Sheet.
- 16.16 The consultation letters explained that if the site is redeveloped the Council would seek to ensure that people who are renting a garage are offered an alternative solution. Attached to the letter was a questionnaire, encouraging tenants to provide information on what they use the garage for and whether they would like to work with the Council to find an alternative garage facility should the site be redeveloped.
- 16.17 The one respondent explained that their garage is used for storage purposes. The worst-case scenario would therefore require a maximum of four cars being in need for displacement.
- 16.18 The Car Parking Displacement Survey that was submitted in support of this application states that at the time of their visits, which were carried out on a Tuesday at 1pm (this is likely to be less representative) and on a Sunday at 9am, there was sufficient capacity in the immediate surroundings of the site (i.e. within a 100m radius) for additional roadside parking and that the displaced cars would not increase the parking stress within the surrounding area to a significant level.
- 16.19 Whilst it is less than ideal to displace vehicles from off-street into the highway, it is considered that the absence of any demonstrable harm to highway safety and efficiency, combined with the public benefits of the

scheme, which include a 100% affordable housing provision, would result in the proposed development being acceptable in this instance. Furthermore, it should be noted that the Council, where possible, is willing to work with affected residents to find alternative solutions to mitigate the loss of their rented garage and would thus further reduce any impact on the surrounding area.

- 16.20 It is also noted that the area of land opposite the vertical block of garages may be used for informal parking by local residents. These vehicles would also need displacing as this area of land would be incorporated into the scheme. This land relates to Council owned land, however, due to it being unallocated and providing unrestricted access, it appears that it is used by local residents for parking purpose. This however is a benefit and there is no legal right for them to do so. The displacement of these cars does not carry as much weight in the assessment of this proposal as the displacement of vehicles potentially parked in the affected garages as this parking is unofficial and currently a bonus rather than a formal agreement with the Council.
- 16.21 There is an existing island in the middle of the access road, which is proposed to be removed, and this is likely to improve manoeuvring in the area and provide opportunities for additional parking on the wider side.
- 16.22 Overall, it is considered that the proposed development would result in a limited number of vehicles having to be displaced and as such, the proposal is unlikely to have such a negative impact on the surrounding highway network that would justify a refusal.

Private Amenity Space

- 16.23 Development Policy DP16 requires that all new residential development shall provide private amenity space to a high standard, with secure usable space that is also appropriate to the surrounding context. The minimum requirement for 2-bedroom houses is 50m² of private amenity space per dwelling, with 3-bedroom houses requiring a minimum of 60m². These requirements are echoed in emerging Section 2 Policy DM19.
- 16.24 The submitted site plan clearly shows that the development provides not only policy compliant private garden spaces, but that the proposed spaces are of a high standard with the siting, orientation, size and layout making for a secure and usable space. The proposed arrangement is therefore appropriate in its context.
- 16.25 Policy DP16 also states that *“all new residential development will pay a commuted sum towards open space provision and maintenance.”* No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that *“the standards, outlined above, are to be applied to all additional new residential Units. (...) New development includes most specialised types of housing including agricultural dwellings,*

affordable housing and also staff accommodation since all will create additional demands for open space.”

- 16.26 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Council owned garage sites given permission in the past, the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. Given that the developer is the service provider, the requirement for contributions is effectively negated. It does not set a precedent for private market housing as this does not provide 100% affordable housing.
- 16.27 In addition, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council's overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply transfer money from one part of the budget and move it to another.
- 16.28 In conclusion, the scheme provides acceptable private amenity space and open space provisions.

Landscape and Trees

- 16.29 Development Plan Policy DP1 and emerging Section 2 Policy DM15 require development proposals to demonstrate that they respect and enhance the character of the site, context and surroundings including its landscape setting.
- 16.30 There are a small number of trees in close proximity to, but outside of, the site and accordingly, a Tree Constraints Plan was submitted. The site currently contains garages and hardstanding in close proximity to these features, all of which are proposed to be retained. As such, it is considered that the development can be implemented without undue adverse impact on retained trees. Notwithstanding this, a Tree Protection Plan has been submitted setting out how the existing landscape features are proposed to be protected during construction works. Subject to the recommendations set out in this document being adhered to (which could be conditioned), it is considered that the proposed development is acceptable in terms of its impact on existing landscape features.
- 16.31 Provision of new soft landscaping features is also made to the front gardens of the properties and along the eastern boundary of the site. A satisfactory landscaping scheme could be secured via condition and the development is therefore considered to be acceptable in terms of its landscape impact.

Other Matters

- 16.32 Refuse and recycling storage facilities will be provided within the individual plots, and it is anticipated that kerbside collection is proposed. The proposed arrangements will not have any adverse impact on the visual amenity of the surrounding area.
- 16.33 The application site is located within Flood Zone 1 and consequently, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding.
- 16.34 The site has been used for garaging for some years and therefore a Ground Contamination Report was submitted with this application. The Contaminated Land Officer is satisfied with this report and concludes that the site could be made suitable for its intended use subject to conditions which have been accepted by the agent. There are therefore no objections to the proposal on the basis of contamination.
- 16.35 A payment of £137.71 per dwelling will be made in contribution towards the measures in Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected, and the proposal complies with the Habitat Regulations.
- 16.36 The proposal includes the installation of solar panels which would have an environmental benefit and satisfies the criteria of emerging Section 2 Policy DM25 which states that the local planning authority will support proposals for renewable energy projects (including solar panels on buildings) at appropriate locations in the Borough to help reduce Colchester's carbon footprint.

Planning Balance

- 16.37 The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposal would provide economic benefits through the creation of temporary employment during the construction phase. The provision of additional and more modern affordable housing within the Borough generally satisfies the social dimension. The social role of sustainable development is also described as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The proposal is considered to satisfy this objective due to the development being generally well designed. In respect of the environmental, the proposal would remove an underused garage site and provide additional landscaping features. The proposed development is considered to be of an enhanced visual quality when compared to the existing development on the site and would deliver much needed affordable homes in the Borough.

- 16.38 The proposed development is therefore considered to represent sustainable development. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network.

17.0 Conclusion

- 17.1 In summary, it is considered that the proposed development represents sustainable development and would not cause any visual or material harm to the character and appearance of the surrounding area, neighbouring occupiers or highway safety. Consequently, the proposed development is held to be acceptable. The provision of affordable homes is a significant public benefit in the planning balance.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers

VEROWK-IWD-XX-XX-DR-A-1000 Rev P01 Existing Location Plan

VEROWK-IWD-XX-XX-DR-A-2000 Rev P02 Proposed Site Plan

VEROWK-IWD-02-XX-DR-A-2050 Proposed Floor Plans - Plots 1-3 (Block 01)

VEROWK-IWD-01-XX-DR-A-2051 Rev P1 Proposed Elevations - Plots 1-3 (Block 01)

EAS-109.2 TPP Tree Protection Plan (TPP)

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

3. ZBB - Materials As Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

4. Non-Standard Condition - Hard and soft landscaping

No works shall take place until a scheme of hard and soft landscape works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also proposed planting, including a medium sized tree to the planting bed abutting the visitor parking bays and a large focal point tree to the northern half of the retained area of public open space; details of any hard surface finishes and external works. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are areas to be laid out but there is insufficient detail within the submitted application.

5. ZFE – Landscape management plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

6. ZPA – Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel and body washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

7. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been 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 land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

8. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until 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 has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

9. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. 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/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

10.ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

11.ZG3 - *Validation Certificate*

Prior to the first occupation of the development, 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 12.

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

12.Non-Standard Condition - Cycle Parking

Prior to first occupation of the development hereby approved, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

13. Non-Standard Condition - Parking

All off street parking shall be provided in precise accordance with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur in the interests of highway safety.

14. ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. INS – Non Standard Informative on Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage: https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169](https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169) under Landscape Consultancy by clicking the 'read our guidance' link').

