

# Planning Committee Meeting

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

**Thursday, 05 November 2015 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. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

## Information for Members of the Public

### Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

### Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Your Council> Councillors and Meetings>Have Your Say at [www.colchester.gov.uk](http://www.colchester.gov.uk)

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### Access

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### Facilities

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Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable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

## 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.*



**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 05 November 2015 at 18:00**

**Member:**

Councillor Jon Manning  
Councillor Jessica Scott-Boutell  
Councillor Peter Chillingworth  
Councillor Helen Chuah  
Councillor Jo Hayes  
Councillor Pauline Hazell  
Councillor Brian Jarvis  
Councillor Mike Lilley  
Councillor Jackie Maclean  
Councillor Patricia Moore  
Councillor Rosalind Scott  
Councillor Laura Sykes

Chairman  
Deputy Chairman

**Substitutes:**

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

Councillors Christopher Arnold, Lyn Barton, Tina Bourne, Roger Buston, Kevin Bentley, Nigel Chapman, Barrie Cook, Robert Davidson, Beverly Davies, Andrew Ellis, Annie Feltham, Bill Frame, Ray Gamble, Dominic Graham, Annesley Hardy, Marcus Harrington, Dave Harris, Julia Havis, Peter Higgins, Theresa Higgins, Cyril Liddy, Sue Lissimore, Fiona Maclean, Kim Naish, Nigel Offen, Gerard Oxford, Philip Oxford, Will Quince, Peter Sheane, Paul Smith, Dennis Willetts, Julie Young and Tim Young.

**AGENDA - Part A**

(open to the public including the press)

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

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Members of the public please note that any further information which they wish the Committee to consider must be received by 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**

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

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

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

## **2 Have Your Say! (Planning)**

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

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

## **3 Substitutions**

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

## **4 Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

## **5 Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is

being held unless he/she has received a dispensation from the Monitoring Officer.

- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

**6 Minutes of 1 October 2015** 17 - 22

To confirm as a correct record the minutes of the meeting on 1 October 2015.

**7 Planning Applications**

In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.

**7.1 151825 Car park at Sheepen Place, Colchester** 23 - 48

Proposed phased development of two new office buildings and associated outbuildings, parking and landscaping

**7.2 151826 Car park at Sheepen Place, Colchester** 49 - 54

One No. totem sign board to front of building

**7.3 152042 Land adjacent to 39 Harvey Crescent, Stanway** 55 - 62

Erection of detached three bedroom dwelling and parking

**7.4 151831 48a William Harris Way, Colchester** 63 - 76

Use of premises as restaurant and takeaway (A3/A5), installation of associated kitchen extract system and external ducting with brick effect cladding on the rear elevation of the building.

**7.5 152062 42 Anthony Close, Colchester** 77 - 82

Infill front extension and rear extension

**8 Exclusion of the Public (not Scrutiny or Executive)**

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

**Part B**

(not open to the public including the press)



# **Planning Committee**

## **Thursday, 01 October 2015**

**Attendees:** Councillor Jackie Maclean (Member), Councillor Helen Chuah (Member), Councillor Jon Manning (Chairman), Councillor Laura Sykes (Group Spokesperson), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Member), Councillor Jessica Scott-Boutell (Deputy Chairman), Councillor Patricia Moore (Member), Councillor Rosalind Scott (Group Spokesperson), Councillor Jo Hayes (Member)

**Substitutes:** Councillor Marcus Harrington (for Councillor Peter Chillingworth)

### **210 Site Visits**

The following members attended the formal site visits: Councillors Chuah, Hayes, Hazell, Jarvis, Moore, Manning, Scott-Boutell and Sykes.

### **211 Minutes of 27 August 2015**

The minutes of the meeting held on 27 August 2015 were confirmed as a correct record.

### **212 151235 Cosway Caravan Park, Fen Lane, East Mersea**

The Committee considered an application for the removal of condition 02 of planning permission 132270 in order to allow the extended season to apply without time limitation at on land at Cosway Caravan Park, Fen Lane, East Mersea. The application had been referred to the Committee because it was a major application and objections had been received. The Committee had before it a report in which all the information was set out.

