

Planning Committee Meeting

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

Thursday, 24 May 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>.

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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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www.colchester.gov.uk

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 24 May 2018 at 18:00

The Planning Committee Members are:

Members of the Committee, the Chairman and Deputy Chairman to be appointed at the Annual meeting.

The following members of the Council have met the criteria to attend planning training during the previous two years and may act as members or substitute members at this Committee meeting:-

Councillors:

Christopher Arnold	Lyn Barton	Kevin Bentley	Tina Bourne
Roger Buston	Nigel Chapman	Peter Chillingworth	Helen Chuah
Nick Cope	Simon Crow	Robert Davidson	Paul Dundas
John Elliott	Andrew Ellis	Vic Flores	Adam Fox
Dave Harris	Pauline Hazell	Theresa Higgins	Brian Jarvis
Darius Laws	Cyril Liddy	Mike Lilley	Sue Lissimore
Derek Loveland	Jackie Maclean	Patricia Moore	Beverley Oxford
Gerard Oxford	Philip Oxford	Chris Pearson	Lee Scordis
Lesley Scott-Boutell	Martyn Warnes	Lorcan Whitehead	Dennis Willetts
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 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 Minutes

There are no minutes for approval at this meeting.

7 Planning Applications

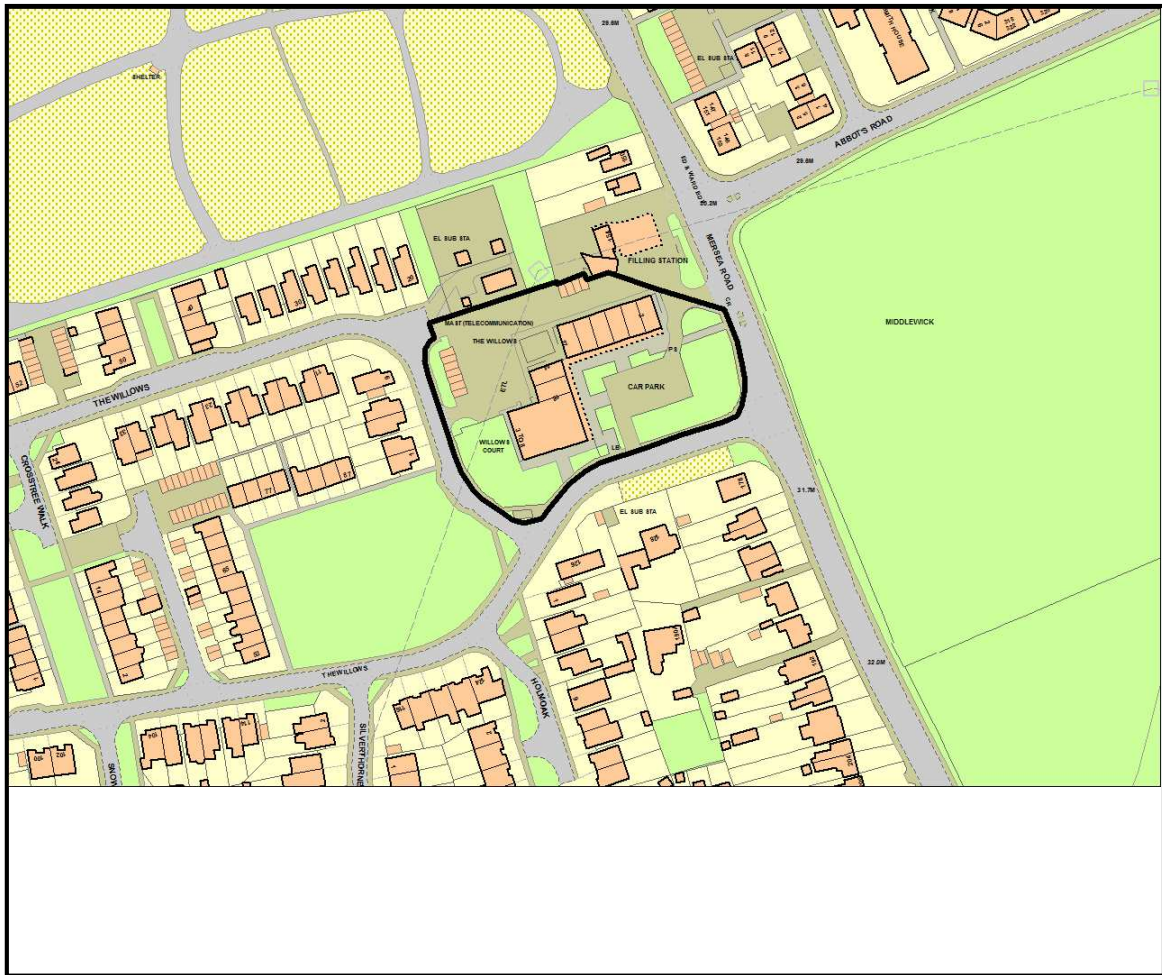
When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

- | | | |
|------------|---|----------------|
| 7.1 | 180245 Garages, Willows Court, The Willows, Colchester | 7 - 18 |
| | Application to vary condition 2 of planning permission F/COL/02/1970. | |
| 7.2 | 180694 Units 6-7, Hawkins Road, Colchester | 19 - 38 |
| | Application for approval of reserved matters following outline approval 152493 (Erection of 37 apartments, 2 office units and associated layout, access and parking). | |
| 7.3 | 173119 Ranges Service Station, 154 Mersea Road, Colchester | 39 - 62 |
| | Mixed use development comprising an extension of the forecourt shop, reorientation of the drive through hand car wash and an additional storey at first floor level to house two residential flats with associated car parking. | |
| 7.4 | 180572 21-27 South Street, Colchester | 63 - 68 |

Replacement of single-glazed timber windows with double-glazed UPVC windows.

- 7.5 **180718 6 and 8 Northgate Street, Colchester** 69 - 76
Replacement of single-glazed timber windows with double-glazed UPVC windows.
- 8 **End of Year Planning Performance 2017 - 2018** 77 - 80
A report by the Assistant Director Policy and Corporate giving an overview of planning service performance for the Planning Committee. Performance is reported formally at the end of each fiscal year. The current report is for the fiscal year from April 2017 to March 2018, with some comparative figures for previous years given as comparative reference points.
- 9 **Summary of Appeal Decisions December 2017 – May 2018** 81 - 94
A report by the Assistant Director Policy and Corporate giving details of recent appeal decisions which had been received between 1 December 2017 and 10 May 2018.
- Planning Committee Information Pages** 95 - 106
- 10 **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:	180245
Applicant:	Mr Mark Harding
Agent:	Klh Architects Ltd
Proposal:	Application to vary condition 2 of planning permission F/COL/02/1970.
Location:	Garages, Willows Court, The Willows, Colchester, CO2 8XU
Ward:	Berechurch
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 this application is a major and unresolved objections have been received.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact on highway safety, parking and the wider character of the area. The Highway Authority does not object to the scheme and as such the proposal is considered acceptable.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site relates to a local centre in Berechurch Ward, this contains a number of uses which are well established along with a number of residential properties.

4.0 Description of the Proposal

- 4.1 This application seeks planning permission to vary condition 2, the approved drawings, of Planning permission F/COL/02/1970 (which was a predominantly residential scheme). This is in order to amend the parking arrangements, highways layout and bin storage.

5.0 Land Use Allocation

- 5.1 Local centre comprising of shopping centre with residential uses

6.0 Relevant Planning History

- 6.1 F/COL/02/1970 - Conversion of existing building to provide 5no. flats and new build development to provide 15no. flats and 1no. shop/office unit. Approved 30th March 2003.

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
CE2c - Local Centres
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 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
DP7 Local Centres and Individual Shops
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
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:

N/A

- 7.5 There is no Neighbourhood Plans currently adopted for this area.

- 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
Affordable Housing
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 Highway Authority - The Highway Authority is informed that the access road will not be offered for adoption and that refuse/recycling vehicles will not have access within the site, therefore it does not object to the proposals as submitted.
- 8.3 Contamination Officer – No comments
- 8.4 Environmental Protection – No comments
- 8.5 Archaeological Officer – No concerns
- 8.6 Tree Officer – Additional information requested

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighboring 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.
- Allocation of parking spaces
 - Existing leases
 - Removal of trees
 - Concerns regarding blue hoardings
 - Concerns regarding parking
 - Site is an eyesore

11.0 Parking Provision

- 11.1 The application is considered to comply with car parking standards. This is explained in further detail at paragraphs 15.6 – 15.8.

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 classed as a “Major” application, however the original application F/COL/02/1970 did not secure any Planning Obligations and as a variation to this application, there is no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations could be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

The Principle of the Development:

- 15.1 The site is in a residential area close to a local shopping centre. The principle of redevelopment is therefore acceptable. Furthermore, the original application has commenced on site, the principle of the application is therefore acceptable.

Design, Scale and Layout:

- 15.2 The proposal does not seek to vary the previously approved built form design or layout of the scheme although it is noted that the rear of the application site is neglected and has an unsightly “backyard” appearance. The redevelopment of this site would offer an improvement to the appearance of the area.
- 15.3 As this proposal will not amend the design or layout of the built form, it is considered to be acceptable in this regard.
- 15.4 The proposal includes a number of smaller amendments, these include the bin store and screening fence for the bin store. These elements are considered to be visually acceptable and would not create an unacceptable impact upon the appearance of the area.

Amenity Space Provision:

- 15.5 Given the amenity space provided does not alter from the original permission, the amenity standards provided are considered to be acceptable.

Highways Safety and Parking:

- 15.6 As per the original permission, all new residents will have a dedicated parking space on site without loss of parking space for existing residents and retail units.

15.8 Following negotiations, amendments have been made to the scheme which satisfactorily meet vehicular traffic safety concerns, including the Willows shoppers' parking area and access to/from Mersea Road. Pedestrian needs, including those with disabilities, have been fully accommodated. Cycle storage facilities will be provided.

15.9 The Tree Officer has requested an Arboricultural Impact Assessment (AIA) to be submitted in support of this application. Whilst these concerns are noted, the extension of the existing car park has previously been approved under the original application and the removal of trees has already been accepted. As shown in the drawing below:



15.10 The realignment of the road is sufficiently distanced from any existing vegetation to ensure that any impact will be minimal.

Commencement:

15.11 The application has been submitted in order to vary the alignment of the internal access road and parking layout, this is in order to avoid moving the location of four car parking spaces. In order to lawfully commence development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990. This says that “development is taken to be begun on the earliest date on which a material operation is carried out”. A material operation is defined in the Act and can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land. It is noted that a number of concerns have been made in relation to the length of time to build out the original permission and these are sympathised with, however it is clear there is a part commencement of the scheme by the creation of the flats above the existing shops, this means that the rest of the development can be carried out at any time in the future. The applicant is at the stage where the original alignment of the road is causing blockages to implementing the rest of the development. The realignment of the road will allow for the rest of the development to be completed.

16.0 Conclusion

16.1 To summarise, the variation of condition application is considered to be acceptable. All relevant conditions which accompanied the original permission will be imposed upon any planning approval in order to ensure critical aspects are protected.

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. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings Referenced 3801-0300 Revision P01, 3801-KHK-0102 P05 and 'Fence horizontal open slatted'.

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 – Vehicles

No vehicle connected with the works shall arrive on site before 07.30 or leave after 19.00 (except in the case of emergency). Working hours shall be restricted to between 08.00 and 18.00 hours Monday to Saturday (finishing at 13:00 on Saturday) and at no time on Sunday. No noisy machinery shall be operated or noisy process carried out outside the hours of 09:00 to 17:00 Monday to Friday with no working of any kind permitted on Sundays, Saturdays after 13:00 hours or any Public/Bank Holiday days.

Reason: To protect residential amenity.

5. Non Standard Condition - Landscaping

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

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

6. Non Standard Condition – Cycle parking

The building/s or land subject to this permission shall not be brought into use for the purposes hereby approved until satisfactory arrangements for the provision of bicycle parking have been agreed in writing and implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure that adequate provision is made for cycle parking in accordance with both local and national policy to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

7. Non Standard Condition – Sound insulation

The use hereby approved shall not commence until the buildings have been modified to provide sound insulation against internally generated noise in accordance with a scheme approved in writing by the Local Planning Authority.

Reason: To protect residents from internally generated noise.

8. Non Standard Condition – Demolition

No demolition works shall be carried out before 8.00 a.m. or after 6.00 p.m. Monday-Friday, before 8.00 a.m. or after 1.00 p.m. on Saturdays with no demolition on Sundays, Bank or Public Holidays.

Reason: In order to safeguard the privacy of adjoining occupiers.

9. Non Standard Condition – Piling

Prior to the commencement of any piling works, an agreed method of installation, which minimises noise and vibration to nearby residents, shall be submitted to and agreed in writing with the Local Planning Authority in consultation with Environmental Control. Any piling shall be carried out in accordance with the approved details.

Reason: In order to safeguard the privacy of adjoining occupiers.

10. Non Standard Condition - Site splays

The site splays to the proposed access road, shown on the approved drawing, shall be provided prior to any property being occupied or any parking area put to use. The splays shall thereafter be maintained so clear until such time as the road shall be a publicly maintained highway.

Reason: In the interests of highway safety.

11. Non Standard Condition - Crossing

The new dwellings shall not be occupied prior to arrangements being made to reinstate the disused service yard, footway crossing to full height footway.

Reason: In the interests of pedestrian safety.

12. Non Standard condition– Site splays

2.0 x 20 metre sight splays shall be provided to each side of each vehicular access where it meets the carriageway prior to the drive being put to use and shall thereafter be kept free of any obstruction exceeding 600mm in height within the splays.

Reason: In the interests of highway safety.

13. Non Standard Condition - Pedestrian splays

1.5 x 1.5 metre pedestrian visibility splays shall be provided to each side of the vehicular access where it meets the highway prior to the drive being put to use and shall thereafter be kept free of any obstruction exceeding 600mm in height within the splay areas.

Reason: In the interests of pedestrian safety.

14. Non Standard Condition – Car parking spaces

The car parking spaces indicated on the approved plans shall be constructed prior to the first occupation of the development hereby approved and shall thereafter be retained.

Reason: To ensure adequate parking provision so that the development does not prejudice the free flow of traffic or the general safety along the adjacent highway or the convenience and amenities of local residents.

15. 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.

18.0 Informatives

18.1 The following informatives are also recommended:

Non Standard Informative – 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 or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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 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.



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Item No: 7.2

Application: 180694

Applicant: Mr Sukhdev Ghotra, Rootstar Constructions Ltd

Agent: Mrs Patricia Bessey, EngineRoom

Proposal: Application for approval of reserved matters following outline approval 152493 (Erection of 37 apartments, 2 office units and associated layout, access and parking).