4. INS – Non Standard Informative on Highway Works

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

5. INS – Non Standard Informative on EV Charging Points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated).



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Item No: 7.2

Application: 220150

Applicant: Colchester Colchester Borough Council

Agent: Mrs Rebecca Howard

Proposal: Redevelopment of site to involve the demolition of the existing garages on site, and provision of 3 no. new dwellings

Location: Land to the rear of, Hedge Drive, Colchester

Ward: Shrub End

Officer: Nadine Calder

Recommendation: Approval

1.0 Reason for Referral to Planning Committee

- 1.1 This application was discussed at the Planning Committee of the 31st March 2022 when a decision on the application was deferred due to a lack of consultation having been carried out by the applicant with tenants of the garages affected by this proposed development. Queries were also raised with regard to the height of the proposed development.
- 1.2 These matters will be addressed separately in the following paragraphs. The additional information that was requested at the Committee does not have an impact on the assessment of the proposed development which has previously been carried out by your Officers, as they simply relate to a proper consultation exercise and clarification on dimensions. The recommendation therefore remains one for approval subject to relevant conditions, as per the report that was presented to Members on the 31st March 2022. This report can be found at Appendix 1 below.

Consultation with existing garage tenants

- 1.3 Following the Committee's decision to defer the application pending additional consultation to be carried out with existing tenants of the affected garages, the applicant has written to tenants to inform them that the garages they are renting are on a site that has been selected for development potential for affordable housing as part of Colchester Borough Council's ambition to deliver 350 new council homes.
- 1.4 The letters explained that if the site is redeveloped the Council would seek to ensure that people who are renting a garage are offered an alternative solution. Attached to the letter was a questionnaire, encouraging tenants to provide information on what they use the garage for and whether they would like to work with the Council to find an alternative garage facility should the site be granted permission to be redeveloped.
- 1.5 Out of the 39 garages on the site, 26 are rented. The consultation exercises have resulted in nine responses being submitted at the time of writing this report. Should any more responses be received before the Committee date, then they will be reported via the Amendment Sheet.
- 1.6 Four out of the nine respondents indicated that their garage is used for storage purposes only, two for a mixture of storage and parking, one for storage and the parking of a mobility scooter, one for the storage of a trailer and one for purely parking purposes.
- 1.7 All eight tenants explained that they would like the Council to work with them to find an alternative solution for their needs. As previously explained, the Council is willing to do this and is already in the process of trying to match existing vacant garages to tenants, or explore alternative solutions, in an attempt to keep any impact to a minimum, should planning permission be granted.
- 1.8 The above not only shows that a proper consultation with tenants has now been undertaken, it also becomes evident that, based on the responses received to

date, more than half of the garages are not used for the parking of vehicles. This would indicate that a limited number of cars would need to be displaced onto the surrounding roads, should planning permission for the proposed development be granted.

Height of development

- 1.9 The proposed development, due to its location behind the existing built form along Hedge Drive, Paxman Avenue and Hazell Avenue represents a backland form of development. Nevertheless, the height of the proposed development was queried and this has since been confirmed as follows:
- The two storey dwellings measure 5.1m to the eaves and 8.6m to the ridge; and
 - The bungalow measures 2.3m to the eaves and 4.6m to the ridge.
- 1.10 The development is considered to be of relatively standard dimensions. Furthermore, any glimpses towards the site from Hedge Drive, which is characterised by bungalows, would reveal a well designed and articulated development. The proposal is therefore considered to make a positive contribution towards the visual amenity of the surrounding area.

Other matters

- 1.11 Queries were also raised during the meeting, and by local residents, why this site is proposed for redevelopment when the garages have only recently been refurbished.
- 1.12 It has been confirmed that the garages were refurbished in 2015. The rent from the garages since their refurbishment has covered the cost of the works that have been carried out. Furthermore, should the garages be demolished, the Garages team will transfer the doors to other garages in the Borough that are awaiting a replacement door. Other fittings, such as metal fascias, guttering, downpipes and roof sheets are also proposed to be reused elsewhere if possible.

Conclusion

- 1.13 The above is considered to fully address the concerns that have been raised at the previous Committee meeting, which led to the deferral of this application. Members of the Planning Committee are respectfully requested to consider this additional clarification provided in conjunction with the original Committee Report (provided at Appendix 1, starting on the next page) which assesses the proposed development in detail, concludes that the proposal meets the requirements of the Development Plan and therefore recommends that planning permission be granted subject to the recommended conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposal, the design, scale and form, its impact on neighbouring amenity in terms of outlook, light and privacy and provision of parking. These matters have been considered alongside planning policy requirements and other material matters, leading to the application being subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site lies within the defined settlement limits for Colchester. It currently accommodates three flat-roofed blocks of garages which are offered for rent (managed by Colchester Borough Homes). A total of 39no. garages are on site. The garages appear to be in a reasonable state of repair.
- 3.2 The site is irregular in shape, with no road frontage. It is bounded by residential development to all sides. Access to the site is gained off Hedge Drive in the south eastern corner of the site.

4.0 Description of the Proposal

- 4.1 The proposal includes the demolition of the existing garages and the construction of two 2-bedroom semi-detached dwellings and one 2-bedroom bungalow (Cat 3) with associated landscaping, parking and private amenity provision. The proposal is to be 100% affordable and would be owned by Colchester Borough Council and managed by Colchester Borough Homes.
- 4.2 In terms of the external appearance of the development, the scheme would comprise a pair of semi-detached properties and a detached bungalow. The palette of materials includes red brick, buff brick, and rockpanel cladding.

5.0 Land Use Allocation

- 5.1 The site lies within the defined settlement limits for Colchester but has no other allocation.

6.0 Relevant Planning History

- 6.1 There is no planning history that is particularly relevant to this proposal. The proposal was however the subject of preliminary discussions in late 2020/early 2021 which helped informing the final scheme

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP7 Place Shaping Principles

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

7.3 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

ER1 - Energy, Resources, Waste, Water and Recycling

- 7.4 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
DP1 Design and Amenity
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

- 7.5 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:
n/a

- 7.6 The site does not lie in a Neighbourhood Plan Area.

- 7.7 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
Open Space, Sport and Recreation
Sustainable Construction
Managing Archaeology in Development.

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

- 8.2 The Archaeological Advisor does not object to the proposal subject to a condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 8.3 The Contaminated Land Officer does not object to the proposed development subject to conditions, including site characterisation, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination and a validation certificate.
- 8.4 Environmental Protection raise no objection to the proposal subject to conditions, including the submission of a construction method statement and limits to hours of work and an informative relating to EV charging points.
- 8.5 The Landscape Advisor does not object to this proposal subject to conditions.
- 8.6 The Highway Authority does not object to the proposal subject to conditions, including the provision of vehicular turning facilities for service and delivery vehicles, the provision of turning area and off street parking prior to the first occupation of the proposed development, provision of details for cycle storage and the provision of a construction management plan.

9.0 Parish Council Response

- 9.1 This area is non-parished.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 Four neighbouring occupiers and the Colchester Cycling Campaign commented on the application, either objecting or making a general observation. The concerns that were raised (and are relevant to this application) can be summarised as follows:
- No to any building/development on this site;
 - Garages are all (or mostly) occupied;
 - Do not want my rear garden wall knocked down, leaving garden open to a building site;
 - Do not wish to lose the garage I rent;
 - First floor side facing window to be obscure glazed to avoid overlooking of neighbouring gardens; and
 - Convenient secure cycle parking should be provided at one space per bedroom

11.0 Parking Provision

- 11.1 The Vehicle Parking Standards SPD, to which Development Policy DP19 refers, provides the parking standards for residential development. The adopted standard for dwellings of two or more bedrooms is a minimum of two car parking spaces per dwelling plus a minimum of one secure covered cycle space per dwelling (unless a secure area can be provided within the curtilage of the dwelling). Visitor car parking is also required at a rate of 0.25 spaces per dwelling (rounded up to the nearest whole number).
- 11.2 The proposal provides two parking spaces per dwelling plus one visitor space and the proposed provision therefore complies with the adopted standards. However, the scheme affects tenanted garages. This will be further assessed in the main body of the report below.

12.0 Accessibility

- 12.1 With regards to the Equalities Act and compliance with policies DP12 and DP17 that detail requirements in terms of accessibility standards the scheme involves a wheelchair unit and has been designed to be inclusive, accessible and adaptable. As the development will be owned and managed by Colchester Borough Homes there is the scope and budget to manage the units in accordance with the needs of the occupants.