*RESOLVED* (ELEVEN voted FOR and ONE ABSTAINED) that the planning application be approved subject to the conditions set out in the report.

### **213 151401 Severalls Hospital, Boxted Road, Colchester**

**Councillor Chuah (in respect of her former employment at the Hospital and her attendance during her Mayoral Year at the opening of the St Aubyn's Centre) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the removal/variation of conditions 1, 3a, 4,

6, 7, 9 15, 19, 24, 29, 36 and 46 to 55, of planning permission 131221 at Severalls Hospital, Boxted Road, Colchester. The application had been referred to the Committee because it included proposed amendments to a Section 106 Agreement that fell outside of the scheme of delegation and constituted a major application where a limited part objection had been received. The Committee had before it a report in which all the information was set out.

Vincent Pearce, Planning Projects Specialist, presented the report and assisted the Committee in its deliberations. He referred to an information sheet which had been provided to the Committee providing the full wording of the relevant conditions with recommended amendments (including removals) in order to provide the full context for the Committee. He confirmed that he considered that the proposals before the Committee were the best that could currently be secured whilst they also accorded with the Council's corporate priorities, particularly bearing in mind that the Government had indicated that the delivery of Affordable Housing was likely to change in the future.

Members of the Committee voiced concerns regarding the reduced size of the proposed Community Building and whether sufficient places had been allocated in relation to the proposed school provision. Reference was also made to the need for maintenance provision for the open space and woodland areas and the criteria used to determine the location of the area to be allocated to the Council for Affordable Housing provision.

In response to particular questions the Planning Projects Specialist explained that sufficient land had been secured for the Community Building to accommodate an extension at a later date, if this was deemed necessary whilst Essex County Council had made provision for the forward funding for a 240 space primary school and additional primary school provision was available as part of the Northern Growth Area. The open space and woodland area was required to be provided in accordance with the Council's maintenance standards whilst the area to be allocated for Affordable Housing was located at the heart of the development. He also confirmed that Myland Community Council had been closely involved in the negotiations regarding the site and were therefore fully aware of the need to proceed on the basis proposed in the report.

*RESOLVED* (UNANIMOUSLY) that the Head of Commercial Services be authorised to issue planning permission under the reference 151401, subject to the same conditions as planning permission reference 131221 subject to the amended / removed conditions as set out in Figure 7 of the report and provided that:

- (i) The interested parties first sign the amended Section 106 Agreement, the key components of which as set out in the report, which may, in the opinion of the Head of Commercial Services, need further adjustment to facilitate completion, and including the transfer of the Mixed Use Area land to the Council and
- (ii) Further amendments do not reduce the overall proportion of affordable rented units below 15% of the total within Phase 2 of the site.

## **214 151331 Eld Lane Square, Colchester**

The Committee considered an application for the erection of a café unit (Use Class A3) together with ancillary external seating area, public realm enhancements and ancillary services, including removal of two trees at Eld Lane Square, Colchester. The application had been referred to the Committee because a significant number of objections had been received and the application, although not a major one, had attracted some controversy and Councillor Hayes had requested that it be considered by the Committee. The Committee had before it a report and an amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Simon Cairns, Major Developments and Projects Manager, presented the report and, assisted the Committee in its deliberations. He explained the close proximity of the church sanctuary south facing window and the concern that, at times of silent prayer, there would be potential for noise disturbance as a result of the introduction of a café. The north facing window to the sanctuary was already required to be closed which would mean there would be poor ventilation in the church. He also referred to the use of the development site area for car parking for church goers and the potential impact this would have as well as the proposed refuse and recycling arrangements for the café. In order to secure adequate mitigation he requested the Committee to restrict the trading hours to 8:00am to 6:00pm on Monday to Saturday and midday to 6:00pm on Sundays. This would enable the existing church services to be conducted without the loss of parking facilities.

