

Planning Committee Meeting

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

Thursday, 18 January 2018 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: <http://www.colchester.gov.uk/haveyoursay>.

Audio Recording, Mobile phones and other devices

The Council audio records public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 18 January 2018 at 18:00

The Planning Committee Members are:

Councillor Theresa Higgins	Chairman
Councillor Cyril Liddy	Deputy Chairman
Councillor Lyn Barton	
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

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;

Kevin Bentley	Tina Bourne	Roger Buston	Nigel Chapman
Peter Chillingworth	Phil Coleman	Nick Cope	Robert Davidson
John Elliott	Adam Fox	Dominic Graham	Dave Harris
Mike Lilley	Patricia Moore	Beverley Oxford	Gerard Oxford
Lee Scordis	Jessica Scott-Boutell	Lesley Scott-Boutell	Paul Smith
Martyn Warnes	Dennis Willetts	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 6 are normally dealt with briefly.

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting here: <http://www.colchester.gov.uk/article/13489/Planning-Committee>

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.

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 Have Your Say! (Planning)

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

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 Substitutions

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

4 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.

5 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.

6.1 Minutes of 30 November 2017 7 - 12

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 30 November 2017.

6.2 Minutes of 11 December 2017 13 - 16

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 11 December 2017.

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 172816 University of Essex, Wivenhoe Park, Colchester 17 - 24

Application to vary condition 4 of planning permission 150895.

7.2 172949 58 Parkwood Avenue, Wivenhoe, Colchester 25 - 30

Build a brick wall on the front boundary of the property to complement the house and existing planning conditions (Ref: 152105).

7.3 172984 76-79 Maidenburgh Street, Colchester 31 - 38

Replacement of windows to flats.

Planning Committee Information Pages 39 - 50

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)

Planning Committee

Thursday, 30 November 2017

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Chris Pearson

Substitutes: Councillor Nick Cope (for Councillor Helen Chuah), Councillor Dave Harris (for Councillor Cyril Liddy)

Also Present:

532 Site Visits

Councillors Barton, Cope, Hazell, Higgins, Jarvis, Loveland and J. Maclean attended the site visits.

533 Minutes of 28 September 2017

The minutes of the meeting held on 28 September 2017 were confirmed as a correct record.

534 Minutes of 19 October 2017

The minutes of the meeting held on 19 October 2017 were confirmed as a correct record.

535 172363 Lakelands Parcel NR5, Tollgate Road, Stanway, Colchester

The Committee considered an application for an additional ten units to Lakelands Parcel NR5 which now comprised a scheme of twenty two units containing a mix of houses, together with associated private amenity space, means of enclosure, car parking, vehicle and access arrangements together with proposed areas of landscaping at Tollgate Road, Stanway, Colchester. The application had been referred to the Committee because it was a major planning application requiring a section 106 agreement and objections had been received. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

RESOLVED (UNANIMOUSLY) that –

- (i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report, with matters of detail

to be varies should this prove necessary, and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application or otherwise to be authorised to complete the agreement to provide for two of the six additional units to be as affordable housing.

536 172362 Lakelands Parcel NR7 Block 1, Tollgate Road, Stanway, Colchester

The Committee considered an application for an additional three units to flat block one at Parcel NR7 which comprises a block of eleven units containing a mix of apartments, together with associated private amenity space, means of enclosure, car parking, vehicle and access arrangements together with proposed areas of landscaping at Tollgate Road, Stanway, Colchester. The application had been referred to the Committee because the site was part of Lakelands and the application proposed a building part four storey in height which was not in accordance with the approved Masterplan. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

RESOLVED (UNANIMOUSLY) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to link the application to the legal agreement for Lakelands, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application or otherwise to be authorised to complete the agreement.

537 172138 Chappel And Wakes Colne Station, Station Road, Wakes Colne, Colchester

The Committee considered an application for the variation of conditions 2, 4 and 5 of planning permission 161724 at Chappel and Wakes Colne Station, Station Road, Wakes Colne, Colchester. The application had been referred to the Committee because the application site was larger than a hectare, forming a major application, and unresolved objections had been received. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Eleanor Moss, Planning Officer, presented the report and assisted the Committee in its deliberations.

Peter Tremayne addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He confirmed that he was making representations on behalf of Mr Hounslow as well as himself. He was seeking the amendment of the proposed standard environmental condition to provide for more robust screening to be maintained over a longer period of time whilst Mr Hounslow concern's related to the extent of the boundary of the application site which he considered had been extended and therefore warranted a new application, rather than the variation of a previous one.

Mike Standbury addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that, so far as he was aware planning permission had already been granted for earthworks and a new building and a variation was being applied for as it had been found that a cheaper alternative building with a smaller footprint and lower height was suitable for the development.

The Planning Officer confirmed that screening had previously been considered as part of the host application and this condition would remain. The standard condition for the screening was for a maximum of five years because the trees on site were not subject to a Tree Preservation Order and therefore could have been removed at any time prior to any application being submitted, furthermore, five years was considered to be appropriate as it was likely that screening would be able to survive post development within this time. She explained that the development within the red line had been taken into consideration as part of the host application and had been fully determined previously. She clarified that the issues of concern associated with the host application had been included in the report to this Committee in the interests of transparency.

Members of the Committee welcomed the proposal, considering it would be of benefit to the important heritage site and the proposed screening would be an adequate mitigation for neighbouring residents, given the size of the site.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

538 170226 and 170600 Fairfield's Farm, Fordham Road, Wormingford, Colchester

Councillor J. Maclean (in respect of their acquaintance with the applicant) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered applications 170226 and 170600 to, respectively, vary condition 3 of planning application 121150 and for the reconfiguration of the crisping building to an accommodate odour control system at Fairfield's Farm, Fordham Road,

Wormingford, Colchester. The application had been referred to the Committee because it had been called in by Councillor Chapman. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

James Ryan, Principal Planning Officer, presented the report and, together with Belinda Silkstone, Environmental Protection Manager and Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations.