13.0 Open Space Provisions

- 13.1 The proposed dwellings have adequate amenity space overall.

14.0 Air Quality

- 14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

15.0 Planning Obligations

- 15.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

Principle of Development

- 16.1 The application site lies within the settlement boundary for Colchester and an area that is residential in character where development such as that proposed is considered to be acceptable in policy terms; subject to the development satisfying all other aspects of the Development Plan. These are assessed in detail in the following paragraphs.

Affordable Housing Need

- 16.2 Providing more affordable homes is a key corporate strategic priority of the Council, because of the unmet demand that exists. To this extent, the Council has set up a Housing Company, Colchester Amphora Homes Limited (CAHL), to develop mixed-tenure housing schemes with 30% affordable homes alongside private sale property. CAHL have also been appointed to deliver 100% affordable housing on a number of sites, including the development of garage sites.
- 16.3 This application is one of several submitted concurrently by CAHL for affordable housing on under-used Council owned, Colchester Borough Homes (CBH) managed garage sites. These applications are the result of ongoing work by the Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives.

Design, Layout and Impact on Surrounding Area

- 16.4 At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development and the Framework indicates that new development should respond to local character and should reflect the identity of its surroundings. This is reflected in Development Policy DP1 and Core Strategy Policy UR2. These policies state that all proposals should be well designed, having regard to local building traditions, and should be based on a proper assessment of the character of the application site and the surrounding built and natural environment.
- 16.5 Owing to the site's set back from Hedge Drive to the rear of the built frontage, it represents a backland form of development. The site is surrounded by residential rear gardens belonging to dwellings fronting Paxman Avenue to the north and east, Hedge Drive to the south and Hazell Avenue to the west. There would be no public views available towards the proposed dwellings. The proposal comprises of a pair of semi-detached dwellings and a detached bungalow. The surrounding area is characterised by mainly semi-detached or terraced dwellings/bungalows of no particular architectural merit. The external materials for the proposed development include a mixture of red brick and buff brick with rockpanel cladding to add visual interest to the development. The arrangement of the cladding feels a little awkward however, it does help breaking down the mass of the building and given the limited public visibility of the development, it is not considered that this element of the proposal would result in any significant material harm to the visual amenity of the surrounding area. The use of brick for the main bulk of the proposed development would ensure that the proposal respects the existing built development that surrounds the site, with the introduction of contrasting materials elevating the appearance of the proposed development.
- 16.6 Paragraph 134 of the Framework makes it clear that great weight should be given to proposals that help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. Whilst the design of the proposed development in itself is not outstanding, as referred to in the Framework, it is considered that a more contemporary

approach to the proposed development would create some visual interest in an area that is otherwise very repetitive in design and appearance. The visual amenity of the surrounding site would therefore be improved, even if this amenity is only private and not public due to the backland location of the development. As a result, the proposal is held to be acceptable in terms of its overall design, appearance and impact on the surrounding area.

Impact on Neighbour Amenities

- 16.7 The proposed development would be located amongst existing residential development. Consideration needs to be given as to how the proposal would affect the occupants of nearby residential properties in terms of loss of light, privacy and overbearing impacts.
- 16.8 Neighbouring properties along Hedge Drive to the south east of the site are bungalows whereas neighbouring properties to the north and west are two storey dwellings. The scheme has been designed to reflect and respect adjoining neighbouring properties by way of providing a bungalow adjacent to the south eastern boundary of the site and raising the building height to two storey to the north of this.
- 16.9 The proposed two storey dwellings would be located at a 90 degree angle to existing properties to the north with the bungalow facing neighbouring properties to the south east of the site at a slightly lesser degree angle. The single storey nature of the bungalow would however alleviate any potential concerns with regards to the orientation of this property. The dwellings are proposed a significant distance from the nearest neighbouring properties and this would ensure that there would be no unacceptable impacts in terms of loss of light or overbearing impacts on neighbouring occupiers. The proposal has also been carefully considered with regards to retaining the privacy of existing neighbours and future residents of the proposed development. The two storey dwellings therefore only benefit from one first floor side facing window and this would serve the landing, i.e. a non-habitable room. As such, the proposed development would not negatively impact the privacy of future occupiers of the proposed development. The bungalow would benefit from windows serving habitable rooms in the flank wall, however, the single storey nature of this development would again ensure that no loss of privacy would occur as a result of these.
- 16.10 With regards to the proposed residential use on the site, it is considered that this is more compatible with the surrounding area than the current garage site. The proposal to create three residential dwellings on this site is held to have the potential to create less comings and goings (and associated noise and disturbance) to and from the site which would have a positive impact on the amenities of neighbouring occupiers of the site.

- 16.11 Taking into account the above, it is concluded that the proposed development is acceptable with regard to impact on the amenities of existing neighbouring occupiers as well as future occupiers of the proposed development.

Parking and Highway Safety

- 16.12 Adopted parking standards require two parking spaces per dwelling, plus 0.25 visitor parking spaces per dwelling. On this basis, the development would require a total of seven parking spaces, and this is provided as shown on the submitted drawings. Secure cycle storage can be provided within the rear gardens of the individual plots. The development would utilise an existing and active vehicular access and adequate turning facilities within the site are provided. The development has therefore not attracted any objections from the Highway Authority on highway safety or efficiency grounds. As such, the proposed development is held to be acceptable in this regard subject to relevant conditions.
- 16.13 The proposed scheme however affects tenanted garages. The proposal results in the loss of 39 garages. The garages are unallocated to local residents. They are managed by CBH and are rented out. Information submitted as part of the application states that 26 of the garages are rented out to tenants. It is however not known whether the garages are used for storage or parking purposes, and whether those renting the garages are local.
- 16.14 The worst-case scenario includes a maximum of 26 cars in need for displacement although this figure is likely to be much lower given that it is highly unlikely that all 26 garages are used for the parking of a car and/or rented by local residents.
- 16.15 The Car Parking Displacement Survey that was submitted in support of this application states that at the time of their visits, which were carried out on a Tuesday at 1.30pm and on a Sunday at 9am, there was sufficient capacity in the immediate surroundings of the site (i.e. within a 100m radius) for additional roadside parking and that the displaced cars would not increase the parking stress within the surrounding area to a significant level.
- 16.16 Whilst it is less than ideal to displace vehicles from off-street into the highway, it is considered that the absence of any demonstrable harm to highway safety and efficiency, combined with the benefits of the scheme, which include a 100% affordable housing provision, would result in the proposed development being acceptable in this instance. Furthermore, it should be noted that the Council, where possible, is willing to work with affected residents to find alternative solutions to mitigate the loss of their rented garage.

Private Amenity Space

- 16.17 Development Policy DP16 requires that all new residential development shall provide private amenity space to a high standard, with secure usable space that is also appropriate to the surrounding context. The minimum requirement for 2-bedroom houses is 50m² of private amenity space per dwelling. These requirements are echoed in emerging Section 2 Policy DM19.
- 16.18 The submitted site plan clearly shows that the development provides not only policy compliant private garden spaces, but that the proposed spaces are of a high standard with the siting, orientation, size and layout making for a secure and usable space. The proposed arrangement is therefore appropriate in its context.
- 16.19 Policy DP16 also states that “all new residential development will pay a commuted sum towards open space provision and maintenance.” No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “the standards, outlined above, are to be applied to all additional new residential Units. (...) New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”
- 16.20 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Council owned garage sites given permission in the past, the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. Given that the developer is the service provider, the requirement for contributions is effectively negated. It does not set a precedent for private market housing as this does not provide 100% affordable housing.
- 16.21 In addition, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council’s overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.
- 16.22 In conclusion, the scheme provides acceptable private amenity space and open space provisions.