James Hancox, on behalf of Lion Walk United Reformed Church addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the applications. He explained that

Ian Anderson, on behalf of CBRE, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the applications. He referred to the significant advantages of the development which would add vitality to the town centre as well as important public realm enhancements. He also commented on the support received from the Urban Designer for the innovative proposal and confirmed that there would be no primate cooking undertaken at the café and, as such, there would be no significant issues in relation to noise or fumes. He considered the car parking arrangement for the church congregation was a private matter whilst commenting that there was no strong argument to persist with this practice given the close proximity of alternative parking facilities. He confirmed that the fire escape route would not create any conflict for other users whilst the refuse collection arrangements would be agreed with the Planning authority by means of a condition.

Councillor Hayes confirmed that although she had requested the item be considered by the Committee, she had not yet formed a view on the merits of the application.

Some members of the Committee were concerned about the loss of public seating, trees and raised garden area, seeking the provision of replacement benches and trees/landscaping to compensate for this impact. One member of the Committee also referred to the incomplete planning history record for the site in relation to the details of the planning permissions granted when the Square was first developed in the early 1970's. Reference was also made to the loss of an architecturally interesting window to the Baptist church on the eastern boundary of the site and to potential ventilation problems as a result of the aspect of the proposed glazed unit. Some members also supported the Sunday opening hours being amended to exclude operation in the Sunday to avoid any conflict with the church congregations.

Other members of the Committee acknowledged the various concerns raised but were of the view that these could be addressed adequately and there was unlikely to be any disturbance which would prevent the exercise of quiet worship.

In response to specific questions the Major Developments and Projects Manager confirmed there was scope within the Square to accommodate additional seating and planting and the replacement seating, additional landscaping and maintenance could be provided by condition. He explained that no records of the permission granted in 1971 could be found however no legal agreements in relation to the site were in place and the records relating to a permission granted in 1972 which were available indicated no onerous information which would be of material concern in relation to the current application. In addition, the Conservation Officer and the Urban Design Officer had both considered the proposal to be acceptable, whilst issues of ventilation were a matter for Building Control Officers. The Major Developments and Projects Manager considered the proposal would serve to animate the area, making it more attractive for visitors to the town centre whilst providing a significant investment in the public realm. He also confirmed that Environmental protection Officers had raised no concerns in relation to potential disturbance on Sunday mornings and the potential for the existence of archaeological remains below ground on the site had been recognised and addressed by means of a very rigorous condition which had been drafted by the Council's Archaeological Officer. In relation to the church window which would be partly obscured by the development, it was positioned in a later addition wall and was understood to be not greatly used, as such the impact would not be significantly harmful.

*RESOLVED* (NINE voted FOR and THREE voted AGAINST) that the planning application be approved subject to the conditions set out in the report and the amendment sheet together with additional conditions to require the provision of three replacement benches for public seating in the vicinity and additional landscaping to compensate for the loss of three trees.

**215      150702 Homecroft, Chapel Lane, West Bergholt**

The item was withdrawn for consideration at a later date.

**216 151611 78 Maldon Road, Colchester**

The Committee considered an application for the proposed change of use from Class D1 to use class Sui Generis (House in Multiple Occupation with in excess of six residents) with proposed ground floor, single storey extensions to the front and side of the existing property to provide improved internal accommodation, proposed dormer roof extension and new roof lights to provide additional accommodation at second floor and associated external works including cycle store and reinstatement of existing railings at 78 Maldon Road, Colchester. The application had been referred to the Committee because it had been called in by Councillor Cope. The Committee had before it a report and an amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Chris Harden, Planning Officer, assisted the Committee in its deliberations. He also referred to an extra condition detailing the new access and alterations to the wall.