The Principal Planning Officer explained that the applications were seeking allow 24 hour operation except between the hours of 22.00 on Saturday and 06.00 on Monday or at any time during public holiday and to increase the manufacture area to accommodate an odour control system with external extraction equipment. He also confirmed that there had been four additional representations submitted but had raised no additional material considerations. Additional conditions were being recommended to provide for the extension of the hours of operation being contingent upon the prior installation of the odour abatement equipment and to ensure the hours of operation accorded with those set out in the application.

The Environmental Protection Manager explained that there had been a history of complaints of odour associated with the site although none had been classified as constituting a statutory nuisance. She confirmed that lengthy discussions had taken place with the applicant in relation to the proposals. She welcomed the application and considered that the new odour control system would improve the situation for residents as well as being less intrusive.

Robert Strathern addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he lived at Fairfield Farm and that the manufacturing business employed 30 people. He believed that the proposed extraction system was the most up to date solution available to deal with odour. The factory had progressed to the point of needing to operate longer hours and lengthy discussions had taken place with the Environmental Protection Officers in order to come to an acceptable solution. He explained that all of the improvements to control odour issues which had taken place at the site had been undertaken by the applicants and not as a result of complaints or enforcement action. The factory needed to remain competitive and he was aware that all other major crisp manufacturers were now operating 24 hourly. The company had made efforts to engage with both Wormingford and Fordham Parish Councils and hoped this would enable them to work more closely with residents in the future.

Councillor Chapman attended and, with the consent of the Chairman, addressed the Committee. He thanked the team of officers who had worked with the applicants to bring together the current proposal. He considered it to be a good outcome although he regretted that none of the local residents had attended the Committee in order to give

their point of view. He confirmed that residents had experienced problems in the past in relation to odour issues and he was of the view that the proposal would be of benefit to all parties. He welcomed the work which had been done with the local Parish Councils and hoped this would be another positive step for the future.

Members of the Committee acknowledged the benefit of attending a site visit on this occasion as it had demonstrated that the applicants were seeking to progress and move forward whilst also including an opportunity to view the site from the location of the main objector, some distance away. In addition the Committee members welcomed the recent work undertaken by the applicants with the local Parish Councils, considering this to be a positive step for the future. Clarification was sought regarding the need for the extension of hours to be tied to the installation of the new odour system to allow for the factory operation to continue and whether odour nuisance thresholds were different in hours of darkness compared to the daytime.

The Principal Planning Officer explained that the odour system was likely to require a four month lead in time.

The Environmental Protection Manager was confident that the new odour control system would deliver at least 95% filtration compared to the existing system which had no filtration but she confirmed that, given the current impact on residents, a specific requirement had been sought by her team for the installation of the new system prior to the introduction of the extension to hours of operation. She went on to explain that differing night time weather conditions were known to effect the dispersal of odours and, as such, the problems could be worse at different hours of the day and night. A proposed condition had also been included to provide for the installation of a fan to provide adequate noise abatement.

The Major Development and Projects Manager confirmed that a greater intensity of production may result in the current issues being exacerbated which may as a consequence constitute a statutory nuisance. He considered the tying of the extended hours of operation with the installation of the new control system to be entirely justifiable in planning terms.

RESOLVED (UNANIMOUSLY) that the applications be approved subject to the conditions set out in the report together with additional conditions to provide for the extension of the hours of operation being contingent upon the prior installation of the odour abatement equipment and to ensure the hours of operation accorded with those set out in the application, namely no operation to be undertaken between the hours of 22.00 on Saturday and 06.00 on Monday or at any time during public holidays.

539 172815 Car Park at Sheepen Road, Colchester

The Committee considered an application for a non-material amendment following grant

of planning permission 151825 at the car park at Sheepen Road, Colchester. The application had been referred to the Committee because Colchester Borough Council was the applicant. The Committee had before it a report and an amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the amendment sheet.

540 172995 Town Hall, High Street, Colchester

The Committee considered an application for a temporary seasonal signage for up to six weeks a year for a period of two years at the Town Hall, High Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report in which all information was set out.

James Ryan, Principal Planning Officer, presented the report and together with Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations. It was explained that the proposal, to display signage from the first floor Mayor's balcony, was part of the campaign to bring Colchester people to the shops using the Seven Dwarfs theme.

Concern was expressed by some members of the Committee regarding the use of a Listed Building to display temporary advertising signs, whether the elevated balcony position would be the optimum location for the marketing of an event and about the appearance of signs to be used subsequently within the proposed two year duration of the application.

The Major Development and Projects Manager acknowledged the concerns expressed regarding the potential impact of signage on the setting or character of the Grade I Listed Building and suggested imposing an additional informative to provide for the detailed design of future signage to have regard to the specific character of the Town Hall building and to be of an appropriate appearance, given the character of the host building.

RESOLVED (SEVEN vote FOR and TWO voted AGAINST) that the application be approved subject to the conditions set out in the report together with additional informative to provide for the proposed signage to be carefully designed with special regard paid to the context of this Grade I listed building within the Colchester No.1 Conservation Area to ensure that the character and appearance was not prejudiced.

Planning Committee

Monday, 11 December 2017

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Chris Pearson

Substitutes: No substitutes were recorded at the meeting

Also Present:

541 Site Visit

Councillors Barton, Chuah, Higgins, Jarvis, Liddy and Loveland attended the site visit.