Landscape and Trees

- 16.23 Development Plan Policy DP1 and emerging Section 2 Policy DM15 require development proposals to demonstrate that they respect and enhance the character of the site, context and surroundings including its landscape setting.
- 16.24 There are a number of trees and hedgerows on the boundaries of, but outside, the site and accordingly, a Tree Constraints Plan was submitted with the application which identified the existing landscape features to be of some amenity value.
- 16.25 The site currently contains garages and hardstanding in close proximity to these features, all of which are proposed to be retained. As such, it is considered that the development can be implemented without undue impact on retained trees and hedgerows. Notwithstanding this, a Tree Protection Plan has been submitted setting out how the existing landscape features are proposed to be protected during construction works. Subject to the recommendations set out in this document being adhered to (which could be conditioned), it is considered that the proposed development is acceptable in terms of its impact on existing landscape features.
- 16.26 Provision of new soft landscaping features is also made to the front gardens of the properties and along the western boundary of the site. A satisfactory landscaping scheme could be secured via condition and the development is therefore considered to be acceptable in terms of its landscape impact.

Heritage Impacts

- 16.27 The proposed development will be situated directly on top of the projected line of the main Colchester to Gosbecks Roman road. Roadside ditches were identified in trial trenches at Alderman Blaxill School a short distance to the north east in 2017. There is therefore considerable potential for the proposed development to impact on Roman remains of significance.
- 16.28 Accordingly, any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. This was accepted by the agent and subject to this, it is considered that the development would be acceptable from a heritage perspective.

Other Matters

- 16.29 Refuse and recycling storage facilities will be provided within the individual plots with a communal bin collection point proposed at the end of the access drive for collection days. The proposed arrangements will not have any adverse impact on the visual amenity of the surrounding area.
- 16.30 The application site is located within Flood Zone 1 and consequently, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding.

- 16.31 The site has been used for garaging for some years and therefore a Ground Contamination Report was submitted with this application. The Contaminated Land Officer is satisfied with this report and concludes that the site could be made suitable for its intended use subject to conditions which have been accepted by the agent. There are therefore no objections to the proposal on the basis of contamination.
- 16.32 Concerns were raised by neighbouring occupiers that the demolition of the garages would leave their gardens exposed given that the garages currently form part of their boundary. The agent confirmed that no garden will be left exposed, with temporary fencing being installed to secure neighbours' gardens immediately after the demolition of the garages. Once the development is completed, the temporary fence will be replaced with a permanent fence/brick wall.
- 16.33 A payment of £127.30 per dwelling will be made in contribution towards the measures in Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.

Planning Balance

- 16.34 The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposal would provide economic benefits through the creation of temporary employment during the construction phase. The provision of additional and more modern affordable housing within the Borough generally satisfies the social dimension. The social role of sustainable development is also described as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The proposal is considered to satisfy this objective due to the development being generally well designed. In respect of the third dimension (environmental), the proposal would remove an underused garage site and provide additional landscaping features (which would be the subject of a pre-commencement condition). The proposed development is considered to be of an enhanced visual quality when compared to the existing development on the site and would deliver much needed affordable homes in the Borough.
- 16.35 The proposed development is therefore considered to represent sustainable development. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network.

17.0 Conclusion

17.1 In summary, it is considered that the proposed development represents sustainable development and would not cause any visual or material harm to the character and appearance of the surrounding area, neighbouring occupiers or highway safety. Consequently, the proposed development is held to be acceptable.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers

HEDGED-IWD-XX-XX-DR-A-1000 Rev P01 (Existing Location Plan)

HEDGED-IWD-XX-XX-DR-A-2000 Rev P01 (Proposed Site Plan)

HEDGED-IWD-01-XX-DR-A-2050 (Proposed Floor Plans & Elevations – Plot 1 (Block 1))

HEDGED-IWD-02-XX-DR-A-2050 (Proposed Floor Plans – Plots 2-3(Block 02)

HEDGED-IWD-02-XX-DR-A-2051 (Proposed Elevations – Plots 2-3 (Block 02)

EAS-109.3 TPP (Tree Protection Plan (TPP))

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

3. ZBB - Materials As Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

4. Z00 - Archaeology

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.

f. Nomination of a competent person or persons/organisation to undertake the works. The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

5. Z00 – Hard and soft landscaping

No works shall take place until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also proposed planting, details of any hard surface finishes and external works. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are publicly visible areas to be laid out but there is insufficient detail within the submitted application.

6. ZFE – Landscape management plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

7. ZPA – Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;
loading and unloading of plant and materials;
storage of plant and materials used in constructing the development;
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
wheel and body washing facilities;
measures to control the emission of dust and dirt during construction; and
a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

8. Z00 – Provision of Size 3 turning head

Prior to commencement of the proposed development, details for the design of the proposed vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions shall be submitted to, and approved in writing by, the Local Planning Authority. The approved facilities shall be provided prior to the first occupation of the development hereby approved and shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

9. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been 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 land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other offsite receptors

10.ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until 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 has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

11.ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. 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/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

12.ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

13.ZG3 - *Validation Certificate*

Prior to the first occupation of the development, 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 12.

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

14.Z00 – Provision of turning area and off street parking

The development shall not be occupied until such time as the turning area and off street parking has been provided in accord with the details shown in the approved drawing number HEDGED-IWD-XX-XX-DR-A-2000 Rev P01 (Proposed Site Plan). The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

15.Z00 - Cycle Parking

Prior to first occupation of the development hereby approved, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

16.ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

19.0 Informatives

19.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development. This is of critical importance.** If you do not comply with the condition precedent you may invalidate this

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permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

INS – Non Standard Informative on Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage: https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169](https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169) under Landscape Consultancy by clicking the 'read our guidance' link').

INS – Non Standard Informative on Archaeology:

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: www.colchester.gov.uk

INS – Non Standard Informative on Highway Works

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

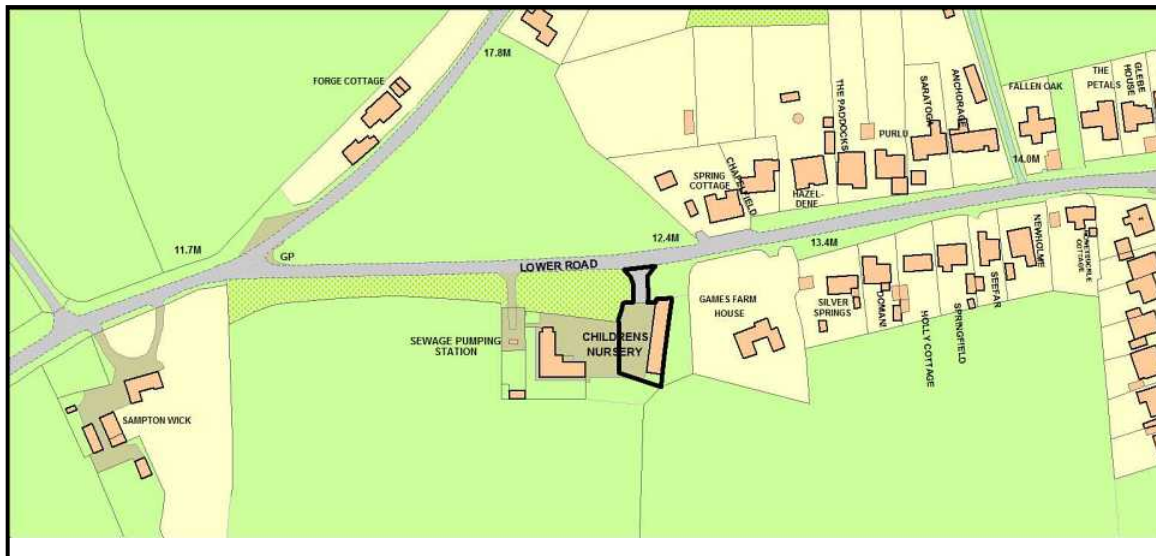
INS – Non Standard Informative on EV Charging Points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated).

20.0 Positivity Statement

WA1 – Application Approved Without Amendment

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



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Item No: 7.3

Application: 211105

Applicant: Mr J Faulkner

Agent: Mr Robert Pomery

Proposal: Demolition of Agricultural building and erection of replacement building for office use, (Class E(g)(i) (195 sqm) and car parking.

Location: Land and Building adj, Little Doves Day Nursery, Lower Road, Peldon

Ward: Mersea & Pyefleet

Officer: Eleanor Moss

Recommendation: Approval subject to recommended conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is an elected Member.