Ben Cahill addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the applications. He thanked the Committee for undertaking a site visit to the application site and for viewing the site from his property next door. He pointed out that revised plans had been submitted by the applicant and was disappointed that these hadn't been forwarded to him as an objector. He considered that the application plans were inconsistent due to changed drawings and he was of the view that the proposed dormer did not comply with the Council's policies on the basis of overlooking issues. He considered that the Planning Officer's report had failed to address the issue daylight amenity. He explained that his property was not currently overlooked and, as such, the negative impact on his property was clear. He also referred to the ground floor windows to the application site, explaining that the rooms which these windows served were not currently occupied whilst this would not be the case following implementation of the proposed development. Finally he stated his concern that the removal of the existing fence to the side of the application site would result in an increase in the traffic noise experienced at his property.

John Ready addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the applications. He explained that he had been a landlord since 1996 and had a record of excellent neighbour relations. His current portfolio of houses had a look and feel of family homes, all of which exceeded Local authority guidance of sizes of rooms. He ensured all his tenants were adequately vetted, being typically at least 25 years of age and in work. He was aware that the property was entitled to two resident parking permits or three in exceptional circumstances.. he was excited about the prospects for the development and was looking forward to giving the house a new lease of life.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee. He explained that he was addressing the Committee in order to support Mr

Cahill. He was doing so on the basis of the potential harm to the street scene and the archway to the existing entrance to the building and was of the view that the development was over development in an already crowded area.. He considered that the introduction of up to 16 residents within the property would lead to a significant increase in noise and he was concerned about the introduction of a dormer window which would create an overlooking issue for the neighbouring property. He was also concerned that the proposed design was inappropriate for a house in multiple occupation, he considered the proposed parking provision to be insufficient and he was of the view that the report should only have been brought to the Committee when the outstanding detail regarding the side access had been resolved.

The Planning Officer explained he was of the view that the potential loss of the archway above the current entrance door did not warrant a recommendation for refusal of the entire application. He considered that replacement of the fence with railings would bring a benefit to the street scene. The creation of a dormer in the roof space did not constitute an overlooking issue as it was possible to apply a condition to ensure the glazing would be obscured and the parking provision had been considered sustainable due to the proximity of the property to the town centre. It had not been considered necessary to notify residents of the revised plans as the detailed changes were in relation to the access to the cycle store area and other issues to address issues identified as of concern to residents.

Simon Cairns, Major Developments and Projects Manager suggested the Committee may consider it appropriate to seek an additional condition requiring the retention of existing timber sash windows.

Members of the Committee considered the provision of high level obscured glazing to the dormer and the retention of brickwork and the archway to the existing entrance to be very important issues, particularly given the building's close proximity to a Conservation Area.

In response to particular questions raised the Planning officer explained that the retention of brickwork was already adequately addressed within proposed Condition 3 and confirmed it would be possible to seek the retention of the arch and sash windows by additional conditions. He explained that the dormer window was of modest size and some distance from the neighbouring property and, as such, was not considered to breach the guidance in relation to loss of light.

*RESOLVED* (ELEVEN vote FOR and ONE ABSTAINED) that the planning application be approved subject to the conditions set out in the report and the amendment sheet together with a requirement for the glazing to the dormer window being of the highest level of obscuration, Condition 3 to include reference to a new access including levels, alterations to the frontage wall and new gates together with additional conditions to secure the retention of the existing brick arch feature within the single storey side extension and the retention of timber double hung sash windows.





## Committee Report

Agenda item

7

To the meeting of **Planning Committee**  
on: **5<sup>th</sup> November 2015**  
Report of: **Head of Professional/Commercial Services**  
Title: **Planning Applications**

**7.1 Case Officer: Sue Jackson Due Date: 25/11/2015**

**MAJOR**

**Site:** Car park at Sheepen Road, Colchester

**Application No:** 151825

**Date Received:** 26 August 2015

**Agent:** Kevin Whyte, Barefoot & Gillies

**Applicant:** Mr Reg Patterson, Colchester Borough Council

**Development:** Proposed phased development of 2 new office buildings and associated outbuildings, parking and landscaping.

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval subject to no objections being raised by Anglian Water

### **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Council. The application is also a major application and objections have been received

### **2.0 Synopsis**

- 2.1 The key issues explored below are the development proposed and policy implications, flood risk issues, traffic and other matters raised in the representations.