542 Minutes

There were no minutes for confirmation at the meeting.

543 163196 and 163197 The Rising Sun and Maponite Buildings, 3 Hythe Station Road, Colchester

The Committee considered a planning application and listed building consent for the conversion of former warehouses and a public house (The Rising Sun) to 27 no. flats, 3 no. commercial units for A1, A2, A3, B1 or D1 Use, 33 No. off-street parking spaces and amenity areas at the Rising Sun and Maponite Buildings, 3 Hythe Station Road, Colchester. The application had been referred to the Committee because it was a major application including a Section 106 agreement and material planning objections had been received. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Bradly Heffer, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. He confirmed that proposed conditions 5 and 21 had been included in error and could be omitted. He further explained that the parking space provision proposed did not entirely comply with the full standard but there was flexibility for a lower number of spaces to be acceptable given the location of the development benefitting from established train and bus links as well as nearby food shopping facilities. He confirmed that the proposals did not provide dedicated parking provision for the commercial units, although there was provision for a commercial loading area, and no specific allocation of spaces had been proposed to the residential units. There was

therefore potential for unused parking spaces to be used by visitors to the commercial units and there was also a public car park sited opposite the development. He also explained that the private amenity space provision proposed was significantly below the amount prescribed in the policy requirements but, given the considerable constraints of the site, this had been accepted as satisfactory.

Members of the Committee welcomed the imaginative proposals to retain and bring back into use these valuable buildings in the historic port conservation area of the town, without compromising the integrity of the buildings. Clarification was sought regarding the possibility of including the provision of electric charging points for vehicles where appropriate, the width of the proposed footpath, renewable energy proposals, refuse and recycling provision and possibility of contamination on site. Reference was made to the conclusions of the viability assessment and whether it was possible to seek the inclusion of an affordable housing element within the scheme.

A number of members of the Committee were concerned about potential for conflict in the future and considered that the parking provision needed to be specifically allocated to the residential units on the basis of one space to each residential unit with the remainder designated for visitors.

The Principal Planning Officer confirmed that the viability assessment had been considered in detail but as the scheme's viability was marginal it had not been considered reasonable to seek the inclusion of affordable housing. Nevertheless, the viability of the scheme would be the subject of a review at a later date, through the required Section 106 agreement, to establish whether mitigation could be secured at that time. He explained that the standard width of 4 metres would be applied to the pedestrian / cycle route and a requirement would also be included in the Section 106 agreement for the river wall to be surveyed and, if necessary, repaired. He confirmed that the Highway Authority was satisfied with the access arrangements for the site. In addition photo-voltaic cells were included in the scheme as well as a cycle storage facilities and a satisfactory method for recycling and refuse collection had been agreed. He confirmed that the groundwork for the scheme was unlikely to involve any significant disturbance and, as such the potential for opening up pollution was unlikely. Nevertheless, the usual land contamination conditions had been included to provide for this eventuality. He was of the view that it would be reasonable to seek the inclusion of electric vehicle charging points within the scheme, if the Committee considered this to be appropriate.

RESOLVED (UNANIMOUSLY) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet (with the exception of conditions 5 and 21 which were to be omitted) and with additional conditions to provide for the inclusion of electric vehicle charging points within the scheme and the specific allocation of parking spaces on the basis of one space to

each residential unit with the remainder designated for visitors, and with matters of detail to be varied should this prove necessary, and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to provide for the following:

- A review mechanism whereby the viability of the scheme is reassessed during the development to determine whether mitigation is payable.
- A requirement that the part of the river wall that is adjacent to the application site be surveyed and, if necessary, repaired as part of the overall works to create the required extension to the riverside footway and cycleway.

(ii) The listed building consent be approved subject to the conditions set out in the report and the amendment sheet.

544 173000 Pontoon opposite West Mersea Yacht Club, Coast Road, West Mersea

The Committee considered an application for the variation of condition 3 of planning permission 170230 to allow construction to commence in March 2018 at the Pontoon opposite West Mersea Yacht Club, Coast Road, West Mersea, Colchester. The application had been referred to the Committee because it was a Colchester Borough Council application. The Committee had before it a report and an amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the amendment sheet.