2.0 Synopsis

- 2.1 The key issues for consideration are: the principle of development, the impact on the character and appearance of the area (including the setting of a listed building and the wider countryside), ecology and highway safety. Other material planning matters are also considered. The comments submitted by statutory consultees, as well as other consultees and local representations are considered.
- 2.2 The application is subsequently recommended for approval subject to the recommended conditions.

3.0 Site Description and Context

- 3.1 The site extends to approximately 0.07 hectares and is located on the south side of Lower Road, Peldon. Presently, the site contains a former agricultural building, which is in a poor condition. Adjacent to the site is Little Doves Day Nursery, a children's nursery, which was erected in 2018. To the north, south and west of the site is agricultural land. The site has an existing access/egress onto the highway (Lower Road) and the site lies adjacent to the settlement boundary for Peldon, which is directly to the east.
- 3.2 Directly to the east (approximately 30m away) is Games Farmhouse, a grade II* listed building. The listing details is below:

PELDON LOWER ROAD 1. 5214 Games Farmhouse TL 91 NE 17/32 II 2. Early C15 small hall house. Timber framed, with red plain tile half hipped roof. Two storeys. Two window range modern casements. Modern single storey extension at east end, weatherboarded with red plain tile roof. Early C17, timber framed extension to south with red plain tile roof. Originally 2 bay open hall, with floored end bay. Most of original frame remains and is of high quality workmanship. Internal features include screens doorways, C16 inserted first floor, arch braced, cambered tie beam with cross quadrate crown post, stop chamfered beams, and raised tie beam west end frame. C17 wing also has exposed frame with heavy jowled storey posts.*

- 3.3 There are further listed buildings sited around Peldon however Games Farmhouse is the closest listed building to the application site.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for a new office building. The proposed building measures 195 sq. metres. Following submission of a revised site plan, there are 11 car parking spaces proposed, along with 4 additional car parking spaces for the adjacent nursery. This would result in 17 spaces for the

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nursery. In total, 28 car parking spaces are proposed for the Nursery and new office building.

5.0 Land Use Allocation

5.1 Countryside – unallocated.

6.0 Relevant Planning History

6.1 171533 - Demolition of Former Agricultural Buildings and Erection of Day Nursery for Children of 0 - 5 years and Car Parking (Re-submission of 170502)

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP5 Employment
- SP7 Place Shaping Principles

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

7.3 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
CE3 - Employment Zones
UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

- 7.4 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP9 Employment Uses in the Countryside
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

- 7.5 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry weight in the consideration of the application.

- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 **Contaminated Land Officer** – recommends the following condition:

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason – The site lies on or in the vicinity of uses where there is the possibility of contamination.

8.3 **Environmental Protection** – recommends the following conditions:

ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

EV Charging points

The development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles.

8.4 **Landscape Advisor** - The landscape content/aspect of the strategic proposals lodged on 28/04/2021 would appear satisfactory.

8.5 **Arboricultural Officer** - Apply consultation criteria. Obtain baseline info and reconsult if required.

8.6 Highway Authority (revised) – The Highway Authority recommends the following conditions:

Prior to the first beneficial occupation of the proposed development the car parking spaces for 28 vehicles as shown in drawing numbered ADP071_PA001C has been allocated and signed, hard surfaced and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the developments thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM

and 8 of the Highway Authority's Development Management Policies February 2011.

***Signing details**

- 11 car parking spaces coloured purple for office development
- 9 car parking spaces coloured grey allocated along the northern site boundary for parents/carers for pick up and drop off (which may be used ad hoc outside peak hours by all attending the site)
- 8 car parking spaces coloured grey or green allocated for nursery staff/visitors

All new or replacement parking spaces / vehicular hardstandings shall each be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Prior to the first beneficial occupation of the proposed development the applicant/developer shall provide and erect 2 number speed limit signs indicating 5mph for within the site facing the highway, located in the immediacy of the gated access to current MoT standards which shall be retained in prominent clear view to all approaching vehicles in perpetuity thereafter.

Reason: To ensure vehicles entering the site do so in a controlled manner and at a slow speed to minimise the hazards to small children within the car parking area in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants and visitors to that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

No development shall take place, including any site clearance, ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted as a scaled drawing to and approved in writing by the local planning authority. The approved plans shall be adhered to throughout the construction period. The plans shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: At the times when the nursery is not in operation the car parking spaces shall be made available for all to use.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

- 8.7 **Essex Wildlife Trust (revised)** - Further to our previous comments, Essex Wildlife Trust acknowledges the subsequent provision of a professional bat survey by the applicant. The survey found no indication of the presence of roosting bats within the building scheduled to be demolished under the application. We are satisfied the application poses no risk of harm to bats and can now withdraw our holding objection to this proposal.
- 8.8 **Archaeological Advisor** - No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.
- 8.9 **Historic Buildings & Areas** – No material impact upon the significance of Games Farmhouse would result as the proposal echoes the form of the former agricultural outbuilding and thus maintains the character of the wider setting. The use of natural clay pantiles and feather edged timber weatherboarding is essential and rooflights must be set flush with the rooftiles.

9.0 Parish Council Response

- 9.1 Winstred Hundred Parish Council supports this application. The current building is in a state of great disrepair and the proposed new building would greatly improve the street scene. The new building would also bring more facilities to the village.

We are, however, concerned about the parking provision and believe 7 spaces is insufficient for the 16 person usage set out in the application. Peldon is poorly served by public transport and it is more than likely that all users will arrive by car.

We have expressed our concerns directly to RDS Farms. The site, which is shared with Little Doves Nursery, has ample room for more parking spaces to be designated as for the use of the new development and we would like this to be a condition if planning permission is granted.

10.0 Representations from Notified Parties

- 10.1 The application resulted in four letters of objection being received during the determination period. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- Concerns by the lack of an ecological report
- Concerns that there are bats present on site which could be impacted by the proposal
- Concerns regarding the lack of parking proposed
- Suggestion that a Community Levy is imposed on the applicant

- 10.2 It is also noted that the adjacent nursery, Little Doves Day Nursery, has submitted a letter of support for this proposal. They have confirmed that the proposal would not affect the Nursery as they operate a staggered drop off and collection system, therefore only use approximately 50% of their allocated parking at any one time.

11.0 Parking Provision

- 11.1 During the determination of this application, the layout and parking provision has been amended. In total, 15 car parking spaces are proposed. It is worth noting are no minimum car parking spaces required in the adopted Vehicle Car Parking SPD for such office uses. The SPD provides a maximum of 1 space per 30 sqm for office uses. In this case, this would equate to 7 car parking spaces (rounded up from 6.5). The proposal therefore exceeds the recommended maximum car parking space provision. As such, it is considered to proposed car parking is acceptable.

12.0 Environmental and Carbon Implications

- 12.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that on balance the application is considered to represent sustainable development (see paragraphs 13.1 – 13.5 of the main report).

13.0 Report

The Principle

- 13.1 Policy CE1 of the Core Strategy sets out the Council's hierarchy of commercial centres and employment zones to direct new development to sustainable locations. The application site is not within one of the identified commercial centres and employment zones. However, the policy does allow for small scale rural businesses if they have low travel needs and low impacts, and which meet local needs and support the rural economy. Core Strategy Policy ENV2 allows for small scale rural businesses that are appropriate to local employment needs, minimise environmental impacts and harmonise with the local character and surrounding natural environment.
- 13.2 Core Strategy Policy TA1 states that new development in the Borough will be focussed in on highly accessible locations. Policy DP9 of the Development Policies Document sets out the criteria that will be applied to employment uses in the countryside and allows for small scale employment uses that do not harm the character of the area by their nature and level of associated activity including traffic generation on rural roads. This sentiment is reflected in emerging policy DM6.
- 13.3 Employment in the countryside is supported in the NPPF, in particular paragraphs 83 and 84. Para 84 states:
- 13.4 *Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*

13.5 In this instance, the proposal seeks a new office building adjacent the existing settlement boundary of Peldon. The site is also adjacent to an existing Nursey and a detached residential property. On this basis, the site is not considered to be physically isolated and is related to the existing settlement. It is acknowledged that this is a new building and DP9 provides support for new buildings in the exceptional circumstances. In this instance re-use of the existing building on site would not be possible due to the poor condition of the building. Overall, the proposal is considered to be in compliance with the requirements of the NPPF.