Location: Unit 6-7, Unit 6-7, Hawkins Road, Colchester, CO2 8JX

Ward: Greenstead

Officer: Bradly Heffer

Recommendation: **Approved with conditions**

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it constitutes a major reserved matters development proposal, an objection has been received from a Ward Member on parking/highway impact grounds, and a recommendation of approval is made to Members.

2.0 Synopsis

- 2.1 The key issues for consideration are the terms of the outline planning permission granted on the application site, the elements of the detailed development proposal and the terms of the objection that has been received from the Ward Councillor. It is considered that this proposal constitutes an appropriate reserved matters proposal on this site, and would not result in adverse impacts being created.
- 2.2 The application is subsequently recommended for approval, subject to the imposition of conditions as listed at the end of this report.

3.0 Site Description and Context

- 3.1 The site for this proposal is currently vacant; having been last used for the storage and distribution of aggregates as well as the sale of building supplies. It is a rectangular-shaped site which, topographically, rises from east to west (from Hawkins Road to its boundary with the river Colne). It currently contains a single storey former sales/storage building on its northern boundary, as well as an ancillary storage building (partly dismantled) in the south eastern corner. The remainder of the site was utilised for open storage of aggregate, parking and servicing areas.

4.0 Description of the Proposal

- 4.1 This planning application seeks permission for approval of reserved matters following the grant of outline planning permission for development on the identified site. The Relevant Planning History section of this report gives further details of the terms of the outline planning permission granted by the Council. In summary, the approval of planning application 152493 established the acceptability, in planning terms, of a mixed residential and commercial development taking place on the site consisting of 37 no. apartments and 2 no. office units.
- 4.2 The current reserved matters proposal put forward for consideration by Members comprises three buildings on the site – a main residential building ranging between four and six storeys in height that faces towards the river, and two four storey units facing Hawkins Road (the northernmost of which would contain the 2 office units). The buildings facing Hawkins Road would be located to either side of the vehicular access to the site. The position of this access is fixed as it was an element of the development (along with the layout) for which full planning permission was granted under application ref. 152493.

- 4.3 The ground floor of the development would be occupied by parking spaces, circulation space, bin stores and cycle parking, with both residential and commercial floorspace located on the upper floors. The design of the proposal follows a contemporary architectural approach, with the use of brick as the predominant material together with glazing and metal. A key element of the proposal is the provision of a footway/cycleway across the site frontage to the river.
- 4.4 The Design and Access Statement submitted with the application includes the following information:

‘...Block A, the largest block facing west onto the River Colne, is proposed to comprise 24 two bedroom apartments over 4 storeys (above the ground floor parking level) with a further 2 three bedroom penthouse apartments on the sixth floor. Each of the apartments will be accessed via two integral staircases/lifts located on the building’s eastern and rear elevation. This block will step up from four floors at the south of the site to six at its centre. To the north the building will step down again to five floors. The building has been designed in this way to accord with the neighbouring development (on the former Jewson’s site) which steps down to three floors on its northern boundary (with the application site). However, this development also reaches six floors towards its centre. The proposed development therefore intends to echo this rise and fall in height and scale already demonstrated by similar development fronting the Colne

...Block B, located to the north of the access and fronting Hawkins Road is proposed to comprise two office units arranged over two floors...Finally Block C located to the south of the access and fronting Hawkins Road is proposed to comprise 6 two bedroom apartments arranged over 3 floors...Both Block B and Block C have been deliberately designed to be lower in height and scale compared to Block A, fronting the Colne. This reflects the different character of Hawkins Road, compared to the river side frontage, which is more low-key and predominantly comprises smaller buildings, including the 3 ½ storey town houses of the neighbouring development...the proposed layout incorporates various areas of open amenity space for private or communal use by residents. Policy DP16 requires the provision of 25 sq.m of amenity space per proposed flat, which can include space provided on balconies. The proposed development, with its 37 apartments, is therefore required to provide 925 sq.m of amenity space. Each apartment has been designed with its own balcony; which in total provide 495 sq.m of private amenity space. A further 178 sq.m of communal amenity space is provided at ground floor level: these areas also serve as areas of landscaping integral to the scheme. However, in addition, it is proposed to provide communal roof gardens for each of the three blocks, providing an additional 490 sq.m of outside amenity space. In total, the proposed development therefore incorporates 1 163 sq.m of both private and communal amenity space, well in excess of the space required by policy DP16...’

5.0 Land Use Allocation

- 5.1 The site for this proposal is located in a predominantly residential area, within the East Colchester Special Policy area, as allocated in the adopted Local Development Framework.

6.0 Relevant Planning History

- 6.1 Key to the consideration of this reserved matters proposal is the outline planning permission that was granted for residential development on this site, under planning application ref. 152493. Under this application permission was granted for the following development:

‘Outline planning application for 37 apartments, 2 office units and associated layout, access and parking with all other matters reserved.’

- 6.2 The planning permission was granted via notice dated 30th May 2017 and was subject to a number of conditions. The outline application submission did request full planning permission for the means of vehicular access to the site, and also the layout of development – and therefore permission is already established for these elements (including parking provision).
- 6.3 In addition, *inter alia*, further conditions required that balconies serving individual units should have a minimum area of 13 square metres. Furthermore, the proposed residential development should be designed (as far as is practicable) so that only non-habitable rooms are located on the facades of buildings facing Hawkins Road.

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
SD2 - Delivering Facilities and Infrastructure
CE1 - Centres and Employment Classification and Hierarchy
CE2a - Town Centre
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR1 - Regeneration Areas

- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA4 - Roads and Traffic
- TA5 – Parking

- 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
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- 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 CE1 Mixed Use Sites
- SA H1 Housing Allocations
- SA EC1 Residential development in East Colchester
- SA EC2 Development in East Colchester
- SA EC6 Area 4: Hawkins Road
- SA EC8 Transportation in East Colchester

- 7.5 The Neighbourhood Plan for Boxted / Myland & Braiswick is not relevant. As it does not form part of the Development Plan in this area of the Borough.

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

- The Essex Design Guide (1997)
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Backland and Infill
- Affordable Housing
- Community Facilities
- Open Space, Sport and Recreation
- Sustainable Construction
- Cycling Delivery Strategy

Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
ECC's Development & Public Rights of Way
Planning Out Crime
Colne Harbour Masterplan
Air Quality Management Guidance Note, Areas & Order

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 Highway Authority has commented as follows:

‘All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to ... mitigation and conditions...’

Officer comment: the conditions recommended by the Highway Authority are included at the end of the report.

8.3 The Environmental Control Officer has requested that comments and conditions from the previous application should be included as part of the consideration of this current proposal.

8.4 The Contaminated Land Officer has made the following comment:

‘This application does not include consideration of any of the relevant land contamination conditions. I therefore have no comments to make but I would be grateful if you could re-consult me when information has been submitted with respect to conditions 7, 8, 9, 10 and 11 of outline approval 152493.’

8.5 The Landscape Planning Officer has confirmed he has no objections to the application on landscape grounds. It is also requested that a landscape management plan condition is imposed on a grant of planning permission.

8.6 The Archaeological Adviser has provided the following comment:

‘This proposal is located in an area of archaeological interest, defined in the Colchester Historic Environment Record, within the area of Hythe quayside. There is high potential for encountering the archaeological remains of the historic wharf at this location. There is also potential for encountering palaeo-environmental remains (waterlogged archaeological deposits). Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets.’

8.7 It is also identified that a condition was imposed as part of the outline planning permission that requires the submission of a Written Scheme of Investigation.

8.8 The following comments have been received from the Urban Design Officer:

‘I would support the application subject to clarification and conditions with regard to detailed matters. Proposals have been informed by pre-application dialogue and the applicant has worked hard and creatively to ensure the scheme contributes to the wider vision for the area, responds to the varied setting including riverside and nearby historic assets, and justifies densities approved at outline planning stage. The resulting design is refreshingly bold and distinctive, yet well-related to the locality. It might be described as industrial chic. The scheme provides good active riverside frontage, with an interested sense of interplay between vertical and horizontal lines, projections and recesses, which will change the building’s appearance from different view-points and at different times of the day. Extensive balconies will also provide changing interest, a sense of animation and no doubt some planting. Buildings fronting Hawkins Road, are particularly well-related to nearby historic industrial development, though with a contemporary twist which avoids appearing pastiche.

The rear of the riverside building will also be visible from Hawkins Road. This elevation is unapologetically boldly expressed through striking outline forms and selective detailing, reminding of Giles Gilbert Scott’s industrial architecture such as on Bankside Power Station.

Private amenity space is generously provided considering site constraints in accordance with the outline planning approval, including roof gardens and large balconies. The scheme’s impact on neighbour amenity is reasonably mitigated for the urban context, by avoiding overlooking windows and stepping the building down in height.

It is disappointing that due to land ownership issues, the relationship with the river walk now appears a bit squeezed, devoid of soft landscaping and with no direct access provided for ground floor units. Nevertheless, I am happy that a suitable relationship can still be achieved through condition, subject to Highways Authority agreement that planting can be provided within the 4m minimum river path, i.e. without having to set the building back which might raise other concerns (outlook and shadowing). I would suggest this might translate to a 0.5m (ideally 1m) minimum wide soft landscape strip to help soften and buffer the appearance of the retaining wall and balustrade.

The proposal for river path benches is welcomed, though such a hard obstacle shouldn't generally protrude into the 4m minimum wide path. It is instead suggested seating is focussed to the south where there is a natural recess for seating as well as increased landscaping (away from passing foot and cycle traffic) due to land ownership issues and the resulting path pinch point.

Good quality materials and details are essential to the design style. These are appropriately proposed in the submission, including design and access statement, though lacking in detailed clarity and LPA understanding. I would therefore suggest the following conditions:

- Key materials to be conditioned for the purposes of greater clarity and ensuring a suitable level of quality, with samples provided where appropriate. This should cover, possibly amongst others: the "soft" orange/red stock brick and grey contrasting brickwork, the grey metallic tile cladding to the penthouse enclosure, and copings.
- Key details to be conditioned for the purposes of greater clarity and ensuring a suitable level of quality. This should cover, possibly amongst others: reveals, windows, doors and curtain walling, balconies, feature brickwork, and roof edging.
- Hard and soft landscape design.
- Boundary treatments, including gated entrance and retaining wall to river path.'

8.9 The comments of Essex County Council as Lead Local Flood Authority had not been received at the time this report was prepared. That said, a number of conditions requested by that authority were imposed as part of the outline planning permission, and these remain extant.

8.10 The following comment has been made by Essex Police:

'Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development. From experience pre-planning consultation is always preferable in order that security and lighting considerations for the benefit of the intended residents and those neighbouring the development are met prior to a planning application. For example, in this site it would be preferable to compartmentalise each residential floor to prevent total building access by unauthorised persons.

Essex Police, in supporting the ethos of Sections 58 & 69 of the NPPF, provide a free, impartial advice service to any applicant who request this service; we are able to support the applicant to achieve the requirements to gain Secured by Design accreditation and would invite them to contact Essex Police via designingoutcrime@essex.pnn.police.uk.'

Officer comment: it is considered that the issue can be dealt with by way of an Informative added to the decision notice in the event that planning permission is granted for the development.

8.11 Natural England has advised that it has no comments to make on the application, and draws the Council's attention to its standing advice in relation to protected species.

9.0 Parish Council Response

9.1 Not applicable as the site is located within a Town Ward – Greenstead.

10.0 Representations from Notified Parties

10.1 Following notification of interested third parties including neighbouring properties, a comment has been received from Ward Councillor Julie Young as follows:

‘I think careful consideration must be given to the following:

Parking is already at a premium, this is a very mixed street encompassing businesses and high density housing. Please consider amending the parking provision in Hawkins Road before additional burden is out on this street.

There has been an upturn in crime in this road and street lights are only provided on one side of the street.

Hawkins Road is also located by Hythe station and it is a busy road for residents, employees and commuters. We must find ways of improving safety here and therefore additional street lights should be installed in association with this development.’

10.2 The Ramblers has advised that it is ‘...Pleased to see yet another section of Public Footpath 234 Colchester (the riverside walkway) is to become available.’

Members are advised that at the time this report was prepared no representations have been received from neighbouring residents or other land users. If late representations are received these will be summarised on the amendment sheet in the normal way.

11.0 Parking Provision

11.1 The development as proposed would include the provision of 52 no. car parking spaces on the site. The layout as approved under the outline planning application included 50 no. spaces.

11.2 It is noted that the amount of accommodation proposed under the current reserved matters proposal is the same as the outline approval i.e. 37 no. 2-bed units and 2 no. 3-bed units.

12.0 Open Space Provisions

12.1 Members are advised that the outline application approval included a condition that required each residential unit in the development to be served by a balcony having a minimum area of 13 square metres, as well as the provision of communally-accessible roof gardens to serve the occupiers of the development.

12.2 The development proposed includes balconies serving apartments that, generally have an area of 14.9 square metres – with some being larger. In addition private amenity spaces would be provided at roof level in each block.

The application submission advises that the overall communal areas provided at roof level would amount to 490 sq. m.

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” application, there was a requirement for this proposal to be considered by the Development Team. Members are advised that a s106 agreement was completed at the outline application approval stage, and therefore the Development Team did not require any further mitigation. For information the agreement covered the following elements:

- £73 032 to provide primary school places to serve the development
- 20% affordable housing provision
- Provision of a ‘River Wall agreement’ whereby the section of the river wall that runs contiguous with the western boundary of the site would be surveyed, repaired if necessary and maintained.

15.0 Report

15.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Landscape and Trees
- Highway Safety and Parking Provisions (including Cycling)
- Private Amenity Space Provision
- Other Matters

The Principle of Development

15.2 It is considered that the outline application (ref. 152493) that was subsequently approved by the Council establishes the acceptability of the proposed development taking place on the identified site. The outline application proposed the provision of 37 no. apartments on the site, together with 2 no. office units and this reserved matters submission is in accordance with this approved amount of development. The site is located within a predominantly residential area as allocated in the adopted Local Plan. Furthermore, specific site allocation policies of the East Colchester regeneration area identify the acceptability of residential development taking place. Also it is considered that the provision of office space as part of the development would not be harmful to amenity – particularly bearing in mind that the overall area retains a significant amount of commercial development; some of which established prior to the demise of the port.

Design and Layout

- 15.3 The layout of the development was established at the outline application stage, as full planning permission was granted for this element of the development. In terms of principle, built form should address both frontages of the site (on to Hawkins Road and on to the river). It is noted that similar approaches to layout have been adopted elsewhere in the area; for example on the site immediately adjacent to the south.
- 15.4 As regards the design of the development this does not repeat the architecture and detailing found elsewhere in the vicinity on other infill residential schemes. The current scheme reflects the industrial heritage of the Hythe with robust forms, materials and detailing. Nevertheless, the general form of development is similar, incorporating elements that emphasise verticality, the provision of balcony features facing across the river etc. Additionally, it is fair to say that the established development in the vicinity is of its time – having been built in excess of 10 years previously and that the design approach to high density volume schemes has changed in the interim to reflect styling popular in that era.
- 15.5 The applicant's agent has liaised extensively with officers, particularly the Urban Design Officer regarding the design approach taken. It is felt that the scheme proposed for approval would be a visually appropriate addition within the overall East Colchester Regeneration Area. Members will note the Urban Design Officer's comments in this regard.