545 Appeal Decisions Summary - September, October, November 2017

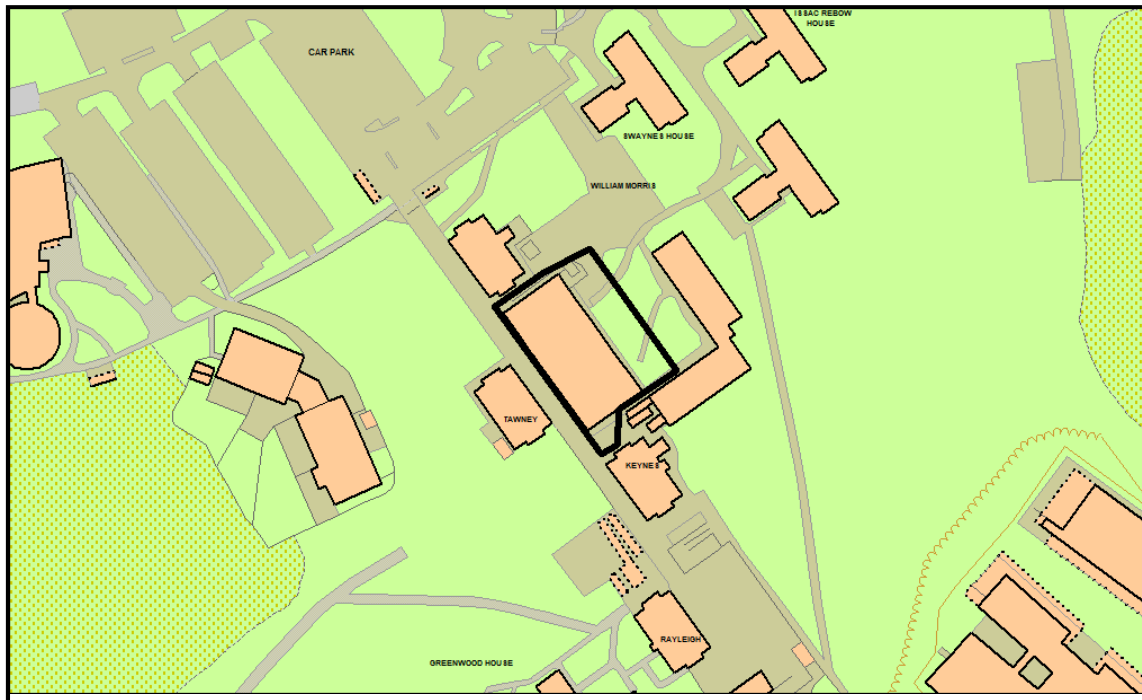
The Committee considered a report by the Assistant Director Policy and Corporate giving details of ten recent appeal decisions relating to nine developments which had been received between 7 September and 14 November 2017 for applications in the Borough or in neighbouring Local Authority areas, the intention being to enable the Committee members to remain up to date with outcomes, trends and changes so they could further understand how Inspectors were presiding over decisions. The report also included details of a recent Supreme Court decision which had implications nationally for all Planning Committee decisions to approve permissions contrary to officer recommendations. Nine of the appeals had been dismissed and one had been allowed.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations. He explained that, as a result of the Supreme Court decision, the practice of the Committee needed to be reviewed so that in future, when the Committee

came to a decision contrary to the officer recommendation, the Committee would need to state full reasons for concluding its view, the various issues considered, the weight given to each factor and the logic for reaching the conclusion and these details also needed to be recorded in the minutes of the meeting.

Members of the Committee welcomed the information provided in the report. In relation to the appeal which had been allowed for a lawful use certificate for the siting of a caravan for ancillary use, a request was made for the use of the caravan to be monitored in the future. Committee members also asked for appropriate guidance to be included in the Committee's procedural arrangements to ensure the recent Supreme Court provisions were adhered to, when necessary.

RESOLVED that the contents of the report be noted.



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Item No: 7.1

Application: 172816

Applicant: Mr Matthew Brown

Agent: Ms Ursula Rafferty

Proposal: Application to vary condition 4 of planning permission 150895

Location: University Of Essex, Wivenhoe Park, Colchester, CO4 3SQ

Ward: Wivenhoe

Officer: Bradly Heffer

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it concerns a proposal to vary a condition attached to a grant of planning permission for a major development and an objection has been received from Wivenhoe Town Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the terms of the permission previously granted for the building – which was on a temporary basis – and whether it is appropriate in planning terms to remove the condition and, thereby, allow the building to be located on the site permanently.
- 2.2 It is considered that the building is of sufficient quality, in itself, to merit a permanent permission. Furthermore it is considered that the development is not harmful to visual amenity in this campus location.
- 2.3 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site for this proposal is located within the established campus of the University of Essex. The specific location is within the area of the original accommodation towers, on a former grassed area between the buildings identified as 'William Morris' and 'Keynes'. A further tower, 'Tawney', is located immediately opposite the application subject building, across a broad walkway that links the campus with the North Towers car park. Also within the vicinity of the application site (to the northeast) is a group of newer accommodation buildings.

4.0 Description of the Proposal

- 4.1 Under planning application 150895 planning permission was granted for the following development:

'Installation of a new three storey temporary modular teaching facility, consisting of twenty seminar rooms, toilets and breakout space.'

- 4.2 As part of the planning permission granted for the development the following condition (04) was imposed:

'The period of this permission shall expire on 31st July 2020 at which date the building hereby permitted shall be removed. Within 28 days from the date at which this permission expires any building, material, equipment or hard landscaping resulting from, or used in connection with, the development hereby permitted shall be removed from the site in its entirety and in accordance with a scheme that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority.'

Reason: For the avoidance of doubt as to the scope of this permission and because a longer permission would have to be carefully considered by the

DC0901MWv9.3

Local Planning Authority at the time at which any such proposal came forward, as well as to ensure that the site is returned to its previous state so that it does not suffer from any unacceptable longer term impact.'

- 4.3 This current application submission seeks planning permission to remove the above condition – thereby enabling the building to be permanently located on the site. As part of the application submission the following explanatory comments have been made by the University's agent:

'Originally conceived as a temporary building, to provide teaching space whilst the stock of 1960's buildings are refurbished, the North Teaching Centre has been constructed, and fitted out, to a high quality specification. It is proving popular with both staff and student cohorts and the University seeks approval to permanently retain it...The building is clad in Equitone Tectiva rainscreen cladding and sits, appropriately, between the North Towers accommodation blocks. It is weathering well and the cladding system has a minimum design life of 30 years. It is an appropriate, and valuable, contribution to the Campus and the University trusts that the Council can support the application...'

5.0 Land Use Allocation

- 5.1 University Purposes – as allocated in the adopted Local Development Framework Proposals Maps document.

6.0 Relevant Planning History

- 6.1 The original grant of planning permission for this building was under planning application 150895. The permission was granted for a period of 5 years – expiring on 31st July 2020.
- 6.2 The overall University campus has been subject to numerous applications – none of which are considered to be of specific relevance to this proposal.