Character and appearance

13.6 CS Policies UR2, and ENV1, which together seek to promote high quality and inclusive design that is sympathetic to the character of the area and enhances historic buildings and features. Policies DP1 and DP14 require development proposals to respect and enhance the character of the site, its context and its surroundings in terms of its architectural approach, form, proportions, materials, townscape and detailed design features. This is also reflected in Policy SP7 of the adopted Local Plan. The site is also within the Coastal Protection Belt and as such DP23 is of relevance. DP23 seeks to protect Colchester's coastline from inappropriate development. The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting. The aspiration for high quality design and well-designed places is also reflected in the Framework and the National Design Guide (NDG), including the expectation that all new development is skilfully woven into its context and respects the rhythm, scale and proportions of the existing townscape.

13.7 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that *great weight* should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design.

13.8 The impact that the proposed development will have on the character and appearance of the setting of the nearby listed building is an important consideration. The visual enhancement of the setting is also considered to be a public benefit.

13.9 It is considered that the proposed new development will affect (change) the setting of the nearby listed building to a small extent and will increase activity. The proposal is considered to be sufficiently distanced from the nearby listed building to ensure any impact is neutral on the significance of the asset. This

significance is principally derived from the internal interest of the medieval timber frame. Further to this, the proposal replaces an existing barn which is currently in a state of disrepair and detracts from the setting. There will thus be a negligible or a minor positive impact upon the intrinsic significance of the listed building. The proposal also represents an enhancement to the area, by removing the dilapidated barn which does not currently enhance the area or setting. These public benefits are considered to weigh positively in favour of approval.

- 13.10 In this instance, the public benefits weigh heavily in favour of the scheme. These public benefits constitute the social, economic and environmental benefits that stem from creating new jobs in the area. Given this, the proposed development is considered to be consistent with the aforementioned relevant adopted local plan policies and national planning policy guidance in relation to the historic environment.
- 13.11 The proposal reflects the scale and mass of the existing agricultural building. The design is fairly simple in design terms and reflects the characteristics of a modest rural outbuilding. The overall vernacular aesthetic can be read and the development would reflect the character of the existing barn which is to be replaced and reflects the existing Nursery on site, so ensuring that the proposal would not appear out of keeping with existing built character. There is no objection in principle to this approach, but it is considered important to ensure the use of high-quality materials and architectural detailing; conditions are therefore recommended to ensure the quality of the building reflects the rural nature of the site and setting of the listed building.

Impact upon Amenity

- 13.12 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.
- 13.13 The Building Research Establishment's Report "Site Layout Planning for Daylight and Sunlight 1991 suggests that acceptable daylight to interiors is achieved if a 25° vertical angle from a point two metres above the floor is not obstructed. It is also considered that the proposal will not infringe a 45° line when taken from the mid-point of the closest neighbouring window in elevation. The Essex Design Guide requires this line not to be infringed in plan or elevation. The scheme is considered to comply with the Essex Design Guide in this regard. The BRE tests described above have been applied and demonstrate that the proposals would have minimal to no impact to the lighting levels to existing properties.

- 13.14 The proposal is considered to be sufficiently distanced from neighbouring properties to avoid any material impacts. Furthermore, conditions are recommended in terms of hours of use to ensure the proposal is not open during anti-social hours.
- 13.15 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the amenity of neighbouring properties. In view of this, the proposed development is not considered to conflict with adopted DPD Policies DP1 and DP12 or the NPPF insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

Landscape and Trees

- 13.16 CS policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline. Central Government guidance on conserving the natural environment is set out in relevant sections of the NPPF.
- 13.17 There are limited trees and vegetation within the site, as such the proposal is not considered to impact upon vegetation of any significance. There is vegetation towards the site boundaries which is recommended to be retained and this can be secured via a planning condition. It is further recommended a landscaping condition is proposed in order to enhance the site further.

Ecology and Biodiversity

- 13.18 CS policy ENV1 and policy DP21 seek to conserve or enhance biodiversity of the Borough. Policy DP 21 places stringent requirements on supporting ecological information being provided to demonstrate the degree of impact or harm (especially in relation to designated sites or species), the associated mitigation measures and measures to enhance biodiversity.
- 13.19 The submitted bat report confirms that no vegetation affected by the project has crevices, loose bark or woodpecker holes that might be colonised by bats. The report confirms that no evidence of their presence was found at this site. The lack of potential roosting places and absence of any evidence of the presence of bats means that no further surveys are required. The building was considered to have negligible potential as a roosting place for bats. The recommended ecology enhancements within the report are recommended to be conditioned.
- 13.20 For the reasons given above, it is considered that the proposed redevelopment of this site will not have a significantly adverse effect protected species provided the surveys and ecological enhancement measures outlined in the submitted report are conditioned in order to ensure these are undertaken prior to commencement of works. The application is therefore considered to accord with the aforementioned local plan policies and national policy guidance.

Highway Implications

- 13.21 Adopted CS Policy TA1 to TA4 seek to improve accessibility and change travel behaviour and manage demand for road traffic. CS Policies UR2 and DP1 require inclusive design with people friendly layouts, including for people with restricted mobility.
- 13.22 The Highway Authority has assessed the scheme and are satisfied that the revised scheme is acceptable in highway safety terms subject to conditions.
- 13.23 There is no minimum parking standard for office use, the proposed 11 car parking spaces for the office and additional 4 car parking spaces for the Nursery is considered to be reasonable. While the site is in a countryside location, it is considered there is sufficient parking provision available on site. Further to this, cycle parking and electric vehicle charging points are recommended as conditions to encourage more sustainable modes of transport.
- 13.24 In conclusion on the above, there are no concerns from a highways safety or capacity perspective and the proposal is considered to make suitable provision for car parking, while appropriate cycle parking can be secured by condition.

Drainage and Flood Risk

- 13.25 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defense measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures less than 1 hectare and as such a FRA is not required to support the application. Given that the proposal is outside of any flood zone, the proposal is not considered to have a harmful impact upon surface water drainage within the locality.

Contamination

- 13.26 Adopted Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 13.27 Acceptable detail regarding potential contamination sources (historically) has been submitted for Environmental Protection's purposes. It is noted that no further information is required, and any unexpected contamination can be controlled suitable by the recommended planning condition. Subject to the recommended condition from the Contaminated Land Officer, the proposal is acceptable in this regard.

Accessibility

- 13.28 The proposed development has been designed to ensure that pedestrians of all mobility types can move around the development in a safe and convenient manner. Within the building there will be level or access throughout the ground floor, which is considered to comply with the Equality Act.

14.0 Conclusion and Planning Balance

- 14.1 To summarise, the proposal is considered to comply with the NPPF in terms of principle of the scheme. There would be economic benefits as a result of construction activity and the creation of additional jobs in the area. There is sufficient evidence to be confident that overall, the development would result in no material impact on the significance of the neighbouring listed building. It would remove a currently dilapidated building which is visually detrimental to the visual amenities of the area and to the setting of the adjacent listed building. The proposal would not cause harm to the amenity of local residents, ecology, flood risk, contamination and would not have a severe impact upon the highway network in terms of capacity. In conclusion, it is considered that the benefits of the scheme significantly outweigh any adverse impacts and, as such, the planning balance tips in favour of an approval subject to the recommended planning conditions identified below.

15.0 Recommendation to the Committee

- 15.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers APD071_PA001C, APD071_PA000 and APD071_PA002B.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3. Z00 – Materials

Notwithstanding the details of the submitted drawings and application form, the materials shall be black feather edge timber weatherboarding, red brick plinth and natural clay pantile roof. Samples of the proposed clay pantile shall be submitted to and approved in writing by the LPA prior to installation.

Reason: In the interests of visual amenity in this rural location and to protect the setting of the adjacent grade II* medieval farmhouse.

4. Z00 – Highway

Prior to the first beneficial occupation of the proposed development the car parking spaces for 28 vehicles as shown in drawing numbered ADP071_PA001C has been allocated and signed, hard surfaced and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the developments thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

5. Z00 - Highway

All new or replacement parking spaces / vehicular hardstandings shall each be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety.