Scale Height and Massing

- 15.6 The Colne Harbour Masterplan (adopted by the Council as SPD) identifies that the highest elements of new development should be those closest to the river: development that has taken place thus far in the vicinity of the site has followed this approach. In addition, it is the case that the heights of buildings generally range from three to six storeys. Infact, penthouse elements of some buildings further to the south of the application site are set at seventh storey height.
- 15.7 In this context it is considered that the height/massing of the development proposed under this scheme is appropriate and would not appear incongruous or out of keeping.

Impact on Surrounding Area

- 15.8 It is considered that the general form and layout of the development would accord with other redevelopment that has taken place in the area – particularly adjacent to the river. The variety in built form heights is repeated and lower elements of the development would be located next to the established residential development to the south. It is also considered that the introduction of further residential and some office use into this location would not create an adverse impact on the amenity of the area – which consists of a mix of residential and commercial uses.

Impacts on Neighbouring Properties

15.9 The application site is bounded to the south by residential development and therefore the impacts of the proposal on the amenity of the occupiers of these dwellings is a key consideration in planning terms. The fact that the application site sits north of this existing development means that it would not create an unacceptable overshadowing impact. In terms of overlooking the design of the proposed buildings omits openings in flank elevations which would otherwise create potential overlooking issues. In addition, the balconies serving the apartments in the southernmost block fronting Hawkins Road incorporate high level brick screens that would ensure that the possibility of overlooking rear gardens and windows in the adjacent development was avoided. In the case of the large residential block facing the river, the rear elevation incorporates canted projections at either end that aim windows away from the residential development to the south. On the basis of the above it is considered that the amenity of the occupiers of existing residential development adjoining the site would not be adversely impacted by this proposal.

15.10 The northern boundary of the site abuts commercial development and further business uses are located to the east of the site on the opposite side of Hawkins Road. In this regard the outline planning permission identified that commercial uses in the vicinity could give rise to complaints from the future occupiers of the proposed development. Consequently, the following condition (15) was imposed via the outline permission:

'The residential units shall be designed so that, as far as is practicable, only non-habitable rooms are located on the facades of buildings facing Hawkins Road. Reason: To ensure the development hereby permitted is not affected by the noise arising from the commercial units on Hawkins Road.'

15.11 Members are advised that the accommodation in the southernmost building facing Hawkins Road is arranged so that bathrooms, a stairwell and storerooms face the road. Kitchen areas would also face the road, but bedrooms and lounge areas would face on to the internal courtyard area. In this regard it is considered that the development accords with the requirements of the identified condition attached to the outline planning permission intended to mitigate any adverse impacts from the adjacent commercial use.

Landscape and Trees

15.12 Given the site characteristics and the previous use, there is no soft landscaping as such on the site, save for some scrub planting on the western boundary, adjacent to the river. The proposal would introduce some landscaped amenity areas within the site – particularly within the rear courtyard area. In addition the treatment of the areas to the frontages of the site would provide an opportunity for the introduction of appropriate landscaping and tree planting. It is noted that the Landscape Planning Officer has recommended the inclusion of a condition that would secure a landscape management plan.

Highway Safety and Parking Provision (including cycling)

- 15.13 The Highway Authority does not object to the proposed development. As mentioned elsewhere in this report the access point, from/to Hawkins Road, was fixed at the outline stage. In relation to car parking, the provision shown on the submitted plans exceeds (by two spaces) the amount that was approved by the Council at the outline application stage. Members are advised that the issue of parking to serve the development was considered at length at the outline application stage (the item being deferred in order that further information with regard to parking provision could be provided to Committee). Members subsequently resolved to grant permission and this reserved matters submission reflects that approval.
- 15.14 In this regard the comments received from the Ward Councillor in relation to parking provision and highway issues generally are fully acknowledged and appreciated. However, this reserved matters submission follows the parameters that were established at the outline permission stage. It is also pertinent to note that parking restrictions are in place in the road along the Hawkins Road frontage. In relation to additional street lighting, again this issue was not identified as a requirement by the Highway Authority when the outline planning permission was granted and has not been raised in its consultation response to this reserved matters proposal. Nevertheless it is noted that the current street lighting provision along the road is on the side where residential development has taken place. In addition, there are lighting columns located near to the proposed site entrance off Hawkins Road.
- 15.15 In relation to cycle parking the submitted scheme proposes the provision of 60 no. spaces in secure stores at ground floor level. This would exceed the Council's adopted residential cycle standard of 1 secure covered space per dwelling which in this case creates a requirement for 37 no. spaces, together with the standard for B1 business which would generate a requirement for 6 no. spaces for staff and visitors.

Private Amenity Space Provision

- 15.16 Within the adopted Essex Design Guide (1997), in relation to flatted development, it advises that '...balconies may provide outdoor amenity space in closer proximity to an upper storey dwelling. A balcony or terrace over 5 sq. m in extent will count towards the total garden provision for the flats. In an urban situation such a balcony or terrace would be acceptable as the only outdoor amenity space for a flat...' As noted elsewhere in this report, the private amenity space that would serve the apartments would comfortably exceed the stated amount (the smallest balcony areas having a minimum size of approximately 14.9 metres. In addition further private amenity space is proposed at roof level. This has a combined area of 490 sq. m. in overall terms therefore it is considered that there is sufficient private amenity space to serve the development proposal.

- 15.17 It is noted that further landscaped areas are proposed at ground floor level which are clearly an amenity benefit for future residents. However, this space would not be *useable* in terms of a private amenity function.

Other Matters

- 15.18 Members will note that the scheme submitted for consideration includes provision of a footway and cycleway across the site frontage with the river. This feature would match that found on previously redeveloped sites to the south and would add another section to the overall length which, eventually, is intended to extend from Colne Causeway to Hythe Station Road. The provision of this facility, as sites come forward for redevelopment over time, would meet the aspirations of relevant local plan policies and SPD requirements pertinent to the regeneration of East Colchester.
- 15.19 Members are advised that, in the case of this application site, the line of the river wall is set back from the line of the wall to the south. Therefore, the footway/cycleway at the point where the two sites meet would incorporate a small 'dog-leg' feature. However, from this point northwards it is apparent that the river wall runs in the same alignment to Hythe Station Road. The Highway Authority (which may eventually adopt the route) has accepted the re-positioning of the footway/cycleway as it would reflect the position of the adjacent river wall.
- 15.20 A further minor revision that has taken place since the submission of the application is the relocation of two of the residential bin stores that would serve the development, in order that they are located within 15 metres of an adopted road, in order to accord with the requirements of the Council's adopted SPD titled 'Street Services Delivery Strategy'. In any event, information submitted with the application demonstrates that a refuse freighter is able to enter the site and turn in order that the vehicle could exit in forward gear.

16.0 Conclusion

- 16.1 The principle of the proposed development taking place on this site was established via the outline planning permission referred to in this report. The outline permission did not reserve all matters for future consideration – vehicular access to and the layout of the site were approved in full at the outline stage.
- 16.2 In terms of the detailed design of the proposed development it is considered that this achieves an appropriate standard, commensurate with this prominent location in the Hythe, which forms part of the overall East Colchester regeneration area.

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. ZAF - *Reserved Matters Applications*

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference 152493 relating to this site and the conditions attached thereto remain in force.

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

2. 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:

- ER 001 Rev B
- ER 002 Rev C
- ER 003 Rev D
- ER 004 Rev B
- ER 005 Rev B
- ER 006
- ER 007
- ER 008
- ER 009 Rev B
- ER 010 Rev D
- ER 011 Rev D
- ER 012 Rev C
- ER 013 Rev C
- ER 014 Rev D
- ER 015

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

3. ZBC - Materials To Be Agreed

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4. Non-standard Condition – Additional drawings

Prior to the commencement of any works, additional drawings that show details of windows, reveals, external doors, curtain walling, balconies, roof edging and feature brickwork to be used, by section and elevation, at scales between 1:20 and 1:1 as appropriate, shall be submitted to an approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient information with regard to these detailed features of the proposed development and further consideration is required in order that a satisfactory appearance is achieved in the interests of visual amenity.

5. Non-standard condition – Landscape works

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Proposed finished levels or contours;
- Means of enclosure and boundary treatments;
- Car parking layouts;
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials;
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.);
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- Implementation timetables and monitoring programs.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

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 Non standard condition – Vehicular access construction in accordance with details

Prior to the first occupation of the development hereby approved, the proposed vehicular access shall be constructed in accordance with the details shown on drawing no. 1801001-002 Rev C and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

8 Non-standard condition - Access

The existing access or any part of an access (dropped kerb) rendered redundant or unnecessary by this development shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new accesses are brought into use.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

9 Non-standard condition – Unbound materials

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 10m of the highway boundary.

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

10 Non-standard condition – Visibility splays

Prior to the proposed access being brought into use, vehicular visibility splays of 70m by 2.4m by 70m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

11 Non-standard condition – Vehicular turning facility

Prior to occupation of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions as shown in Drawing Numbered 181760-001-REV A shall be provided within the site which 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.

12 Non-standard condition – Communal recycling/bin/refuse collection points

Prior to first occupation of the proposed development, communal recycling/bin/refuse collection points shall be provided within 25m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

13 Non-standard condition – Car parking area

The development shall not be occupied until such time as the car parking area, indicated on the approved plans has been hard surfaced, sealed and marked out in allocated parking bays and made available for use. 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.

14 ZJB - Cycle Parking (as approved plan)

Prior to the first occupation/use of the development, the bicycle parking facilities indicated on the approved plans shall be provided and made available for use. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

15 Non-standard condition – Extension of riverside walk/cycleway

Prior to the occupation of the proposed development the applicant shall provide an extension of the riverside walk/cycleway of at least 4.0m in width across the sites frontage to the River Colne as shown in the submitted plans including a properly constructed connection to the existing pedestrian facility and without any obstruction to the free and unhindered passage of pedestrians and cyclists thereafter.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

16 Non-standard condition – Doors or windows

No doors or windows shall open over the highway or proposed highway, maintainable at public expense.

Reason: To ensure the unimpeded passage of pedestrians and cyclists, in the interests of highway safety.

18.0 Informatives

18.1 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. Non Standard Informative

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 @ <http://www.colchester.gov.uk/article/13592/Landscape-Guidance-for-Developers>.

5. Non Standard Informative

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 or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

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Item No: 7.3

Application: 173119

Applicant: Kartik Limited

Agent: Miss Paige Harris, Boyers

Proposal: Mixed use development comprising an extension of the forecourt shop, reorientation of the drive-through hand car wash and an additional storey at first floor level to house two residential flats with associated car parking.

Location: Ranges Service Station, 154 Mersea Road, Colchester, Colchester, CO2 8PU

Ward: Berechurch

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Harris “Due to height of proposed extension (flats above garage) overlooking nearby properties” and “Due to existing overhead power cables.”
- 1.2 The application was discussed at the Planning Committee of March 8th and deferred to allow a Construction Method Statement to be submitted and considered by the Health and Safety Executive and the Fire Authority. An amendment was also sought in order to retain the protective Trief kerb on part of the Northern boundary of the site.

2.0 Synopsis

- 2.1 The key issues for consideration are the design, scale and form of the extension works, impact upon neighbouring residential amenity, highway aspects, including parking and maneuvering space, proximity of overhead power line, proximity of gas main and any Environmental Protection issues such as living conditions and potential contamination. Health and Safety issues have also been considered.
- 2.2 It is considered that the design, scale and form of the proposed works are acceptable and would be in keeping with the character of the street scene. It is not considered that there would be a significant impact upon neighbouring residential amenity from noise and disturbance, an overbearing impact, loss of light, overshadowing or overlooking. Lighting levels and hours of use can be conditioned.
- 2.3 There would be adequate parking provision and manoeuvring space on the site and the residential amenity of the occupants of the new flats is considered to be of an acceptable standard. The proximity to the overhead wire is acceptable subject to a condition requiring the construction works to be carried out as outlined in the construction method statement which has now been submitted and agreement in writing to any variations. The construction method statement (CMS) also covers issues relating to the gas pipeline and petrol tanks. Subject to compliance with this CMS and Health and Safety Legislation, the scheme is considered acceptable from a health and safety point of view. Any contaminated land issues can be covered by condition and an informative can also refer the developer to specific requirements in relation to the proximity of the gas main.
- 2.4 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site lies within the physical limits of the Town and is currently a single storey petrol station with a canopy over the forecourt. There is a two storey dwelling to the North of the site, flats and shops to the South and an Electricity Pylon and Substation to the West. Vehicular access and egress is taken from Mersea Road.

4.0 Description of the Proposal

- 4.1 The proposal is for an extension to the forecourt shop, reorientation of the drive-through hand car wash and an additional storey at first floor level to house two residential flats with associated parking.
- 4.2 The scheme has been amended to slightly bring down the highest ridge height of the 1st floor flats to 7.97 metres from the originally submitted 8.27metres. The replacement canopy would be 5.7 metres in height and has been slightly amended from the original submission by stepping it back a further 0.75 metres from the road. The existing canopy on the site is 4.3 metres in height although it is 9.7 metres from the house to the North whilst the new canopy which is longer and closer to the road would be 11.4 metres from that dwelling.
- 4.3 Hours of use proposed for the shop are 06:00-22:00 each day and with the car wash open 08:00-18:00 pm. The agent also states that deliveries are currently 06:00 -22:00 and would want to retain these hours for deliveries as milk and newspapers are delivered at this time. The flats would be for staff working at the site.

5.0 Land Use Allocation

- 5.1 Neighbourhood centre. Within physical limits.

6.0 Relevant Planning History

- 6.1 081611 - Alteration and redevelopment of existing petrol filling station to provide new forecourt and canopy, extensions to the sales building and underground tanks. Approve Conditional - 02/12/2008

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
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2c - Local Centres
- CE3 - Employment Zones
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- 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
- DP2 Health Assessments
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP7 Local Centres and Individual Shops
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards

- 7.4 Some “allocated sites” also have specific policies applicable to them. There are no adopted Site Allocations (adopted 2010) policies that are relevant to the case.

- 7.5 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
- Backland and Infill
- Sustainable Construction
- Urban Place Supplement
- Managing Archaeology in Development.
- Air Quality Management Guidance Note, Areas & Order

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 Environmental Protection have no objections to the proposal subject to conditions and informatives.
- 8.3 As these are crucial to the consideration of this proposal, they are listed here in full to assist Members with their deliberations. The hours of opening/delivery times have been amended following discussions with the agent and further agreement with Environmental Protection to reflect current operations. These essentially relate to an earlier start and earlier finish.