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 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

UR2 - Built Design and Character

ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 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
DP25 Renewable Energy

- 7.4 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:

SA EC7 University of Essex Expansion

- 7.5 In addition to the above, consideration also needs to be given to the emerging local plan. The following policies are relevant in the Submission Colchester Borough Local Plan 2017-2033:

Policy SP1 Presumption in Favour of Sustainable Development
Policy SP6 Place Shaping Principles
Policy CC1 Climate Change
Policy EC1 Knowledge Gateway and University of Essex Strategic Economic Area

Paragraph 216 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.

Officers have considered the weight to be attached to the Submission Colchester Borough Local Plan 2017-2033. As to the first limb, the Local Plan was submitted to the Planning Inspectorate in October 2017. An Inspector has been appointed and the formal examination is due to commence in January 2018. The Plan is at an advanced stage and may therefore be taken into consideration in the determination of this application. As to the second limb, in the context of this application proposal there are no fundamental unresolved objections to the aforementioned policies in the emerging plan. As to the third limb, it is considered, at this stage, that the relevant policies in the emerging Local Plan do not appear to contain obvious inconsistencies with the Framework.

Overall, for these reasons, the emerging Local Plan is considered to carry reduced weight.

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

External Materials in New Developments
Sustainable Construction

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 **Landscape Planning Officer** has commented as follows:

'The landscape content/aspect of the application to vary condition 4 of planning permission 150895 lodged on 07/11/17 would appear satisfactory'

- 8.3 The **Archaeological Adviser** states that:

'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.'

9.0 Parish Council Response

- 9.1 Wivenhoe Town Council has objected to the proposal and made the following comments:

'Wivenhoe Town Council have some concerns regarding this application and would want evidence that CBC have considered the following before removing the condition.'

Would the building have been given permission in the first instance if the original application had been for a permanent building? I doubt it as it is sited in amongst the 1960's towers.

Was the original application processed as a temporary building just as to get approval but with the intention of applying for permanent approval knowing that this would deflect CBC and WTC attentions?

Would the temporary building materials and design have been permitted if the building had been applied as a permanent one?

Is it in keeping with the other buildings?'

10.0 Representations from Notified Parties

- 10.1 The application was advertised in a newspaper and via a site notice. No representations have been received. The expiry date of the advertisement was 8th December 2017.

11.0 Parking Provision

- 11.1 Not applicable – the parking provision at the University campus would be unaltered by the proposal.

12.0 Open Space Provisions

- 12.1 The application site was formerly part of a larger grassed area between various accommodation blocks. Although the development has resulted in the loss of this part of the space it is considered that the overall open space provision across the campus would mean that its overall character would not be compromised. This consideration is important given the terms of the reason attached to condition 04.

13.0 Air Quality

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

14.0 Planning Obligations

- 14.1 As a major development proposal the original application (150895) was considered by the Development Team, and it was determined at that time that a mitigation contribution (secured through s.106) was not required.

15.0 Report

- 15.1 The main issue to be considered in this application is whether the building that is currently located on the identified site merits a permanent planning permission. Whilst it is the case that the original intention was that it was to be provided as a temporary facility (to allow repairs and improvements to other buildings to take place), the current application submission advises that the building has become a useful resource in its own right.
- 15.2 Examination of the building on site reveals that it is well-maintained and appears as a modern addition within the campus. Although it has a temporary planning permission the building has a visual ‘permanency’ emphasised by stepped entrance features and a plinth. Whilst it is set amongst the towers, it is not considered that it is harmful to the overall value of the towers as a group – not least because the distant views of these iconic buildings remain unaltered. Its impact is experienced within the immediate surroundings of the towers only.
- 15.3 The comments made by Wivenhoe Town Council are fully acknowledged and appreciated. With regard to the Council’s first comment, it is your officer’s opinion that had planning application 150896 sought a permanent planning permission for this structure, it is likely that a recommendation of approval would have been made. This is on the basis that, although proposed as a temporary building and is of modular construction, it is considered to achieve an equivalent visual standard to other buildings on the campus. Certainly it has a significantly better appearance than, say, the ubiquitous temporary classroom buildings that are a familiar element on most school campuses.

15.4 As regards to the comments relating to the standard of design and materials, it is considered that the building achieves a satisfactory standard. The campus itself contains a variety of building designs – reflective of the ongoing expansion that has taken place since the inception of the University in the early 1960s. Within this context, it is considered that the building would not appear incongruous. In relation to materials, these reflect the contemporary design of the building and, again, the use of rainscreen cladding would not appear out of keeping. The wider campus incorporates a diverse palette of materials such as brick, glazing, concrete, metal, stone and cladding. As stated earlier, site inspection reveals that the building appears well-maintained in its setting.

16.0 Conclusion

16.1 To summarise, this submitted application seeks, in effect, a permanent planning permission for the identified building. It is your officer's opinion that it is an acceptable addition to the overall University campus development on a permanent basis and a recommendation of approval is made.