6. Z00 – Highway

Prior to the first beneficial occupation of the proposed development the applicant/developer shall provide and erect 2 number speed limit signs indicating 5mph for within the site facing the highway, located in the immediacy of the gated access to current MoT standards which shall be retained in prominent clear view to all approaching vehicles in perpetuity thereafter.

Reason: To ensure vehicles entering the site do so in a controlled manner and at a slow speed to minimise the hazards to small children within the car parking area in the interests of highway safety.

7. Z00 – Highway

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants and visitors to that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

8. Z00 – Highway CMP

No development shall take place, including any site clearance, ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted as a scaled drawing to and approved in writing by the local planning authority. The approved plans shall be adhered to throughout the construction period. The plans shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

9. ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

10.ZGA - *Restriction of Hours of Operation*

The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 07:30 – 20:00

Saturdays: 07:30 – 18:00

Sundays and Public Holidays: None

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

11.Z00 – EV charging

Prior to first occupation, one electric vehicle charging point shall be provided per 10 car parking spaces on site.

Reason: In the interests of low carbon emissions and to encourage the use of ultra-low emission vehicles.

12.ZEB - *Premises Only for a Specific Use*

The premises shall be used for office purposes only as defined in the Use Class Order and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning Order (Use Classes) 1987 (as amended), or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

13.ZFC - Simple Landscaping Scheme

No works shall take place above slab level until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in boundary treatments, ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

14.ZFS - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows 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.

15.ZGT - No External Light Fixtures

No external lighting fixtures shall be constructed, installed or illuminated at any time unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that there are no undesirable effects of light pollution

16.Z00 – Ecology

All ecological recommendations, enhancement measures and/or works, shall be carried out in full accordance with the details contained in the submitted 'Bat Survey of Games Farm Barn' throughout the lifetime of the development works. The wildlife enhancement recommendations and opportunities contained within the Bat Survey shall be provided prior to first use and thereafter retained as such.

Reason: In order to conserve and enhance biodiversity in accordance with the National Planning Policy Framework and Wildlife and Countryside Act.

17.Z00 – Rooflights

The rooflights hereby approved shall be of the 'conservation' cast type with a single vertical glazing bar and mounted flush with the tiled finish of the roof.

Reason: In the interests of preserving the character and appearance of the area and setting of the listed building.

18.Z00 – Detailing

Notwithstanding the details submitted, no works above slab level shall start until additional drawings that show details of any proposed new windows (including the depth of reveals), doors, eaves, verges, plinth, corner treatment of weatherboarding, extract/boiler flues and vent terminals and rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, are submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: In order to ensure that the architectural detailing of the development is appropriate and to safeguard the character and appearance of the area and the setting of the listed building.

19.Z00 – Unexpected contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of uses where there is the possibility of contamination.

16.0 Informatives

16.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

4. INS – Car Parking

At the times when the nursery is not in operation the car parking spaces shall be made available for all to use.

5. INS - Informative in relation to condition 4: Signing details

- 11 car parking spaces coloured purple for office development
- 9 car parking spaces coloured grey allocated along the northern site boundary for parents/carers for pick up and drop off (which may be used ad hoc outside peak hours by all attending the site)
- 8 car parking spaces coloured grey or green allocated for nursery staff/visitors

6. INS - Highways

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.4

Application: 220865
Applicant: Uk Media Ltd
Agent: Mr Peter Johnson
Proposal: Relocation of existing advertisement and erection of new 48 sheet billboard.
Location: 115 Butt Road, Colchester, CO3 3DL
Ward: New Town & Christ Church
Officer: John Miles

Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the application has been called in by Cllr Crow for the following reasons:

The host property at 115 Butt Road has displayed various advertisements on its gable wall for well in excess of 30+ years for both functional and commercial purposes.

Whilst the property is on the edge of the recently adopted local conservation area known as Mill Field Estate none of the neighbouring properties are listed or sensitive.

The local planning authority are required to show a high degree of consistency in their decision making and when considering this particular application should take into consideration the most recent advertisement addition to the Colchester street scene at the junction of Harwich Road and St. Andrew's Avenue. This particular sign is a permanently illuminated billboard 24/7 and constantly digitally changing.

The proposed advertisement will comprise the latest technology using aesthetically pleasing materials, and, unlike the recently installed advertisement at the junction of Harwich Road and St. Andrew's Avenue will not be illuminated nor digital and will not cause light pollution.

2.0 Synopsis

- 2.1 As this is an application for consent to display an advert, the acceptability of the proposal should be considered on the grounds of amenity (including both visual and residential amenity) and public safety, (including highway safety).
- 2.2 For the reasons outlined in the body of this report, the proposed new billboard would be an obtrusive addition within a sensitive location and would result in harm to the character and appearance of the area, including the designated Mill Field Estate Conservation Area. The application is subsequently recommended for refusal.

3.0 Site Description and Context

- 3.1 The application site is the south-west (side/gable) elevation of residential property 115 Butt Road. Due to the orientation of the dwelling relative to the highway and the lack of intervening built form the side elevation of 115 Butt Road is highly visible from various public viewpoints. There is a current sign to the side of the dwelling, advertising the adjacent Wilco Motorist Discount Store and Fast-Fit tyre and exhausts fitters. There is an area of forecourt parking directly to the south which serves the aforementioned commercial premises, while there are residential properties to the north, east and south. Importantly the site is within Colchester Conservation Area 5 Mill Field Estate. In addition to this, to the east of Butt Road is the Garrison Conservation Area.

4.0 Description of the Proposal

- 4.1 The application seeks consent for the repositioning of the existing Wilco/Fast-Fit sign to an alternative position on the same elevation and the addition of a billboard 6.096 metres in width and 3.048 metres in height.

5.0 Land Use Allocation

- 5.1 None

6.0 Relevant Planning History

- 6.1 None

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP7 Place Shaping Principles

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

- 7.3 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character
ENV1 - Environment

- 7.4 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP14 Historic Environment Assets

- 7.5 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies are however not relevant in this instance.

- 7.6 The site is not in an area covered by a neighbourhood plan.

- 7.7 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to complete a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
Shopfront Design Guide

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 Colchester Civic Society: Objects

The Colchester Civic Society can see no justification for agreement to this application. Mistakenly the supporting documents claim this site is not covered by any planning restraints but this is not the case. It is quite definitely in the Mill Field Estate Conservation Area and we can see no justification for the vast increase in size for this hoarding. It would be a quite unwarranted and overwhelming expansion of the long standing dimensions of the signboard in one of the historic quarters of the town .

8.3 Environmental Protection:

No objections raised.

8.4 Highway Authority:

No objections.

8.5 Historic Buildings & Areas Officer

Objects

9.0 Parish Council Response

9.1 The site is non-parished.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. Beyond the representations outlined above, no representations were received in response to the application.

11.0 Parking Provision

11.1 Not applicable.

12.0 Accessibility

12.1 In considering the application due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Representations received have not identified any specific equality implications potentially arising from the proposed development and requiring additional consideration. The proposal does not give rise to any other concerns from an accessibility or equality perspective more widely.

13.0 Open Space Provisions

13.1 Not applicable.

14.0 Air Quality

14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

16.1 The main issues in this case are outlined below.

Amenity

16.2 When considering amenity relevant factors include, but are not necessarily limited to, the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.

16.3 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act (1990) stresses that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 199 of the National Planning Policy Framework (2021) determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

16.4 Core Strategy policies UR2 and ENV1 set out the Council's commitment to enhancing Colchester's unique historic character and Policy UR2 requires proposals to demonstrate a high quality of design and states that, amongst other things, Conservation Areas shall be protected from inappropriate development. Policy DP14 states that development will not be permitted that will adversely affect a listed building or conservation areas and that development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural or artistic interest. In all cases there will be an expectation that any new development will enhance the historic environment in the first instance, unless there are no identifiable opportunities available. These sentiments are echoed by emerging Section 2 Local Plan Policy DM16 and Section 1 Policy SP 7 which require all development to meet high standards of urban and architectural design, respond

positively to local character, enhance the quality of existing places and protect and enhance assets of historical value. Development Policy DP1 sets out the design criteria that new development must meet, including respecting and enhancing the character of the site, its context and surroundings.