Construction/demolition

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;

measures to control the emission of noise, 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.

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.

General operation

ZGA - *Restriction of Hours of Operation*

The use hereby permitted shall not OPERATE outside of the following times:

Weekdays: 06:00-22:00

Saturdays: 06:00-22:00

Sundays and Public Holidays: 06:00-22:00

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.

ZGB - *Restricted Hours of Delivery*

No deliveries shall be received at, or dispatched from, the site outside of the following times:

Weekdays: 06:00-20:00

Saturdays: 06:00-20:00

Sundays and Public Holidays: No deliveries.

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 delivery vehicles 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.

ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS. The main lights shall be switched off outside of the hours of operation.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

Car wash

Location

Any jet-washing of vehicles shall only take place within the building shown on the plan submitted with the application.

Any vacuum cleaners shall be located away from the northern residential boundary and be housed within acoustic enclosures at all times when in use.

Hours

The car wash shall not operate outside of the following times:

8.00 and 18:00.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of noise pollution

Car wash staff should respect the amenity of immediate neighbours by reducing noise levels to a minimum, including not shouting or playing amplified music.

Residential units

Occupancy

The residential units shall only be occupied by staff working at the site.

Noise/fumes

The windows shall be sufficiently glazed to provide internal noise levels that comply with the current version of BS8233. They should have passive ventilation so that they can be closed to minimise the impact of noise and fumes when the garage is open.

Car parking

In terms of minimising residential impact it would be preferable to locate the disabled and resident parking along the northern boundary and the customer parking on the southern boundary.

Contaminated Land officer states: This is an acceptable preliminary risk assessment report for Environmental Protection's purposes. I note that:

- The hardstanding is in relatively poor condition; tanks are old but still in operation, and all are single skinned, as are the site's fuel supply pipework; there is a hydrocarbon sheen on the standing water in all three chambers of the brick interceptor; a former paraffin tank is known to be located under the forecourt, size and location unknown; fuel losses have been recorded from tank 4 in 1994, and unknown quantities from three pumps in 2006 (although it is also noted that no significant hydrocarbon contamination was identified in either soil or groundwater during the 2014 site investigation and that there is no evidence to suggest there has been, or is any on-going loss of product from the site petroleum infrastructure since the Subadra 2014 site investigation).
- It has been recommended that a watching brief be established at the site during the proposed works and further risk assessment and verification sampling must be completed and the conceptual site model updated accordingly, if any potential contamination is suspected.
- The report also identifies that new water supply pipework must be protected – *the applicant should be advised that this must be laid to the specification of the service provider.*

However, based on the information provided, it would appear that potential contamination matters would not preclude development, with these matters dealt with by way of condition. Consequently, if this application is approved, Environmental Protection would recommend inclusion of the following conditions:

Reporting of 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 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 – The site lies on or in the vicinity of an operational fuel filling station where there is the possibility of contamination and Environmental Protection wish 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.

**Validation Certificate* (non-standard wording)*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that any necessary remediation works have been completed in accordance with the documents and plans detailed in Condition INSERT.

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

8.4 UK Power networks states:

“As the owners of the 132,000 volt overhead lines over-sailing the site it is important that the new elevations proposed fit beneath the lines whilst maintaining minimum safety clearances during construction and on completion. The lines pose a serious risk to life if contacted directly or through a conducting medium.

The clearances to overhead lines change due to ambient temperature and circuit loading and any proposed design will need to accommodate the most onerous operating conditions.”

“We have completed our modelling of the tower design and clearances between the overhead line conductors and the proposed building.

With the overhead line operating at its maximum and allowing for the statutory clearance of 3.6m there is 0.98m clearance remaining to the apex of the proposed building.

It will be important that these clearances and the inherent danger posed by working in close proximity to the 132,000 volt lines are appropriately considered when constructing to such close margins. No element of the construction should encroach beyond 0.98m above the planned apex and construction method statements how this will be accomplished should be available before work commences on site. This includes but not limited to, use of scaffold poles and equipment, hoists, cranes or other lifting equipment or loose materials that can be caught by the wind.”

- 8.5 Cadent (Gas Network): Has not objected to the application but has confirmed:
“Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.”
“Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity).”
Full comments received are on the Council’s website and include the developer’s requirements when undertaking the works.
- 8.6 Highway Authority has stated “from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions.” Following submission of the revised plan retaining the Trief kerb, the Highway Authority states “The cars on the left hand side of the pumps may have a little sharper turn to make if a parked car is protruding into the aisle but on balance I don’t think it will make a big difference or become a hazard. Drivers will have to be aware of slightly less space to turn or manoeuvre into.” Again, it is appropriate to repeat these conditions in full here, as they are fundamental to the acceptance of the scheme.

1. The development shall not be occupied until such time as the allocated car parking spaces (for at least 4 vehicles for the residential element) has been clearly signed for residents use only, hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development 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 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

2. The development shall not be occupied until such time as the allocated car parking spaces (for at least 5 vehicles for customer parking) has been clearly signed for customer /visitor use only, hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development 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 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

3. All off street car parking shall be in precise accord 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 and in accordance with Policy DM 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

4. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for each dwelling sufficient for all occupants of that dwelling, of a design this 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.

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. 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: The Highway Authority strongly recommends that the applicant provides accurate swept path analysis drawings commensurate with the largest delivery tanker vehicle attending the site can access the unloading area and re-join the highway in a single convenient and efficient manoeuvre.

8.7 Archaeology: "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."

8.8 Health and Safety Executive state: "Your development does not intersect a pipeline or hazard zone. HSE Planning Advice does not have an interest in the development."

8.9 The Fire Authority, with regard to consultation which includes the Construction Method Statement state: "RE: your request for fire service observations on the attached planning consultation.

The fire service is consulted twice during the planning and build process:

The first time is under the Essex Act 1987 at initial planning – we comment on access for fire service and other emergency appliances only, i.e. can a vehicle get to within 15% of the perimeter, or to within 45m of all parts of a dwelling.

The second consultation is at building regulations stage, where we make observations on Approved Document B, Volume 2 only.

This Authority has no legal power or right to make comments or observations on any other matter – other agencies are the lead authorities for these."

DC0901MWeV9.3

9.0 Parish Council Response

9.1 Not applicable.

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 Councillor Harris makes the following points:

Having met with residents nearby there are several concerns that need resolution for them.

The issues residents have raised include

1. Proximity to boundary. Moving the building of the garage closest to the boundary residents feel will have an adverse effect on their dwellings.
2. Increase in height and flat above. The proximity of a flat to 32000 volt overhead cable is a worry and also means houses closest in Mersea road will be overlooked. This will need sorting.
3. The removal of the bund wall (Trief) at the base of the boundary wall is a deep concern. Resident feel that the previous accidents where the wall was knocked over regularly in the 1980s will recommence, especially with less room for cars to move.
4. I get the impression the residents want improvements and I am hopeful that the list of issues that residents have can be 'resolved by amendments to the plans using discussions with planning dept and owners I am hopeful that the residents will have their concerns addressed.

10.3 Five letters of objection have been received which make the following points:-

- Now directly affected by the garage operations with noise from jet wash, vehicular movements, litter and disregard for front of site. Had to complain to Environmental Protection about excessive noise in 2015-noise abatement notice served in 2015. Still noise concerns.
- Failure to maintain exit/access sign is dangerous.
- Overhead lines directly above building
- Building will be 8.7 m high and extend 19 m along our boundary and 3 metres nearer.
- Concerns about noise and disturbance from 7 customer spaces alongside our boundary and from deliveries.
- Removal of Trief kerb leaves the wall vulnerable to collisions, as occurred before Trief kerb.
- Boundary wall shown incorrectly.
- Car parking and landscaping could impede visibility.
- Not enough room for cars to reverse.
- Access road not wide enough.
- Cars will be moving in forward gear towards our wall from drying area.

- Pollution impact on son who has MS and Asthma.
- Narrow, dark shaded access would be created.
- More air pollution and decline in air quality.
- Garage would be open longer than it is.
- Forecourt shop will have a significant detrimental impact upon our amenity.
- Incorporation of jet wash in building is welcomed. Hoovering and cleaning operations should also be included in building.
- Should be acoustic fencing.
- Detriment to street scene from canopy extending forward and beyond building line.
- Dominating and overbearing impact on our house. Building too high and too close to our boundary.
- Outlook from our property, including from kitchen window and conservatory would be unacceptably affected. Sky will be obscured. Will block light to rooms and garden.
- Facing wall is flat and featureless.
- Significant light pollution from canopy.
- Lack of planting mitigation.
- Overshadowing/loss of light beaches BRE25 degree- have received expert advice on this. Further tests should be undertaken.
- When we bought property, garage had not been built. Were not made aware of it.
- Poor living conditions of future residents. Fumes, no outdoor space.
- Concern about vent pipe emissions to rear.
- Too much being proposed on the site.
- Don't object to principle of redevelopment but strongly object to this application.
- Since Kartik has operated the garage we have suffered ongoing stress and disturbance.
- Extra hours of operation will cause more disturbance. Not clear if wash facility hours extended.
- A reduction in sunlight and increase in shading throughout the day will not only impact on the enjoyment of our property but may restrict and alter the range and diversity of plants and wildlife that currently utilises the habitat.
- Out of date contamination study submitted.
- Phase 1 contaminated land study is a desk top study and essentially reviews and other relevant historic data. Is there any reason why MCERTS accredited testing laboratories weren't used across all of the analysis?
- The Building Research Establishment (BRE) "Site Layout Planning for Daylight and Sunlight: a good practice guide" 2011 by PJ Littlefair provides guidance for the planning department to consider. We understand the proposal breaches the BRE 25 degree test in relation to the side windows within no 152, which serve habitable rooms. As a result, the proposal is likely to cause a reduction of light to the property and the further tests for daylight and sunlight should be undertaken to evaluate the impact upon our client's property.
- We note that the applicant has not submitted a BRE daylight or sunlight study in support of their application which establishes the impact of the proposal upon our client's property. We would therefore request that no decision in

favour of the application is made until the applicant undertakes a daylight and sunlight study.

- Officer's comments do not reflect impact in street scene and on neighbouring amenity.
- Area by neighbour's boundary is rarely used for parking or manoeuvring. Metal barrier not sufficient.
- Staff only condition indicates scheme not good enough.
- No need to give consent for lower quality housing in the area.

11.0 Parking Provision

11.1 Four spaces for residents, five for customers plus a disabled bay plus an air/water bay and tanker loading bay. There will be six petrol forecourt car bays.

12.0 Open Space Provisions

12.1 Not applicable.

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

The Principle of Development:

15.1 As the site lies within the physical limits of Colchester, is part of a Neighbourhood centre and is already an employment site, the proposal should be judged on its planning merits.

Design, Scale and Form:

15.2 It is considered that the design, scale and form of the proposed extension works, including the first floor flats and canopy are visually acceptable and respect the character of the streetscene and its surroundings. The overall height of the garage with additional flats is relatively modest, at 7.97 m which is no higher than an average two-storey dwelling. It is not out of keeping with the scale of nearby buildings, including the shops with flats above located to the South which is a taller building. The proposal would present a series of pitched roof gables set behind a typical garage canopy and this is considered to be an appropriate design and layout for this context. The canopy would not be too dominating and

would only cover around a third of the site frontage before it narrows down further back into the site.

Neighbouring residential amenity:

- 15.3 It is considered the proposal is acceptable in terms of its impact upon neighbouring residential amenity. The canopy, at 5.7 metres in height, would be 1.4 metres higher and would be longer than the existing, but it would be positioned 11.4 metres away from the neighbouring dwelling as opposed to the current distance of 9.7 metres. It is considered this 11.4 metre gap is sufficient to avoid the canopy having an overbearing impact or causing any significant loss of light or having an overbearing or overshadowing impact upon the neighbours to the North. This includes to the nearest side window, garden and conservatory. This is similar to the height of a single storey dwelling and the 11.4 metre gap is substantial.
- 15.4 Similarly, the extension to the rear would be well away from the neighbouring dwelling and would be nearly four metres from the side boundary. Again, this is considered to be far enough to avoid an overbearing impact or causing a significant loss of light or having an overbearing or overshadowing impact on the garden or dwelling. The extension would be similar to the height of a two storey dwelling, and whilst longer than a dwelling, again a gap of nearly four metres to the neighbour's boundary is substantial.
- 15.5 The objections from the neighbours in this respect have been carefully considered and the first floor extension has been reduced to 7.97 m which is as low as is feasible for the two-storey element. Similarly, the canopy length was reduced to the minimum required to cover the tanker delivery point. Whilst these reductions are relatively modest, they help to minimise the impact on the neighbouring properties.
- 15.6 The canopy and extension would be far enough from the flats to the South to avoid impact from overbearing, overshadowing and loss of light. As the proposed building is to the north of these and therefore there can be no loss of direct sunlight.
- 15.7 It is considered that, subject to the hours of working conditions and light level conditions recommended by Environmental Protection, there will not be a significant impact on neighbouring residential amenity from noise and disturbance or obtrusive lighting. The garage is already a working garage and hours of use will be retained as existing. The car wash should also be quieter as it will be located within the building adjacent to the forecourt shop. A condition will restrict its use to between 08:00 and 18:00.
- 15.8 The area to the North of the site is already used for vehicular manoeuvring so it is not considered that parking by customers to the site in this location can be objected to. The number of spaces has, however, been reduced to five on this boundary to ensure the spaces meet the parking standards.

15.9 There would not be any significant overlooking of neighbouring properties from first floor windows on the extended property. The first floor windows on the front elevation would look towards the garage forecourt rather than into neighbouring windows or private amenity space. There would not be 1st floor windows on the side elevations except for two small, high-level bathroom windows. These can be obscure glazed and non-opening. The first floor rear windows would face towards the substation.

15.10 The building work conditions suggested by Environmental Protection such as the Construction Works Management plan should ensure that there is not significant disturbance to neighbours at inappropriate times whilst the construction work is being undertaken.

Highway Safety and Parking Provision:

15.11 It is considered there is adequate parking provision to serve the proposed use. There will be four parking spaces for the flat occupants, five for the customers (excluding the six petrol forecourt bays) and a disabled parking bay. The proposal has been amended to ensure that parking spaces meet the required 2.9 metre x 5.5 metre size. This has made the spaces larger, but has reduced the number of spaces from the original submission to accommodate the required size of spaces. The Highway Authority has raised no objections and consider this is adequate provision. This is potentially an improved level of parking provision compared to what currently exists on the site which is a rather random parking arrangement to the rear of the shop which doubles up as the part of the drive-through for the car wash.