16.2 Members are advised that the recommendation of permission does not include the imposition of conditions. This is because the conditions imposed under the original application have either been complied with or (in the case of this application) proposed for removal.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

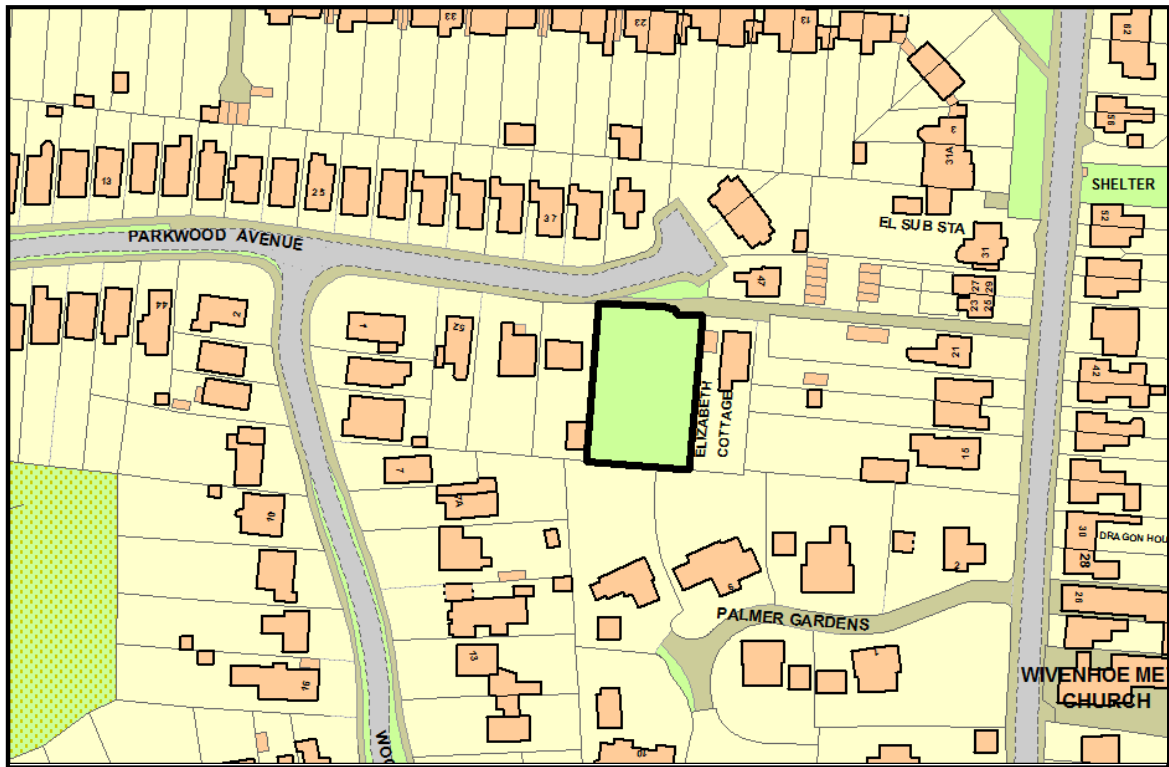
APPROVAL of planning permission – no conditions

18.0 Informatives

18.1 The following informatives are also recommended:

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.



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Item No: 7.2

Application: 172949

Applicant: Mr Craig Revell

Agent:

Proposal: Build a brick wall on the front boundary of the property to complement the house and existing planning conditions (Ref: 152105).

Location: 58 Parkwood Avenue, Wivenhoe, Colchester, CO7 9AW

Ward: Wivenhoe

Officer: Eleanor Moss

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Scott called in the application for the following reason:

Wall built against planning permission obstructs emergency vehicles, light, access and amenity of neighbours.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the front boundary wall upon highway safety, the character of the area and neighbouring amenity. The report also confirms that private legal access rights are not a material planning consideration as the granting of planning permission does not overrule any existing legal access rights
- 2.2 The proposal is considered to be acceptable and therefore your Officer recommends approval.

3.0 Site Description and Context

- 3.1 The application site comprises the plot of a recently constructed two-storey, detached dwelling. It is situated to the south of Parkwood Avenue, with the highway fronting the dwelling. It has a large plot, larger than many in the vicinity. The recently constructed dwelling takes its access from Parkwood Avenue. To the west of the site is a detached two-storey dwelling (No. 56 Parkwood Avenue) which was erected in the 1990s. To the east of the application site is a detached single storey bungalow (Elizabeth Cottage).

4.0 Description of the Proposal

- 4.1 This application seeks retrospective planning permission for a front boundary wall with piers.

5.0 Land Use Allocation

- 5.1 Residential.

6.0 Relevant Planning History

- 6.1 150754 – Construction of a detached house. Approved 17 July 2015.

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 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

UR2 - Built Design and Character

- 7.3 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

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

- 7.4 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
- Wivenhoe Town Plan and Executive Summary

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.

Highway Authority – No objection.

9.0 Parish Council Response

- 9.1 Wivenhoe Town Council would like to oppose this development on the grounds that access is blocked for a neighbour and that the proposed development may well exceed the boundary for this property.

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. The comments received were as follows:

- Impact upon legal rights
- Impact upon access
- Restricts emergency vehicles
- Obstructing the road
- Loss of vegetation and wildlife
- Construction upon land not within the applicants ownership

- Highways safety
- Visual impact

10.2 Officer response: Private land interests do not constitute material planning considerations which the Local Planning Authority would take account of in determining planning applications.

10.3 In this instance, the dispute involving the wall in question and the private land interest for Elizabeth Cottage is an entirely civil matter which interested parties are advised to seek independent legal advice on.

10.4 Furthermore, the Local Planning Authority does not interfere with, or take views on, private boundary disputes and this should also be subject to interested parties' independent legal advice. The Council will not take a view or make any comments on these matters. The burden lies with the applicant to prove the wall in question is entirely on their land and does not breach any private legal access rights.

11.0 Parking Provision

11.1 The proposal complies with car parking standards

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Planning Obligations

14.1 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.

15.0 Report

Impact upon amenity:

15.1 The call in form highlights light as a concern. In terms of loss of light, as the front boundary wall is adjacent to a driveway, any overshadowing would be excusive to the driveway of the host property, rather than any neighbouring dwellings. It is also worth noting that there are side boundary fences adjacent to the application site, which obstruct light rather than the front boundary wall. The wall in question is mainly one metre high, rising up to no more than one-and-a-half metres at the piers, so any loss of light is very unlikely, especially given that the hedge which used to be in its place was higher than it.