- 16.5 With regards to proposals for advertisements specifically NPPF paragraph 136 states amongst other things that the quality and character of places can suffer when advertisements are poorly sited and designed, and that cumulative impacts should be taken into consideration.
- 16.6 Taking into account the position of neighbouring properties, the absence of proposed illumination and in the absence of objections from Environmental Protection, the proposal does not give rise to any concerns from a residential amenity perspective. There are however serious concerns from a visual amenity perspective.
- 16.7 The existing sign to the side elevation of 115 Butt Road does not contribute positively to the visual amenity of the area in its current form. The adverse impact to visual amenity caused by the existing sign is further compounded by the large amount of existing signage to the adjacent commercial premises and which are visible and read in conjunction with one another, with a resulting detrimental cumulative impact. The Mill Field Estate Conservation Area "Conservation Area Character Statement & Management Proposals" that was formally adopted when the Conservation Area specifically notes that the large garage buildings at the junction of Butt Road and Wickham Road are an alien feature that erode the character of the area. The buildings are particularly conspicuous, not only because of their form and design that clashes with the predominant architecture within the Conservation Area, but also by virtue of the amount and design of the signage that exacerbates their appearance.
- 16.8 The Management Proposals for the Mill Field Estate Conservation Area advises that signage should be small and discreet and clarifies that large plastic signs, advertisement, banners and other intrusive modern signage will be resisted by the Council.
- 16.9 The application does not propose the removal of the existing sign to the gable wall, or indeed look to make any marked improvements to the appearance of the existing signage in the locality, instead it looks to relocate the existing sign to a more elevated position where it is anticipated it will be even more conspicuous than at present, to the further detriment of the visual amenity of the area.
- 16.10 In addition to this it is considered the new billboard proposed to be affixed to the gable wall and which the existing sign is proposed to be repositioned to accommodate, will be demonstrably harmful to the visual amenity of the area in its own right.

- 16.11 While the proposed billboard is not detailed to be illuminated, by virtue of its scale, position and general form it is nonetheless considered to represent an overly dominant and disruptive addition within the street scene. The proposed billboard is a wholly inappropriate and discordant addition in this sensitive location, with the site prominently positioned within the Mill Field Road Conservation Area and adjacent to the Garrison Conservation Area.
- 16.12 The addition of further advertisements in this location would also only further contribute to the detrimental impact on the amenity of the area caused by the existing signage in the vicinity. The resulting cluttered appearance of the gable wall and the cumulative impacts arising from the addition of a further large advertisement would result in demonstrable harm to the visual amenity of the area and the billboard would aggravate the appearance of the junction which is already problematic.
- 16.13 For these reasons, the proposed development is expected to result in a level of harm to the character and quality of the designated Mill Field Estate Conservation Area. This harm can be classified as less-than-substantial towards the higher end of the spectrum for the Mill Field Estate Conservation Area. The proposal's impact would also extend to the Garrison Conservation Area across the street, as the billboard would intrude in the views of the east frontage of Butt Road and would also adversely affect its townscape quality.
- 16.14 According to the NPPF's Paragraph 201, the application needs to provide robust justification for this harm, while Paragraph 202 requires that this harm should be weighed against public benefits of the proposal. The submitted elevations detail the removal of two signs and a satellite dish to the side of 115 Butt Road, however following a site visit it is clear that the existing elevation submitted is inaccurate and the two smaller signs identified for removal do not exist. Notwithstanding this it is not considered any such supposed benefits of the 'renovation' of the gable wall to which the billboard is proposed to be affixed would significantly and demonstrably outweigh the harm to the visual amenity of the area that has been identified above. There is therefore no clear and convincing justification for the harm associated with the proposals, and it has not been demonstrated that the harm arising from the proposals can be outweighed by any public benefits arising from the scheme.
- 16.15 In conclusion, for the reasons above the proposal will result in unjustified harm to the visual amenity of the area and so too the character and appearance of the Conservation Areas. The proposal therefore fails to accord with relevant national and local policy, including the Management Proposals for the Conservation Area which aim to protect its character and significance. In addition to this the proposal is held to fail to meet the statutory tests for the preservation or enhancement of the Conservation Areas.

Public safety

- 16.16 In assessing the impact on "public safety", regard should be had to the effect upon the safe use and operation of any form of vehicular traffic or transport. In assessing the public safety implications of an advertisement display, one can assume that the primary purpose of an advertisement is to attract people's attention. The vital consideration, in assessing an advertisement's impact, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety.
- 16.17 The Highway Authority have been consulted and raised no objections to the proposal and there are no concerns that the proposal will impact the safety of persons using the highway. The proposals also do not raise any concerns with regards to public safety more widely.

Other Matters

- 16.18 It is noted that comparisons have been drawn between the proposal and an existing billboard on Harwich Road. Notwithstanding that this proposal should be considered on its own merits, it is also considered there are important differences in both the context and history surrounding the application site and the billboard located on Harwich Road.
- 16.19 While the digital billboard on Harwich Road has only relatively recently been granted approval (application 191265) it replaced a previous billboard that had been in situ for well in excess of ten years. With the exception of its illumination the replacement billboard is similar to that previously in place at the same location. The site context at Harwich Road is also very different, with the billboard on Harwich Road in a location with a more varied character than Butt Road, and importantly unlike the application site not sited within a Conservation Area.
- 16.20 For these reasons it is not considered the billboard on Harwich Road referenced, or indeed any other examples of billboards in the borough identified by the applicant set a precedent for the advertisements proposed. It is also not considered a refusal of this application presents any issues with regards to consistency of decision making, taking into account the circumstances of the case.

17.0 Conclusion

- 17.1 To summarise, the absence of harm identified in relation to public safety is a considered a neutral factor, while the demonstrable harm identified to the visual amenity of the area and the character and appearance of the Conservation Areas weighs heavily against the proposal. With the application found to fail to comply with both local and national policy, in addition to failing to meet the statutory tests for the preservation or enhancement of

Conservation Areas, accordingly the application for advertisement consent is recommended for refusal.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

REFUSAL of planning permission for the reason set out below:

Paragraph 136 of the National Planning Policy Framework (2021) acknowledges that the quality and character of places can suffer when advertisements are poorly sited and designed.

Policy DP1 of the Colchester Borough Development Policies (adopted 2010, amended 2014) and Policy UR2 of the Colchester Borough Core Strategy (adopted 2008, amended 2014) seek to ensure a high standard of design and for development to respect and enhance the character of the site, visual and residential amenity.

Policy UR2 further states that Conservation Areas shall be protected from inappropriate development, while Policy DP14 of the Colchester Borough Development Policies (adopted 2010, amended 2014) states that development will not be permitted that will adversely affect Conservation Areas and that development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural or artistic interest. In all cases there will be an expectation that any new development will enhance the historic environment in the first instance, unless there are no identifiable opportunities available.

These sentiments are echoed by Emerging Local Plan: Section 2 Policy and Section 1 Local Plan (2021) Policy SP 7 which require all development to meet high standards of urban and architectural design, respond positively to local character, enhance the quality of existing places and protect and enhance assets of historical value

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act (1990) stresses that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 199 of the NPPF determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

The proposed elevated position of the existing sign detailed to be retained will result in this sign being even more conspicuous than at present, to the detriment of the visual amenity of the area.

In addition to this, the proposed new billboard will by virtue of its scale, position and general form represent an overly dominant and disruptive addition within the street scene and is a wholly inappropriate and discordant addition in this sensitive location,

with the site prominently positioned within the Mill Field Road Conservation Area and adjacent to the Garrison Conservation Area.

The harm caused by the addition of further advertisements in this location is only exacerbated by the existing signage in the vicinity, with a resulting cluttered appearance and harmful cumulative impacts.

For the reasons above the proposal will result in harm to the visual amenity of the area and so too cause harm to the character and appearance of the Conservation Areas. The proposal therefore fails to accord with relevant national and local policy outlined above. In addition to this the proposal is held to fail to meet the statutory tests for the preservation or enhancement of Conservation Areas.

Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- | | |
|--|-------------------------|
| 1. Necessary | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable |
| 5. Precise | 6. Enforceable |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

Parking Standards

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction and 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.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.