15.12 Space for vehicular manoeuvring, including access, exit and the drive-through car wash are considered satisfactory. Visibility splays leaving the site are acceptable and any landscaping at this point can be conditioned to be no higher than 0.6 metres to ensure the splays are not impinged upon.

15.13 The scheme has also been revised to allow for the retention of the Trief kerb adjacent to the neighbours where the parking spaces for the residents and one customer would be. This should protect wall from accidental collisions at this point and the highway authority have no objections to this revision

Proximity to overhead wires:

15.14 There are no objections from UK Power Networks to the proximity of the building works to the 132,000 volts overhead power line. However, no element of the construction should encroach beyond 0.98m above the planned apex. Accordingly, the submitted a construction method statement will need to be complied and this will be conditioned. This includes, but is not limited to, the use of scaffold poles and equipment, hoists, cranes or other lifting equipment or loose materials that can be caught by the wind. The revised scheme has been slightly lowered from the original submission, as outlined above, so clearances are slightly greater than assessed by UK Power Networks.

Residential Amenity of the occupants of the new flats:

- 15.15 Environmental Protection have raised no objections to the scheme on the grounds of the residential amenity of the occupants of the new flats subject to conditions.
- 15.16 These conditions will include that the flats will only be occupied by a member of staff of the garage and dependents thereof. In addition, the glazing will need to be sufficient to ensure adequate noise protection and the front-facing windows will be fixed to ensure no ingress of fumes. Whilst there is no defined external amenity space provision, this is not a particularly unusual occurrence within an urban location and the flats are linked to staff (and dependents thereof) working on site. The flats themselves are quite spacious and are considered to provide an acceptable level of living accommodation. There is also a benefit to the business in providing accommodation associated with the garage/retail use.
- 15.17 Environmental Protection have raised no objections to the proximity of the overhead wires to the occupants of the new flats.

Construction Method Statement and General Health and Safety

- 15.18 A Construction Method Statement (CMS) has been submitted and this covers issues such as General Safety, gas main proximity, height bars, details of isolation, equipment used, fencing, power lines, site clearance, signing by all contractors, HSE guidance in relation to powerlines and reference to the Health and Safety at Work Act 1974. The full document is available on the Council's website.
- 15.19 The Health and Safety Executive and The Fire Authority have been consulted on the scheme and raise no objections having seen the CMS. The Fire Authority have confirmed that it will also be consulted at the Building Regulation stage and that there are other agencies that are the lead authorities on such Health and Safety issues. A condition can be applied to ensure that all construction activity accords with the CMS and that any variation in activity is agreed in writing by the Local Planning Authority.
- 15.20 The agent has also confirmed that "each petrol station will need to apply for a petroleum storage licence in order to store and supply petrol to vehicles. These licences usually last a year and are then renewed. As well as this there are also Petroleum Regulations that are enforced by the Petroleum Enforcement Authorities. This authority is in charge of issuing petroleum storage certificates. These regulations and storage certificates add a further layer of regulation to ensuring the safety on the site."
- 15.21 The agent has also confirmed that the garage will be closed during the construction work.

15.22 Following the submission of the Construction Method Statement, the consultation with the Health and Safety Executive and Fire Authority and further clarification from the agent, it is concluded that adequate safeguards would be in place to ensure the safety of the construction works.

Other Issues:

15.23 With regard to potential contaminated land issues, Environmental Protection have confirmed that the submitted preliminary risk assessment report is acceptable and that potential contamination matters do not preclude development subject to conditions. Accordingly, conditions relating to unexpected contamination and validation of remediation works will need to be applied, as outlined above.

15.24 No objections have been raised by Cadent (Gas network). The mains pipes are shown to be located on the edge of the site and should not be affected by the development. However, as requested, Cadent have been informed of the proposed recommendation of approval. By way of an informative, the developer will be referred to the specific requirements outlined by Cadent when undertaking the works. The Construction Method Statement as mentioned above will also be applicable in this respect.

15.25 There is no impact upon significant vegetation on site. A landscaping condition can be applied so that precise details of landscaping proposed are submitted to, and agreed in writing by, the Local Planning Authority.

15.26 There are no archaeological implications.

16.0 Conclusion

16.1 In summary, the design scale and form of the proposed works are considered acceptable and would not detract from the character of the street scene. It is not considered that there would be a significant impact upon neighbouring residential amenity from noise and disturbance, an overbearing impact, loss of light, overshadowing or overlooking. Lighting levels and hours of use can be conditioned.

16.2 There would be adequate parking provision and manoeuvring space on the site and the residential amenity of the occupants of the new flats is considered to be of an acceptable standard. The proximity to the overhead wire is acceptable subject to a condition requiring compliance with the Construction Method Statement and agreement in writing to any variation. The Health and Safety Executive and the Fire Authority have raised no objections and it is concluded that adequate safeguards will be in place to ensure the safety of the construction works overall. Any contaminated land issues can be covered by condition and an informative can refer the developer to specific requirements in relation to the proximity of the gas main.

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. 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 PA-01 received 1/12/18 and & PA-06d received 7/2/18 and PA-04 f and PA-05f received 26/3/18.

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

3. ZBC – Materials To Be Agreed

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4. ZKK- Parking Provision

The development shall not be occupied until such time as the allocated car parking spaces (for at least 4 vehicles for the residential element) has been clearly signed for residents use only, hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development 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 – Parking Standards

All off street car parking shall be in precise accord 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.

6. ZPA – Construction Method Statement

No development shall take place, including any ground works or works of demolition, until the Construction Method Statement (CMS) received 13/4/18 has been implemented and the following additional details shown below are submitted to and approved in writing by the Local Planning Authority. The submitted statement received 13/4/18 and the approved additional details shall be adhered to throughout the construction period. The additional details 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
- v. hours of deliveries and hours of work;
- vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vii. measures to control the emission of noise, dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

No element of the construction should encroach beyond 0.98m above the planned apex and the statement shall include but not be limited to, use of scaffold poles and equipment, hoists, cranes or other lifting equipment or loose materials that can be caught by the wind.

Any variation to the submitted Construction Method Statement received 13/4/18 shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of works.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and 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. It is also to ensure no impingement beyond the safety zone around the overhead powerline in the interests of the safety of construction workers.

7. Z00 – Trief Kerb

The Trief kerb shown on drawing PA-04 f shall thereafter be retained at all times.

Reason: To ensure that no cars collide with neighbouring boundaries.

8. ZPJ – Demolition Before Development

No demolition or construction work or deliveries in association with 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.

Reason: In the interests of highway safety and neighbouring residential amenity.

9. ZEM – Working Times

The use of the garage and extended shop hereby permitted shall not operate outside of the following times:

Weekdays: 06:00-22:00

Saturdays: 06:00-22:00

Sundays and Public Holidays: 06:00-22:00

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.

10. Z00 – Delivery Times

With the exception of fuel deliveries, no deliveries shall be received at, or dispatched from, the site outside of the following times:

Weekdays: 06:00-20:00

Saturdays: 06:00-20:00

Sundays and Public Holidays: No deliveries.

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 delivery vehicles 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. ZGR – Light Pollution For Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS. The main canopy lights and signage shall be switched off outside of the hours of operation.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

12. Z00 – Car wash operation times

The car wash shall not operate outside of the following times:

08:00 and 18:00. Any jet-washing of vehicles shall only take place within the building shown on the plan submitted with the application. Any vacuum cleaners shall be located away from the northern residential boundary and be housed within acoustic enclosures at all times when in use.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of noise pollution.

13. Z00 – Staff Occupation

The residential units hereby permitted shall only be occupied by staff working at the site (and dependents thereof).

Reason: In the interests of residential amenity of the occupiers as permission has only been granted for people working at the site.

14. Z00 – Front windows non-opening

The first floor windows on the front elevation shall be non-opening and glazed to provide internal noise levels that comply with the current version of British Standard 8233 and thereafter be retained as such.

Reason: In the interest of residential amenity.

15. ZG0 – 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 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: The site lies on or in the vicinity of an operational fuel filling station where there is the possibility of contamination and Environmental Protection wish 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.

16. ZGY- Contaminated Land Remediation

Prior to the first occupation/use of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that any necessary remediation works have been completed in accordance with the documents and plans detailed in Condition 17.

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.

17. ZFI – Tree or Shrub Planting

The development hereby permitted shall not be occupied until details of tree and/or shrub planting and an implementation timetable have been submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

18. ZCF – Refuse and Recycling Facilities

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

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

19.Z00 – Air Conditioning Condensers

Prior to their installation, precise details of the air conditioning condensers to be installed on the southern elevation shall be submitted to and agreed in writing by the Local Planning Authority. Only the approved details shall be installed and shall thereafter be retained as such.

Reason: In the interests of neighbouring residential amenity.

18.0 Informatives

18.1 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. Highway Informative: 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 or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ

3. The applicant should note that, due to the presence of **Cadent and/or National Grid apparatus** in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works. Low or Medium pressure (below 2 bar) gas pipes and associated equipment. Full comments received from Cadent (Gas Network) are on the Council's website and include the developer's requirements when undertaking the works.

4. With regard to **contaminated land** it has been recommended that a watching brief be established at the site during the proposed works and further risk assessment and verification sampling must be completed and the conceptual site model updated accordingly, if any potential contamination is suspected.

Car wash staff should respect the amenity of immediate neighbours by reducing noise levels to a minimum, including not shouting or playing amplified music.

The water supply pipework must be protected – the applicant should be advised that this must be laid to the specification of the service provider.

5 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.



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Item No: 7.4

Application: 180572

Applicant: Mr A Shelmerdine, Colchester Borough Homes

Agent: Ms Linh Bane, Inkpen Downie Architecture

Proposal: Replacement of single-glazed timber windows with double-glazed UPVC windows.

Location: 21-27 South Street, Colchester, CO2 7BJ

Ward: New Town & Christ Church

Officer: Daniel Cameron

Recommendation: Approval subject to the conditions outlined within the report.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as the application is being on behalf of Colchester Borough Homes (CBH).

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of the replacement windows on the appearance of the properties and
- 2.2 The application is subsequently recommended for approval subject to the conditions outlined within this report.

3.0 Site Description and Context

- 3.1 South Street is located to the south of Colchester town centre, and is located close to Butt Road. It runs roughly east-west and connects Walshingham Road with West Street.
- 3.2 The area is predominantly residential in terms of use and built form is typical of Victorian terrace housing. The affected properties are part of a modern infill development, which aims to replicate the polite built form of the area, but is notable for the use of a brown brick string course and a covered porch to each property.

4.0 Description of the Proposal

- 4.1 It is proposed that the current timber sash windows at the affected properties be replaced with double glazed uPVC casement windows.
- 4.2 The current timber windows are in poor condition and are inefficient terms of retaining heat which encourages damp within the properties. The replacement would reduce the maintenance burden that falls on CBH and improve the quality of life for the tenants.

5.0 Land Use Allocation

- 5.1 The current Local Plan defines the area as predominantly residential. No specific use is allocated within the emergent Local Plan.

6.0 Relevant Planning History

- 6.1 There is no planning history on this site relevant to the current proposed development.

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

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

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

The Essex Design Guide

8.0 Consultations

8.1 None received

9.0 Parish Council response

9.1 The application site sits within an unparished town centre ward. No comments are forthcoming.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No public representations were received.

11.0 Parking Provision

11.1 N/A. This application does not affect the current level of parking provision at the property, nor will it lead to increased demand within the immediate area.

12.0 Open Space Provisions

12.1 N/A. This application does not affect the current level of open space at the property, nor will it lead to increased demand within the immediate 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 Local Plan 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 Development policies DP1 require a high standard of design from development proposals.

15.4 The principle of development is therefore predicated on the ability of the application to show that the replacement windows are of sufficient design merit. It is clear that the form and finish of the proposed windows are of greater importance than the material in determining their visual impact.

15.5 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 enjoyed by the tenants owing to issues of condensation and in some cases, mould which is attributable to the poor thermal performance of the windows. There is therefore a clear public benefit to their replacement.

15.6 In design terms the uPVC windows do attempt to replicate the visual appearance of the timber sash windows, however, the double glazing element necessitates a deeper section profile and the frames are not as slender as the existing windows. That being said, they are not excessively chunky either and care has been taken to reflect the window types expressed throughout the immediate townscape.

15.7 In terms of impacts on the surrounding area and on neighbouring properties, no new openings are proposed and bathroom windows would continue to be obscure glazed. Given that a number of properties in the immediate area already exhibit similar uPVC windows it is unlikely that the proposed windows would constitute appreciable harm.

16.0 Conclusion

16.1 To summarise, there are clear benefits of the scheme both to CBH in reducing their maintenance burden, and to their tenants through the improvement in their living conditions. The design of the replacement windows is competent, attempting to replicate the form of the existing windows. There are no clashes with either national or local adopted planning policies.

17.0 Recommendation to the Committee

17.1 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. 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-1801-PL 01, A-1801-PL 02 and A-1801-PL-03.

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

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

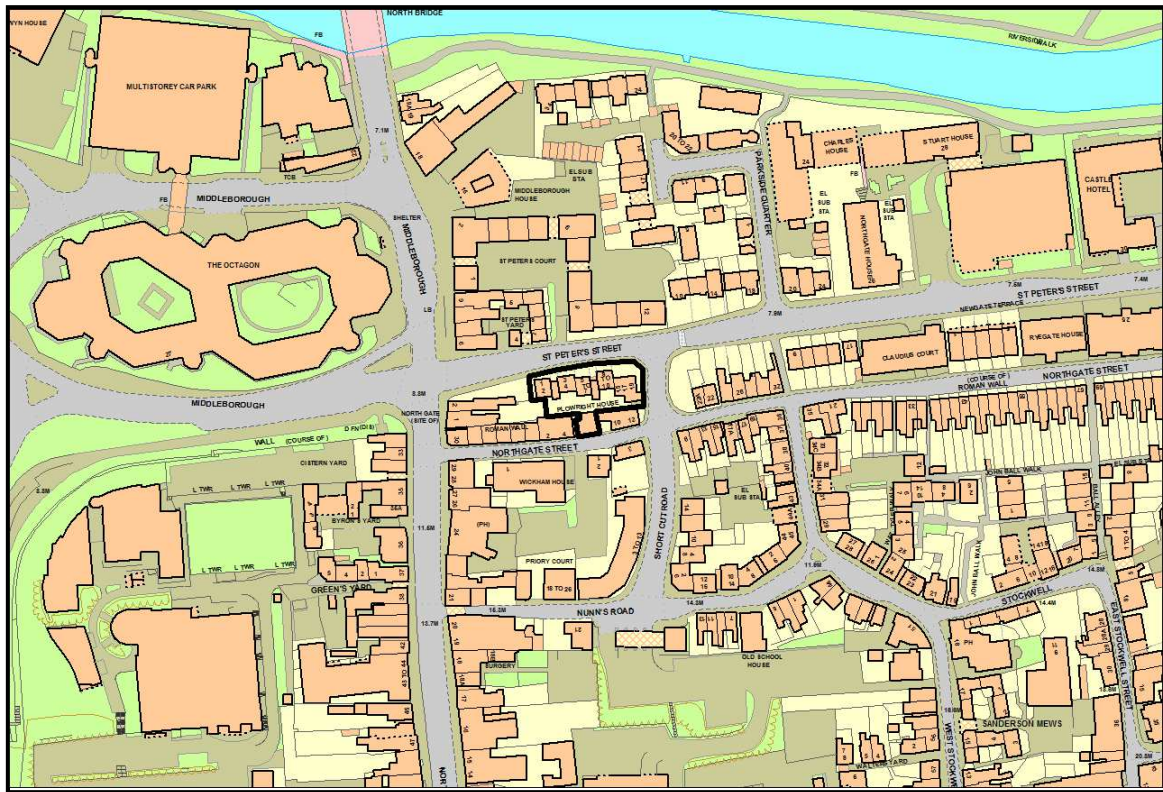
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

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: 7.5

Application: 180718

Applicant: Mr A Sheldermine, Colchester Borough Homes

Agent: Ms Linh Bane, Inkpen Downie Architecture

Proposal: Replacement of windows.