Impact upon character of area:

- 15.2 The height of the front boundary wall means that it is not readily prominent within the street-scene. It is considered that the immediate locality is characterised by such boundary treatments and there are a number of properties within the locality which already contain front boundary walls. Given that the proposal is located towards the end of the cul-de-sac, the front boundary wall is not viewed centrally within the street-scene but at a pre-existing visual terminus. As such, it is considered that any impact upon the street-scene will be marginal.

Highway safety:

- 15.3 The application site is located with a cul-de-sac where car speeds are very low. The neighbouring resident of Elizabeth Cottage has raised concerns of legal access rights. The front boundary wall has replaced a hedge and therefore it is not considered that this has resulted in a harmful impact upon highway safety, nor has the front boundary wall resulted in reduced parking. The described difficulties raised by the neighbouring resident regarding access do not impact upon the highway network and, therefore, the front boundary wall does not warrant a refusal on highway safety grounds. The Highway Authority has not raised any objection to the scheme and therefore it is not considered that the proposal has a harmful impact upon highway safety.

Permitted development 'fall back':

- 15.4 There are certain permitted development limitations regarding walls and other means of enclosure. As a general rule, you do not need to apply for planning permission if your wall is adjacent to a highway and does not exceed one metre above ground level. In this instance, the application site is clearly adjacent to a highway and therefore any part of the wall exceeding one metre in height would require formal planning consent. These include the pillars and piers. The majority of the wall therefore does not require formal planning consent.

16.0 Conclusion

- 16.1 To summarise, the design of the proposed wall is appropriate and would not result in a harmful impact upon visual amenity, highways safety or residential amenity. The proposal would not appear out of character in the street-scene or as an overly-prominent addition. Your Officer therefore recommends approval.

17.0 Recommendation to the Committee

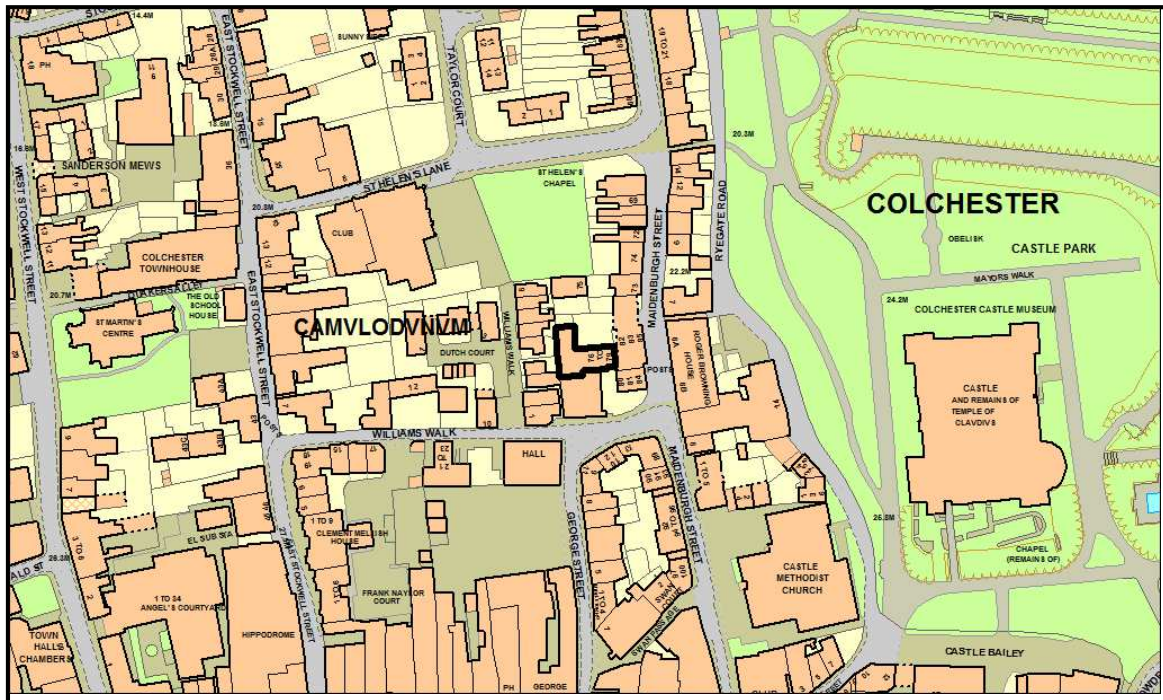
- 17.1 The Officer recommendation to the Committee is for APPROVAL of planning permission.

18.0 Informatives

18.1 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.



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Item No: 7.3

Application: 172984

Applicant: Mr A Shelmerdine

Agent: Ms Linh Bane

Proposal: Replacement of windows to flats

Location: 76-79 Maidenburgh Street, Colchester, CO1 1TT

Ward: Castle

Officer: Daniel Cameron

Recommendation: Approval subject to 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 Borough Homes.

2.0 Synopsis

- 2.1 The key issue for consideration are the impact of the proposed replacement windows and doors on the affected properties upon the character and appearance of the Colchester Town Centre Conservation Area 1.
- 2.2 The application is subsequently recommended for approval subject to the conditions laid out at the end of this report.