Location: 6 and 8 Northgate Street, Colchester, CO1 1HA

Ward: Castle

Officer: Daniel Cameron

Recommendation: Approval subject to the conditions outlined within the report.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as the application is being made on behalf of Colchester Borough Homes (CBH).

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of the replacement windows upon the character of Colchester Conservation Area Number 1.
- 2.2 The application is subsequently recommended for approval subject to the conditions outlined within this report.

3.0 Site Description and Context

- 3.1 Northgate Street is located on the periphery of Colchester town centre at the edge of the Dutch Quarter. It runs roughly east to west and connects North Hill to the Ryegate entrance of Castle Park.
- 3.2 It sits within Colchester Conservation Area number 1, which 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.
- 3.3 Numbers 6 and 8 Northgate Street are flats located within the same two-storey detached house. The property formed part of an infill development within the Dutch Quarter and is a polite red brick building, notable for a string course above the first floor of gault brick.

4.0 Description of the Proposal

- 4.1 It is proposed to replace the existing single glazed, timber framed windows at the two flatted properties with double glazed aluminium sash windows similar to ones being installed on other CBH properties within the Dutch Quarter. It is proposed to replace like with like in terms of openings.
- 4.2 It is also proposed to replace the existing street frontage doors to the two properties with hardwood alternatives. Both windows and doors to the properties are showing signs of wear and no longer draught proof.

5.0 Land Use Allocation

- 5.1 The wider site is currently allocated within the Local Plan as predominantly residential. The emergent Local Plan does not allocate the area for any specific use.

6.0 Relevant Planning History

- 6.1 This application represents one of a number that CBH have brought forward within the Dutch Quarter as part of project to renovate the windows and doors of properties there for the benefit of the tenants.

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
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets

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

The Essex 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 Historic Buildings and Areas Officer – The windows are now in poor condition, and it is proposed to replace and upgrade them to double glazing, as well as to replace the doors. The new windows would be in aluminium, and would have profiles similar to the timber ones and hence be acceptable. The drawings show trickle vents which detracts from their appearance. These should be omitted or concealed if possible.

- 8.3 In line with the comments of Historic Buildings and Areas Officer, a condition controlling the use of trickle vents will be imposed.

9.0 Parish Council Response

- 9.1 The application site sits within an unparished town centre ward. No comments are forthcoming.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No public representations were received.

11.0 Parking Provision

- 11.1 N/A. This application does not affect the current level of parking provision at the property, nor will it lead to increased demand within the immediate area.

12.0 Open Space Provisions

- 12.1 N/A. This application does not affect the current level of open space at the property, nor will it lead to increased demand within the immediate 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 and doors upon the character of the conservation area it is considered that there would be a neutral impact. The visual appearance of the windows and doors are similar to the existing and it is judged that the change in window 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 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. 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-PL2-01, A-1516-PL2 02 and A-1516-PL2 03 with the exception of the exposed trickle vents, which are omitted.

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

4. Z00 – Non-standard condition – Trickle Vents

The windows hereby approved shall be installed with concealed trickle vents.

Reason: To ensure that the approved development does not result in a negative impact upon the amenity of the conservation area

18.0 Informatives

18.1 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.

24 May 2018

Report of	Assistant Director: Policy & Corporate	Author	Andrew Tyrrell
Title	End of Year Planning Performance 2017- 2018		
Wards affected	All Wards		

This report sets out an overview of planning service performance for the Planning Committee. Performance is reported formally at the end of each fiscal year. The current report is for the fiscal year from April 2017 to March 2018, with some comparative figures for previous years given as comparative reference points.

1. Decision(s) Required

- 1.1 To note the performance of the Planning Service during the year 2017-18, including development management and enforcement activities.

2. Development Management Performance

- 2.1 As context for the year, the Service was amalgamated back into one larger team during the course of the past 12 months, including an office move and a Service restructure that was ongoing throughout the year. This did result in a transitional year, with some effect on the staff within the Service. That is likely to continue into the current year (2018-19), as the new structure goes into full operation from 1 June 2018. At the same time, application numbers increased slightly (0.8%); from 1,619 in 2016/17, up to 1,632 in the past year (2017-18). This is the context within which the following performance figures has been achieved.

Application Category (NI157)	Government Target	CBC Target	Last Year 2016-17	This Year 2017-18	+/- to CBC Target
"Major" Applications	65%	85%	95%	93%	+8%
"Minor" Applications	70%	88%	95%	93%	+7%
"Other" Applications	75%	91%	97%	96%	+6%

- 2.2 The table above sets out that planning performance surpassed the targets set at the start of 2017/18. Major applications are defined as those that for ten (10) dwellings or more, or for sites over 1 Hectare in size, or for buildings with floorspaces over 1,000 square metres. Minor applications are defined as being for less than ten (10) dwellings, for sites less than 1 hectare, or for buildings with less than 1,000 square metres of floorspace. "Other" applications is the category that includes householder extensions and alterations, lawful development certificates, changes of use and listed buildings.
- 2.3 During the past year 93% of the "Major" planning applications were determined either "on time" or ahead of their 13-week target date for a decision. The Council set itself a target of 85%, already higher than the national target, and surpassed this target. The previous year the Planning Service achieved 95%, so while there has been a 2% drop (which is equivalent to 1-2 applications in real numbers), performance has been consistently high on major applications.

- 2.4 For "Minor" applications, the Council decided 93% of applications earlier than their 8-week deadlines. The internal target was set at 88%. This performance was also consistent with the previous year (2016/17).
- 2.5 The final category of application, "Others", saw 97% of applications determined faster than their target deadline of 8 weeks from submission. This was the almost same figure as the previous year, and compares favourably to a challenging CBC target of 90%.

3. Appeal Performance

- 3.1 In appeals, the national target has been set at 70% of decisions being dismissed at appeal. The 30% "loss" rate (upheld appeals), is because the Government recognises the need for planning authorities to have some margin in which to operate with acceptably consistent decision making at the same time as trying to push for higher quality. There are also some cases that are finely balanced decisions; so the 30% caters for the delicate balance that may not be clear cut.
- 3.2 This year the Council had 37 appeals, and only 10 were allowed. This means that we achieved 73% success rate in defending decisions against appeal; and the Council met this target
- 3.3 The previous year the Council lost 19 appeals out of 47 appeals determined by the Planning Inspectorate on behalf of the Secretary of State. This resulted in a rate of 60% success, which is the only year we have fallen below threshold in the last decade. That was similar to other planning authorities, and the national average was less than 70%. It was notable the previous year that decisions by the Inspectorate were also less predictable, and it is known that there was a large recruitment drive by PINs that resulted in a number of new and less experienced Planning Inspectors. At the same time, there was a renewed push to improve the narrative given in our own decisions, explaining more clearly exactly what the perceived problems were with refused applications; and making it easier for Inspectors to understand our own logic when forming their own views.

4. Planning Enforcement

- 4.1 Over the past 3 years, there have been 372 (2014/15), 456 (2015/16) and 518 (2016/17) new cases reported to the enforcement team. This was a significant increase each year. For this last year (2017/18), there were 508 new enforcement cases received
- 4.2 With 508 new cases coming in, there were 525 enforcement cases resolved and closed. This means that there are 17 less cases currently under investigation than at the start of the year (1st of April 2017). The number of cases closed also increased from 512 the previous year to 525 this year (2017/18). At the year end on 31st of March 2018 there were 112 ongoing investigations.
- 4.3 The majority of enforcement cases are resolved through discussions and negotiation where possible. If solutions can be found amicably this is the first approach, as it is usually faster. Sometimes people have undertaken works without realising that they need permission, and they have been advised to make applications to regularise that with the right permission so there has then been no need to take formal action. In some cases, reported breaches have not required permission, while on rarer occasions an application should have been made but the works undertaken are so minimal or clearly acceptable that it is not expedient to request an application just for the sake of it.

- 4.4 However, there are times when formal action is a necessary and only way to achieve the right outcome. Although there were 10 less cases than the previous year, there were more notices served this year. Of the 32 Notices issued, 4 requested information be provided under legal powers; but 28 Notices were served that had consequences in terms of remedying works “on the ground”, demolition of unauthorised buildings, or stopping works from happening before they take place. These are shown in the table below:

Number Of New Cases Received During Year:		508
Number of Cases Closed Down and Resolved:		525
Type of Notice Served	Planning Contravention Notice (PCN)	4
	Enforcement Notice	13
	Breach of Condition Notice (BCN)	6
	Stop Notice	1
	Temporary Stop Notice (TSN)	4
	Injunction Granted by Courts	1

5. Summary

- 5.1 In summary, all of the Councils performance indicators for planning were met, and it has been another strong year for development management and planning enforcement.
- 5.2 Residents and business making applications in Colchester have received a large volume of planning application decision prior to, or on, their expected target deadlines. The speed of decision making has been consistently strong regardless of the scale of development, be it for hundreds of homes or for a small conservatory.
- 5.3 The Council has also met targets in terms of quality decision making, successfully defending its decisions against appeals determined by the independent Planning Inspectorate. There were less appeals against our decisions too, after a focus on better explanations around the issues that warranted refusal. There was a significant increase in performance on appeals from the previous year.
- 5.4 There has also been another increase in the formal enforcement actions taken this year. A number of notices were served, including stopping works in progress, and removing unauthorised development that was causing harm to neighbours or other residents, visitors or businesses.

24 May 2018

Report of	Assistant Director – Policy & Corporate	Author	Andrew Tyrrell
Title	Summary of Appeal Decisions: December 2017 – May 2018		
Wards affected	All		

This report summarises 13 of the most recent appeal decisions received between the start of December 2017 and the 10th of May 2018. The full decisions are available on each of the relevant planning applications viewable on our website, or via the Planning Inspectorate site. The report ensures that the Committee remain up to date with appeal reasoning, outcomes, and trends; for future decision making.

Foreword: Appeals Decisions Received

- i. The last report to the Committee was in November 2017. Since then, there have been 14 appeals determined, of which 13 are reported herein. There was only 1 before Christmas, and only 1 in January, however there was a spate around the end of the fiscal year and the start of the new one, that came through in March/April. This report brings everything up to speed for Committee members, except for reporting on the “Bakers Lane” appeal, which was a 17-page decision and the full decision should be read.

1.0 “Appeal 1” Details

Site Address: Virley Cottage, Colchester Road, Wakes Colne CO6 2BY

Outcome: Dismissed

Inspector: Claire Victory BA (Hons) BPI MRTPI

Appeal Ref: APP/A1530/W/17/3178618

Application No: 170842, dated 29 March 2017, was refused by notice dated 23 May 2017.

Proposal: A new house and associated garage.

- 1.1 The main issues in the appeal were:
 - the effect on the character and appearance of the surrounding area; and
 - the effect on the historic environment, including on the setting of the grade II listed Wakes Colne Place and the Chappel Conservation Area.
- 1.2 On the character and appearance of the area, the Inspector felt Virley Cottage was part of a linear group of dwellings where the settlement boundary is tightly drawn to exclude adjacent land where the new property was proposed. As such, the proposal was outside the settlement boundary and was contrary to the spatial policies aiming to protect the countryside and direct development to sustainable locations. The Inspector highlighted policies SD1, ENV1 and ENV2 of the Council’s Development plan as key policy considerations.

1.3 In considering the policies, and the merits of the case, it was noted that the appeal site had a wide frontage approximately four times that of the host property, which represents a significant gap between the built form of the village and the nearest property to the east, Wakes Colne Place, an isolated dwelling surrounded by open space. Although the proposed two storey dwelling would be set back further and at a lower ground level than the host property, it would still be visible from the road and the development would therefore result in an “erosion of the gap between the existing properties” that was exacerbated by a proposed detached double garage. Consequently, the Inspector agreed with the Council that it would represent a harmful encroachment of built form towards the more open, rural character of land between the two Village Development Boundaries of Wakes Colne and Chappel.

1.4 Turning to the effect on the historic environment, Wakes Colne Place is a detached, two storey grade II listed property situated to the east of the appeal site, close to Colchester Road. The listing description confirms the property dates from the late 17th century with some early 19th century additions. In accordance with The Planning (Listed Buildings and Conservation Areas) Act 1990 the Inspector had special regard to the desirability of preserving the listing building or its setting. Although the Inspector agreed that the proposed dwelling would come within the setting of the listed building, in their opinion “the principal view of the property is from Colchester Road approaching from the east out of the village, and this view would be largely unaffected by the proposal”. As the Council’s heritage officer had stated that subject to certain details, predominantly relating to materials, the dwelling could have a neutral effect on the setting of the listed building with some minor changes; the Inspector highlighted that these matters could be dealt with satisfactorily by appropriate conditions. Therefore, they felt that the proposal could be made to preserve the setting of the listed building (had the first reason not been a concern).

2.0 “Appeal 2” Details

Site Address: Fingringhoe STW, Ballast Quay Road, High Park Corner, Fingringhoe CO5 7BX

Outcome: Dismissed

Inspector: Simon Warder BSc (Hons) MA DipUD (Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3182517

Application No: 170219, dated 30 January 2017, refused by notice dated 15 March 2017.

Proposal: A 25m communications tower, antennas and apparatus within compound

2.1 The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, including its effect on nearby trees, and whether any harm caused is outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

2.2 The appeal site was within the compound of a sewage treatment works (STW) situated between Ballast Quay Road and Ferry Road. It was close to the southern boundary of the compound, which is marked by a row of mature trees. The ground level falls to the north as the land continues to the River Colne, where Wivenhoe sits on the opposite bank of the river. There is also a Public footpath along the southern boundary of the compound. The STW comprises mainly low level equipment and therefore, whilst extensive in area, it had a limited visual impact in medium or long range views. As such, the broad setting for the proposal is principally rural. The river is the strongest influence on the character of the landscape.

- 2.3 With this context, the Inspector agreed with the Council's Village Appraisal, which describes the vicinity of the appeal site as 'An important area of trees and woodland providing attractive views over Wivenhoe Quay'. The trees adjoining the appeal site are 15-20m tall, so the 25m tower would be visible from Wivenhoe and the public areas along the waterfront. By virtue of the recreational and tourist activity in the area, views from the waterfront are sensitive to change. The top of the tower would break the skyline and be prominent in views from Wivenhoe waterfront, notwithstanding that it would be some 330m away. Given there are six antennae, each more than 1.9m deep, this would add significantly to its visual bulk. As such, the tower would harmfully intrude into the essentially rural and undeveloped character of the landscape. Nor would it be sufficiently closely associated with the quarry or other built development to mitigate this effect.
- 2.4. In addition, whilst the length of footpath affected would be fairly short, the tower, associated plant and compound would be located in close proximity to the footpath and would appear as an imposing presence from this sensitive recreational facility. Although public rights of way are not mentioned specifically in Table PR1 of the CS, the footpath forms part of the green spaces along the Colne River and, therefore, derives protection from Policy PR1. It was also noted that in the absence of a tree report or sufficient information to accurately establish the extent of the excavation required to create the compound, the Inspector could not be assured that the proposal would not adversely affect at least one of the trees on the southern edge of the STW. The loss of such trees would be harmful to the character of the area. Consequently, the siting and appearance of proposal would have a harmful effect on the character and appearance of the area, including, potentially at least, nearby trees. As such, it would conflict with Core Strategy Policies PR1, ENV1, SD2 and UR2, Development Policy DP1 and the NPPF paragraph 43 to the extent that it requires new sites to be sympathetically designed and camouflaged.
- 2.5 The appellant also provided some information on a search of alternative locations for a mast. The appeal site falls outside of the defined area of that search. Moreover, no information was provided on the criteria used within the search, or to support the discounting of a significant number of the identified sites on the ground of absence of land owner interest. On the basis of the information available the Inspector was not persuaded that the alternative site search was "sufficiently robust" to overcome the concerns regarding the effect of the proposal on the character and appearance of the area.

3.0 "Appeal 3" Details

Site Address: 263 Harwich Road, Colchester CO4 3DN

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3192237

Application No: 172457, dated 19 September 2017, refused 21 November 2017

Proposal: The demolition of existing dwelling and proposed two new dwellings.

- 3.1 The main issues are the effects of the proposal on:
- the character and appearance of the area; and
 - the living conditions of future and neighbouring occupiers with particular regard to noise and disturbance.

The appeal property is a detached bungalow which forms part of a row of dwellings lining the south side of Harwich Road. Whilst the properties vary in their built form and appearance, their linear layout is consistent, with the buildings sited fairly close to the road and longer gardens to the rear. In the vicinity of the appeal site, these gardens adjoin allotments and an area of public open space next to Porters Brook. A number of the gardens, including the appeal site, contain outbuildings. Nevertheless, there remains a

sense of openness which, together with the planting within and adjoining the gardens, provides a soft edge to the built up area and contributes positively to local distinctiveness.

- 3.2 The appeal proposal would replace the bungalow with a two-storey detached dwelling in approximately the same position, whilst a new bungalow was proposed towards the end of the rear garden. As such, it would be sited in a 'backland' location, a considerable distance behind the existing dwellings. The Inspector found that the land levels would help minimise its impact in views from the road and the rear of the neighbouring dwellings. However, notwithstanding its low level and the planting adjoining the site, the siting of the new bungalow would be at odds with the prevailing pattern of linear development along Harwich Road. It was large compared with the outbuildings in the area and would encroach significantly into the essentially open, soft edge between the buildings fronting Harwich Road and the allotments and public open space. The new bungalow and associated hard-surfacing would, therefore, be detrimental to local distinctiveness.
- 3.3 The Council had also expressed concern regarding the proportions and form of the proposed two storey dwelling. That building would have a fairly narrow front gable and a side projection towards the rear. However, the Inspector did not see this as an issue because the form of buildings in the area varies. Given this variety, they considered that the proposed two storey dwelling would not look out of place in the street scene.
- 3.4 In concluding on the living conditions, the Inspector agreed that this was also a concern. The new access driveway would abut the side wall of the proposed house and two of the car parking spaces would abut the front wall of the proposed bungalow. These walls contain windows serving a kitchen and bedrooms respectively. Two parking spaces and the turning facility would also be hard up against the boundary with the garden of the neighbouring property at No 265. The access and parking arrangements "would significantly increase the spread and amount of vehicular activity in the rear garden of the appeal property compared with the existing garage". This activity would include vehicle movements associated with resident and visitor parking for the two new dwellings, car doors shutting, people movements and voices during the day and night-time, as well as movements by larger vehicles used for deliveries and refuse collection. Given the close proximity of the access, parking and turning facilities to the neighbouring and proposed dwellings, the noise and disturbance arising from these activities would be harmful to the living conditions of the occupiers of those properties. Consequently, the proposal would conflict with our policy DP1 which, among other things, requires proposals to protect residential amenity, particularly with regard to noise and di

4.0 "Appeal 4" Details

Site Address: Land rear of 92-94 Mersea Road, Colchester, Essex CO2 7RH.

Outcome: The appeal is allowed and planning permission is granted

Inspector: D. M. Young BSc (Hons) MA MRTPI MIHE

Appeal Ref: APP/A1530/W/17/3183274

Application No: 170818, dated 27 March 2017, was refused by notice dated 25 May 2017

Proposal: Construction of one pair of semi-detached dwellings.

- 4.1 The main issue is the effect of the development upon the character and appearance of the area. The appeal site comprises a broadly rectangular plot of sloping garden land to the rears of 92 and 94 Mersea Road. The site is some distance from these dwellings and bears a closer visual relationship with Dudley Close. The site was overgrown and had an unkempt appearance which the Inspector felt detracts from the character and appearance of the locality.

- 4.2 Despite our concern that the size of the plot would be smaller than others in the surrounding area, the Inspector found no suggestion that the development would breach local standards in relation to room or garden sizes. The form, orientation, set-back and massing of the development would be consistent with the established character of Dudley Close. The proposed dwellings would be sited on the northern side of Dudley Close between a group of lock-up garages and a pair of recently built semi-detached houses. The street scene is characterised by pairs of semi-detached dwellings with a row of 3-storey townhouses arranged around Bourne Court. Like the proposal, the dwellings tend to address the road and are set back behind parking areas and/or small front gardens. There would be a reasonable degree of separation between the dwellings and their site boundaries and sufficient room to the frontage to accommodate off-street parking as well as some notional landscaping. The Inspector therefore disagreed that the dwellings would appear cramped.
- 4.3 The dwellings themselves would be slightly smaller than No 6 and 8. However, the Inspector felt that was not a reason to reject the development; especially since these dwellings are larger than most in Dudley Close. They did note that the location of the detached garage to the site frontage is unfortunate. Nonetheless, it was “a relatively modest structure that would only partially obscure the ground floor of plot No 2”.
- 4.4 With regard to the Council’s parking standards, they said that the site is located within a built-up residential area close to local shops and services, noting Mersea Road is on a regular bus route and the train station is also within convenient walking distance. This is thus a highly sustainable location where future residents would have genuine transport choice. Based on this, and the 2-bed size of the properties, the Inspector felt that 1 space per property would be adequate. Overall, they concluded that the development would not harm the character and appearance of the area. It would thus accord with Policy UR2 of the “Colchester Local Development Framework: Core Strategy 2008” and Policy DP1 of the “Colchester Local Development Framework: Development Policies 2010”. Amongst other things, these state that all new development should be locally distinctive and of a high quality.
- 4.5 Local residents expressed concerns relating to a loss of privacy, trees and wildlife. However, these issues were considered by the Council at the application stage and we did not agree to include them as reasons for refusal. The Inspector also understood the concerns of local residents, but also felt that there is no evidence to find a different conclusion on these matters.

5.0 “Appeal 5” Details

Site Address: Barn at Lane Farm, Lane Road, Wakes Colne CO6 2BP

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3184834

Application No: 163151, refused by notice dated 31 March 2017.

Proposal: The conversion of ancillary domestic barn to new dwelling.

- 5.1 The main issues are the effects of the proposal on:
- the character and appearance of the non-designated heritage asset;
 - the landscape character of the area;
 - bio-diversity; and
 - whether the proposal accords with the development plan strategy for the location of new housing.

Lane Farmhouse is a Grade II listed building. It was common ground that the appeal barn does not fall within the curtilage of the Farmhouse, but that the barn should be regarded as a non-designated heritage asset. The Inspector saw no reason to disagree.

- 5.2 Considering character and appearance of the non-designated heritage asset, although the appeal buildings are separated from the Farmhouse by Lane Road, they sit directly opposite and have a clear visual and historic functional relationship with it. The most recent structure, the main building, was in place by 1897. The heritage significance of the buildings lies in their visual and historic functional association with the listed Farmhouse and their historic and architectural interest as an attractive, largely unaltered, group of rural buildings whose vernacular forms, layout and appearance sit comfortably within a countryside setting. The appeal proposal would re-use all of the buildings to create a single dwelling and the existing spaces would mostly be retained, albeit that the main building would be sub-divided and a first floor inserted.
- 5.3 However, the proposal includes a number of other significant interventions. Both wings in the range would be extended with flat roofed, glazed corridors running along their courtyard elevations. Much of the eastern wing is currently open and the proposed corridor would represent a substantial increase in built form. The corridor would continue with a brick wall in front of the store building and this would add further to the bulk of the extended wing. The brickwork in much of the southern elevation of the main building facing the courtyard would be replaced with full height glazing and three large rooflights inserted in the roof above. These alterations would fundamentally change the appearance of this part of the group from a mix of traditional forms, materials and irregular openings to a far more formal arrangement where modern materials and construction would dominate. In doing so, it would also undermine the relationships between, and understanding of, the historic development of the built forms which enclose the courtyard.
- 5.4 The east elevation of the eastern wing would also be rebuilt, resulting in the loss of well-aged timber framing and weatherboarding. A large glazed opening would be inserted into the southern elevation of the western wing. Together, these alterations would result in the loss of a substantial portion of the traditional timber framing and weatherboarding of the buildings. The survival of this built fabric contributes to the historic significance of the non-designated heritage asset and its replacement with new materials would diminish that significance. A large glazed opening would then dominate the southern elevation of the western wing and would be very prominent in views from the south along Lane Road. It was also proposed to replace the timber doors and spandrel panel in the arched opening in the western gable of the main building closest to the listed Farmhouse. Such an extensive use of glass in visually sensitive parts of the building would detract from both the rural character of the buildings and their relationship with their surroundings. The alterations proposed would be unsympathetic to the historic and architectural interest of the buildings and would be damaging to their relationship with the listed Farmhouse and the countryside setting. As a result, the proposal would be materially harmful to the significance of the non-designated heritage asset. Consequently, the proposal would conflict with Policy ENV1 of the Council's Core Strategy 2008 (CS) and Policy DP14 of its Development Policies 2010 (DP) which require proposals to preserve or enhance heritage assets and any features of historic or architectural interest. Nor would the proposal accord with paragraph 135 of the National Planning Policy Framework (the Framework), which requires a balanced judgement to be made on the effect of a proposal on the significance of a non-designated heritage asset, having regard to the scale of any harm or loss.

- 5.5 Turning to landscape character, the majority of the area is open, free from built development and enclosed by field boundary hedgerows. The appellant argued that the effect of the proposed garden could be made acceptable by the use of conditions to withdraw permitted development rights for the erection of outbuildings and domestic structures and to require additional planting to reinforce the roadside boundary hedge. However, it would be unreasonable to seek to use a condition to prevent the introduction of the domestic paraphernalia normally associated with residential gardens in the Inspector opinion. Nor would such conditions prevent the cultivation of the land as a domestic garden in a way which would fundamentally change its landscape character. As such, they agreed that the proposal would have a harmful effect on the landscape character of the area and would conflict with CS Policy ENV1 and DP Policy DP1 insofar as they require proposals to respect or enhance the landscape and other assets that contribute positively to the site and surrounding area.
- 5.6 trying to consider biodiversity, it was noted by the Inspector that the appeal (and application) was not supported by an ecology survey. The proposed works to the buildings and the introduction of new domestic activity and changes to the landscape at the appeal site have the potential to affect protected species. The appellant argued that other legislation offered adequate protection, or that it could be conditioned to do a survey post-permission; however the Inspector did not agree, concurring with the Council that the presence of a protected species is a material consideration when a proposal is being considered which would be likely to result in harm to the species or its habitat. Consequently, in the absence of an ecology survey and assessment, it was not demonstrated that the proposal would conserve or enhance biodiversity in conflict with DP Policy DP21, which requires proposals to be supported by acceptable ecological surveys where appropriate, as well as Framework paragraph 118 which requires planning decisions to aim to conserve or enhance biodiversity.
- 5.7 Finally, the appeal site occupies a countryside location outside of defined settlement boundaries or any land use allocation. The Council's settlement hierarchy does not support development in locations outside of settlement boundaries. As such, the proposal would not be in accordance with the development plan strategy for the location of new housing such as policies SD1 and ENV1.
- 6.0 "Appeal 6" Details**
Site Address: International House, Moss Road, Stanway CO3 0JL
Outcome: Dismissed
Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI
Appeal Ref: APP/A1530/W/17/3184975
Application No: 170259, dated 30 January 2017, refused by notice dated 28 March 2017.
Proposal: Residential development of a former car park to International House, outline application with all matters reserved.
- 6.1 The main issue The main issues in this case are the effects of the proposal on the living conditions of future occupiers with particular regard to noise, odours, privacy and the provision of external space, the outlook of the recent flat conversion in International House, as well as the character and appearance of the area.
- 6.2 In considering the living conditions of future occupiers, the prevailing uses in the area are commercial and industrial. No noise assessment was submitted and the Davenport Kitchens unit located to the rear of the appeal site had external plant on its rear elevation that emits a steady noise that "is noticeable and intrusive from Moss Road and likely to be more so when experienced from the appeal site". The Anytime Fitness gym located to the south of the appeal site is also open 24 hours per day, and noise disturbance in the form

of vehicle engines starting and voices could be expected from comings and goings from that car park, particularly late at night. Paragraph 123 of the National Planning Policy Framework advises that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. Herein, the level of noise from the sources described above would be likely to adversely affect the living conditions of future residential occupiers of the appeal site. In the absence of a noise assessment, any indication of the position, orientation or aspect of the proposed building, or any suggested mechanism for securing potential mitigation measures, the Inspector considered that it had not been adequately demonstrated that the proposal would provide satisfactory living conditions for future occupiers with regard to noise. As such, the proposal would conflict with Policy DP1 of the Council's Development Policies 2010 (DP) insofar as the policy requires proposals to protect residential amenity with regard to noise. Nor would it accord with the Framework or the PPG in this regard.