3.0 Site Description and Context

- 3.1 This application affects several CBH owned properties located within the Dutch Quarter at Maidenburgh Street which forms part of Colchester Conservation Area No.1. Maidenburgh Street runs north to south at the eastern edge of the Dutch Quarter adjacent to Ryegate Road and Castle Park and connects Northgate Street to High Street. It is notable that it is pedestrianised along for a short length of its course which lies approximately equidistant between its junctions at either end.
- 3.2 The affected properties are located along the pedestrianised run of Maidenburgh Street and form part of a modern infill development of flatted properties constructed of mixed brick and render.
- 3.3 The conservation area itself is notable for its dense concentration of listed and locally listed buildings. The majority of the listed buildings date from the medieval period, although they have been subsequently altered and re-fronted over time with the result being that traditional Georgian and Victorian architectural details now predominate. Locally listed buildings tend to date from later periods, mainly the mid 1800's to early 1900's and show a simple and polite character typical of vernacular development within Colchester. Materially, across both listed and locally listed properties, there is a dominant use of red brick, render and slender proportioned timber windows.

4.0 Description of the Proposal

- 4.1 The proposed development is to replace the existing single glazed, timber two light and single light sash windows on the affected properties with double glazed, aluminium two light and single light sash windows. It is proposed to replace the windows on a like-with-like basis in terms of the openings and glazing proportions.

5.0 Land Use Allocation

- 5.1 The wider site is allocated within the current Local Plan as predominantly residential.

6.0 Relevant Planning History

- 6.1 This application forms part of a suite of applications regarding window and door replacement to CBH properties received in past two years. This represents the final application in this suite.

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 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

- 7.3 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

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 *Historic Buildings and Conservation Areas Officer – comments:*

The window detailing could change the architectural character of the host building by reason of the change in materials and sections. In this case, the slender sections of the proposed windows, proposed reveals and sill/lintel details will be contextually appropriate and will serve to preserve the character and appearance of the area

Approval is recommended subject to condition to secure details of the window finishes as the submitted sections indicate contextually appropriate details.

Suggested Conditions Non-standard

Prior to installation, details of the finish and colour of the proposed windows shall be submitted to and agreed in writing by the local planning authority. The windows as installed shall be strictly in accordance with the approved details. Reason: To ensure that the character and appearance of the Colchester

Conservation Area No.1 is preserved or enhanced by the proposed development in accordance with adopted local plan policies DP1, DP14, Env1 and UR2.

9.0 Parish Council Response

9.1 The application is located within an unparished town centre ward.

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 No public representations were received regarding this application.

11.0 Parking Provision

11.1 This application proposes no alteration to the existing levels of parking available within the immediate vicinity of the application site, nor will it lead to increased demand for parking within the area.

12.0 Open Space Provisions

12.1 This application proposes no alteration to the existing levels of public open space available within the immediate vicinity of the application site, nor will it lead to increased demand for open space within the area.

13.0 Air Quality

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

14.0 Planning Obligations

14.1 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.

15.0 Report

15.1 The main issues in this case are:

- The Principle of Development;
- Design;
- Impact on the Surrounding Area; and
- Impacts on Neighbouring Properties.

- 15.2 The properties affected by this application comprise a group of flats. As such permitted development rights for the replacement of windows are not established. That being said, regard should be given to the provisions contained within The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class A of Part 1, Schedule 2 normally allows for the replacement of windows to a given dwelling house provided that the materials used are of a sympathetic nature. Technical guidance published with the Order make it clear that materials do not have to match those of the existing windows, but must be visually similar.
- 15.3 Further, it should be noted that the presence of a conservation area does not affect the above mentioned rights, but does impose a general duty on behalf of the Local planning Authority under The Planning (listed Buildings and Conservation Areas) Act 1990 to give special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 15.4 Local Plan policies support this aim, Core Strategy policy UR2 requires development to be informed by the context of their surroundings and to provide high quality design. This policy along with Core Strategy policy ENV1 highlights the importance of the preservation and safeguarding of the unique historic character of the borough. Development policies DP1 and DP14 respectively require a high standard of design from development proposals that serve to protect and enhance the historic environment.
- 15.5 The principle of development is therefore predicated on the ability of the application to at least preserve the character of the surrounding conservation area (to avoid harm). It is further clear that when considering the design of the proposed windows, their visual appearance carries more weight than the material they are constructed from. To some degree, the choice of finish and colour may be of greater significance than the material in the in determining the visual impact of the windows.
- 15.6 In design terms the replacement windows are on a like-with-like basis with the existing. Although the inclusion of double glazing could necessitate a deeper section profile to the replacement windows, in this instance the use of Aluminium allows more slender sections than those of the existing timber sections and avoids harm to the conservation area.
- 15.7 Existing issues with the current windows include their difficult and costly maintenance, their age and increasing state of wear, and their undesirable impact upon the amenity of the residents owing to issues of condensation and in some cases mould, which are attributable to the existing windows. Given that the residents of the affected properties are inhabited by social housing tenants of CBH, there is a clear public benefit to their replacement.
- 15.8 In terms of the impact of the proposed windows upon the character of the conservation area it is considered that there would be a neutral impact. The visual appearance of the windows are similar to the existing and it is judged that the change in material would be acceptable as it mirrors the slender frames exhibited elsewhere within the area.

16.0 Conclusion

16.1 To summarise, there are clear benefits of the scheme both to the living conditions of the tenants of the properties and for the properties themselves. The design of the replacement windows is as close to the original as possible, while also providing modern window benefits including increased ventilation as well as heat retention and noise insulation. The impact upon the conservation area is neutral and would serve to help preserve its character. There are no conflicts with either existing national or local planning policy.

17.0 Recommendation to the Committee

17.1 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. ZBB - Materials As Stated in Application

The external facing 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.

3. 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 A-1516-PL4-01 Revision A and A-1516-PL4-02.

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

4. Z00 – Colour of Window Frames

The outer frames of the windows hereby approved shall be painted white to match those that are being replaced.

Reason: To preserve the historic character of the conservation area.

18.0 Informatives

18.1 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.

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.

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.