- 6.3 With regard to privacy to future occupiers, and also to the outlook of new residents in International House (which was converted un PD rights by the same applicant last year), the Inspector noted that the southern elevation of International House includes windows at first and second floor levels which face the appeal site at close range. Views from those windows, therefore, have the potential to reduce the privacy of future occupiers of the appeal site. However, there would be scope to position and orientate a building on the site so as to avoid overlooking from International House, notwithstanding that flatted development may be more intensively occupied. Positioning could also allow for the siting, scale and massing of the new building to be arranged in a way that would avoid it having an overbearing presence close to the windows in the southern elevation of International House, even taking into account the potential intensity of the occupation of the building.

7.0 "Appeal 7" Details

Site Address: 12 Kingsland Beach, West Mersea, Essex CO5 8DD

Outcome: Dismissed

Inspector: Graham Chamberlain BA (Hons) MSc MRTPI

Appeal Ref: APP/A1530/W/17/3186591

Application No: 171143, dated 1 May 2017, was refused by notice dated 6 July 2017.

Proposal: The demolition of existing outbuilding and garage and erection of replacement dwelling.

- 7.1 The main issues in this appeal are the effect of the appeal scheme on the character and appearance of the area; and the living conditions of the occupants of 14 Kingsland Beach, with particular reference to privacy. The appeal site is located in a short row of beach front residential properties and amenity buildings accessed from Kingsland Beach, which is a residential cul-de-sac. The heights of the buildings vary with single-storey and two-storeys with the first floors in the roof spaces.
- 7.2 There were some good examples of seaside architecture nearby, although the existing building was held to be "a bulky flat roofed property of negligible architectural merit... awkwardly position (end) on the boundary with 11 Kingsland Beach". Consequently, a scheme for its replacement, which could include the removal of the existing outbuildings, presents an opportunity to improve the character and appearance of the area if the replacement building presents a better relationship with the grouping. The proposal did not achieve this, and the Inspector agreed that "The Council's ambition to see such an outcome is not an unsubstantiated attempt to impose an architectural style". The replacement dwelling was poor, as it would remain sited on the boundary with 11 Kingsland Beach and would be wider, taller and deeper than the existing building. This would exacerbate, rather than remedy, the limitations evident in the design and proportions of the existing building and would afford it a sense of being relatively oversized and cramped. Thus, the proposal would be "a discordant addition when viewed from the beach and this

would harm the character and appearance of the area". Consequently, the proposal would be in conflict with the part of Policy DP1 of the Colchester Borough Council Development Policies 2010 (DP) that seeks to secure developments that respect and enhance the character of the site and its surroundings, which is also consistent with Paragraphs 17 and 58 of the National Planning Policy Framework.

- 7.3 The effect on the living conditions of the occupants of 14 Kingsland Beach were found to be acceptable. The proposed dwelling would include a window within the kitchen that would provide an aspect towards the roof of 14 Kingsland Beach, but you could not directly see into rooms or gardens. As a consequence, the proposal would "not unreasonably reduce the privacy of the occupants of No 14, or their perception of privacy"

8.0 "Appeal 8" Details

Site Address: Land rear of 17 Heath Road, Wivenhoe

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3185031

Application No: 170375, dated 2 February 2017, was refused by notice dated 3 April.

Proposal: Demolition of existing garage and replacement with a 2-bedroom detached chalet dwelling.

- 8.1 The main issues are the effects of the proposal on:
- the character and appearance of the area; and
 - highway safety.

The appeal site forms part of the rear garden of No 17 and includes a detached single garage. The two storey, semi-detached dwelling occupies a corner plot at the junction of Heath Road and Broomfield Crescent. As such, whilst the dwelling fronts onto Broomfield Crescent, the rear garden runs along Heath Road, thereby giving the appeal site a frontage onto that road. Properties in the vicinity comprise a mixed of semi-detached two storey dwellings and detached and semi-detached bungalows, some of which have accommodation in the roof space.

- 8.2 It was agreed that the detached chalet built form of the proposal would not be out of keeping with its surroundings; however, the proposal was not in keeping because most properties in the area sit on fairly generous plots with consistently sized front gardens, reasonably long back gardens and driveways to the side. The layout of the area is a relaxed, suburban character which contributes positively to local distinctiveness. Contrary to this character, the appeal proposal would significantly reduce the plot size of No 17 whilst creating a new plot that would be considerably smaller than most others in the area. As such, it would result in an unwelcome tightening of the urban grain which would be cramped and have an unacceptable arrangement of the car parking spaces in front of the building.
- 8.3 The rear garden areas of the new building and that remaining for No 17 would be significantly smaller than those which typify the area. It was therefore difficult to see how the concerns above could be overcome. Consequently, the proposal would have had a harmful effect on the character and appearance of the area in conflict with Policy DP1 of the Council's Development Policies 2010 (DP) and Policy UR2 of the Council's Core Strategy 2008; and would conflict with the advice in the Council's Backland and Infill Development Supplementary Planning Document (SPD).

- 8.4 The proposal indicates that two car parking spaces would be provided in front of the proposed building with access from Heath Road and a further two spaces would be provided in front of No 17 with a new access off of Broomfield Crescent. Although neither arrangement would allow for vehicles to enter and leave the site in forward gear, that applies to the on-plot parking for most of the properties in the area, including the existing garage at the appeal site. ECC Highways had advised that the new access for No 17 would be too close to the junction of Heath Road and Broomfield Crescent and would not provide a reasonable degree of visibility. The Inspector acknowledged that the area experiences high traffic volumes and parking pressure during school drop-off times. Therefore, by virtue of the proximity of the access, the proposal would pose a risk to highway safety. As such, it would conflict with DP Policy DP1 and the Backland and Infill SPD which require that access proposals should not have an adverse impact on road safety.

9.0 “Appeal 9” Details

Site Address: 7 Park Road, Colchester, Essex CO3 3UL

Outcome: Dismissed

Inspector: Graham Chamberlain BA (Hons) MSc MRTPI

Appeal Ref: APP/A1530/W/17/3185692

Application No: 170954, dated 6 April 2017, refused by notice dated 2 June 2017

Proposal: A detached dormer style dwelling to rear of 7 Park Road

- 9.1 The main issues in this appeal were the living conditions for its future occupants, with particular reference to privacy; and the effect of the proposed development on the character and appearance of the area. The appeal site encompasses part of the rear garden of 7 Park Road, which is a large detached dwelling occupying a corner plot. The proposed dwelling would be located behind No 7 and to the side of 9 Park Road, whilst the orientation would result in the rear elevation of the proposed dwelling adjoining the rear garden of 5 Park Road.
- 9.2 The main outside private amenity space at the proposed dwelling would be a reasonably shallow rear garden. Due to the position and orientation of the windows in the rear elevations of Nos 5 and 7 it would be possible for the residents of these properties to casually and regularly see into the rear garden of the proposed dwelling from about 16m away. This would enable the residents of Nos 5 and 7 to clearly observe the activities of the occupants of the proposed dwelling when in their garden and mean that there was no private garden available “and this would significantly harm their living conditions”. Landscaping cannot be relied upon to provide mitigation as it may fail and tall planting could affect the level of light entering the modest garden of the proposed property or the outlook from it. In summarising, the proposal was in conflict with policy UR2 of the Core Strategy, policies DP1, DP12 and DP16 of the Development Policies, and the Backland and Infill Development SPD; which seek to protect residential amenity.
- 9.3 With regard to the effect on the character and appearance of the area, the Inspector noted that plots and property positions were broadly similar, and that even a new development to the south of the appeal site follows the pattern of development in Park Road. Overall, the layout, scale and massing of the proposed dwelling, and the size of the plot within which it would be located, would not appear discordant within the Park Road street scene. The Inspector did not agree that there was harm to the character of the area when he concluded that the appeal scheme would preserve the character.

- 9.4 The decision also contained debate over the 5 year housing land supply. The appellants argued that if this could not be demonstrated then this should allow the development to go ahead. However, the Inspector pointed out that even if that were the case, the NPPF states that this is not the case when there are material harms identified, and in this case he had identified that the new dwelling would not provide adequate privacy and this would significantly harm the living conditions of future residents. Consequently, the adverse impacts of granting permission would still significantly and demonstrably outweigh the benefits of allowing a dwelling.

10.0 “Appeal 10” Details

Site Address: Preto, 59 High Street, Colchester CO1 1DH

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3182694

Application No: 170386, dated 23 January 2017, refused by notice dated 13 April 2017.

Proposal: Retrospective application to relocate entrance doors flush with fascia.

- 10.1 The main issues are whether the proposal would:
- preserve or enhance the character and appearance of the Conservation Area;
 - Facilitate inclusive access to the premises.

The site is within a Conservation Area with shops and buildings made up from narrow, former burgage plots which line both sides of the High Street. Most buildings are three storeys in height with parapet walled façades onto the road. There is some variation in the age and architectural design of the façades. However this adds to the richness of the street scene.

- 10.2 The shop front had been remodelled without consent, introducing a stepped access to the High Street where there was a sloped one, allowing the internal floorspace to be pushed outwards and increased, in order to get extra seating area into the restaurant. The Council argued that this was unacceptable, and that it was to the detriment of the shopfront and to wheelchair access. However, the Inspector did not agree.
- 10.3 A removable ramp is available to ease access over the step which had been created at the entrance. The Inspector therefore felt that an acceptable means of achieving inclusive access to the premises was available and the proposal does not conflict with Policy DP17 of the Council’s Development Policies 2010 (DP) inasmuch as the policy requires development to incorporate satisfactory and appropriate provision for disabled persons and those with impaired mobility.

11.0 “Appeal 11” Details

Site Address: 13 Friars Close, Wivenhoe CO7 9NW

Outcome: Dismissed

Inspector: J A B Gresty MA MRICS

Appeal Ref: APP/A1530/D/17/3187528

Application No: 171426, dated 8 May 2017, was refused by notice dated 25 August 2017.

Proposal: A front single-storey extension.

- 11.1 The main issues in this case was the effect of the proposed development on the character and appearance of the local area and whether the proposed development would meet local development plan policies with respect to a new independent dwelling. The appeal property is a detached, two-storey house situated on a cul-de-sac which forms part of a residential estate. The cul-de-sac had a planned appearance and is characterised by generally similar style two-storey dwellings set back from the road behind front gardens and driveways. The appeal property is situated on a plot in the corner of the cul-de-sac.

The property does not front directly onto the main body of the cul-de-sac and it had a large front garden.

- 11.2 The proposed development would project about 12 metres from the front elevation of the appeal property, extending to nearly the full depth of the front garden. Because of its design and size, the extension would have the general appearance of a bungalow attached to the front of the appeal property and would be an incongruous feature which would dominate the appearance of the front of the appeal property; resulting in significant harm to the character and appearance of this part of the cul-de-sac. In this respect the development would fail to meet the requirements of Policies DP1 and DP13 of the Colchester Local Development Framework Development Policies (LDFDP) and Policy UR2 of Colchester Local Development Framework Core Strategy (CS).
- 11.3 The proposed front extension would have its own front access doors and would be equipped internally with facilities, including a kitchen, two WCs with showers, a living room and a bedroom. Whilst the application drawings show an internal door which would link the extension's bedroom with the host property's dining room, the size of the extension, its internal layout of the proposed extension and the proposed independent accesses would enable the extension to be occupied independently of the host dwelling. The internal door between the extension's bedroom and the host dwelling's dining room is not a clear indication that the extension would be used as part of the host dwelling. A condition could be imposed which would require the extension not to be occupied as an independent dwelling, but this would not prevent a pattern of use which would be being similar to that of an independent dwelling. This was unacceptable.

12.0 "Appeal 12" Details

Site Address: Land to 28-30 Chapel Road, Stanway, Essex CO3 0PX

Outcome: Dismissed

Inspector: Graham Chamberlain BA (Hons) MSc MRTPI

Appeal Ref: APP/A1530/W/17/3190542

Application No: 172148, dated 16 August 2017, refused 30 October 2017

Proposal: Outline application with all matters reserved for one bungalow style dwelling

- 12.1 The main issues are the effect of the proposal on the character and appearance of the area and the living conditions of the occupants of neighbouring properties, with particular reference to noise and disturbance. The appeal site is in the gardens of Nos 28 and 30 Chapel Road, a pair of semi-detached dwellings. Chapel Road is broadly characterised by frontage residential development orientated to face the street. Save for the presence of a few domestic outbuildings, this pattern of development had resulted in largely open and verdant residential gardens that provide a pleasing setting and back drop to the frontage development. The proposal is for the erection of a single storey dwelling in the rear gardens of Nos 28-30. The Inspector claimed that diminutive scale of the proposed dwelling relative to the two storey frontage development would afford it a subservient appearance, but agreed that this "would not disguise it as a discordant incursion into the rear gardens".
- 12.2 The siting of the bungalow would be a noticeable departure from the frontage pattern of residential development in Chapel Road and would have a "strident and jarring presence". This would be evident from neighbouring properties and in views along the proposed access drive and in-between properties, most notably Nos 26 and 28 Chapel Road. The size of the plot was also much smaller than those around it and therefore the development would appear relatively cramped. This would be in spite of the size of the garden adhering to local standards. The proposal was in conflict with the Backland and Infill Development Supplementary Planning Document 2010 (SPD), which aims at ensuring such

development respects and reflects the character of the area, as well as Policy DP1 of the Council's Development Policies 2010, and paragraphs 17 and 58 of the NPPF.

- 12.3 The Inspector also pointed out that the bungalow would be sited near to a number of trees on the western boundary of the appeal site. The trees are visible from public vantage points and have some amenity value as they contribute to Chapel Road's leafy backdrop. The appellant had not proven that the bungalow can be constructed without adversely affecting them. Furthermore, the likely garden space of the proposed dwelling would be dominated by these trees and this may result in post development pressure to remove them. As such, the "absence of an arboricultural impact assessment is a matter weighing against the proposal".
- 12.4 Turning the issues around the amenity of neighbours, access to the new dwelling would be via a new driveway constructed along the boundary of 32 Chapel Road and positioned very close to the side elevations and gardens of Nos 30 and 32. The latter also had a number of windows that would face the driveway. The Inspector agreed that there would be insufficient space alongside the proposed driveway to provide a buffer. Consequently, the vehicles would pass very close to the side elevations, windows and gardens of No 32, such that the noise and disturbance from such movements would harm the living conditions of the residents of these properties.

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.