### **3.0 Site Description and Context**

- 3.1 The application site is situated on the edge of Middleborough Roundabout. The site is on the west side of the roundabout, bordered to the south and west by Sheepen Road. Vehicular access is from Sheepen Road using the existing access point.
- 3.2 Sheepen Road links the Middleborough Roundabout to the Avenue of Remembrance and serves Colchester Borough Council offices, the Colchester Institute, a small retail park, allotments, a car dealership, a small number of residential properties and a school.
- 3.3 The application site is currently a long stay public car park. The site area is approximately 0.4 hectares, consisting of the main area of car spaces, bounded by a mix of trees, bushes and hedgerows. A lorry park to the north west is separated from the site by a row of poplar trees.
- 3.4 Westway, a dual carriageway is to the north of the site, the other side of Westway are the back gardens of houses in Sheepen Place. To the east of the houses, on the north side of Middleborough roundabout, is Hiscox House, a three storey office block constructed in the 1990's of red and buff bricks with a slate pitched roof, occupied by an insurance firm. To the east of the site, and on the east side of Middleborough roundabout is a substantial office building called the Octagon. This was built in the 1970's, for Royal London Insurance and is a 3-4 storey red brick building with a mixture of flat roofs and tiled mansard sections and small turrets. To the south of the Octagon and on the south east side of Middleborough roundabout is a section of the town wall approximately 3m high, behind which is Colchester 6th Form College.
- 3.5 To the south of the site on the south west side of Middleborough roundabout is an Victorian water works building, consisting of 1-2 storeys with red brick walls and slate pitched roof. Adjacent is Rowan House, a late 20th century 3 storey a buff brick office building with slate pitched roofs occupied by Colchester Borough Council.
- 3.6 To the west of the site is Colchester Retail Park, which consists of two double height buildings set to the rear of a forecourt car park. The buildings currently house a total of five retail shops. These buildings are constructed from buff and red brick with slate mansard roofs and round brick turret detailing.

### **4.0 Description of the Proposal**

- 4.1 This application is for the erection of two 3 storey office blocks totalling 3160 m<sup>2</sup> floor space. The buildings have the following dimensions: Building 1 – 36.5m x 18.5 m, Building 2 – 29.4m x 16.9m the buildings are both 11.5m high.
- 4.2 A solar array comprising 246 units in total is proposed on the roofs hidden from public view behind a parapet.
- 4.3 Pedestrian access from the site is onto Sheepen Road, across an existing raised table from the pavement outside Rowan House.

- 4.4 The external lighting for the development is primarily based on light fittings directly mounted on the building fabric providing an up-lighting strategy from fittings located within the pilaster column recesses of the building façade and an element of down-lighting from continuous linear edge-lighting of the front and side elevations of the building.
- 4.5 The application includes the following documents Design and Access Statement, Flood Risk Assessment, BREEAM Pre-Assessment, Sequential Test Report, Drainage report, Acoustic report, Air Quality report, Archaeological Evaluation, Site Investigation reports and Arboricultural report.

## **5.0 Land Use Allocation**

- 5.1 The site is within a Mixed Use area on the Proposals Map. Appropriate Land Uses in Mixed Use Centres are defined in the Core Strategy and offices are identified as a primary land use.

## **6.0 Relevant Planning History**

- 6.1 None

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
CE2 - Mixed Use Centres  
UR2 - Built Design and Character  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking  
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP6: Colchester Town Centre Uses  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP25 Renewable Energy

- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Vehicle Parking Standards  
Sustainable Construction  
External Materials in New Developments  
Cycling Delivery Strategy

## **8.0 Consultations**

### **8.1 Arboricultural Officer**

Comments : "I am in agreement with the conclusions and recommendations of the tree report."

### **8.2 Archaeology Officer**

Comments: 'This application lies in an area of high archaeological interest recorded in the Urban Archaeological Database. An adequate pre-determination archaeological evaluation has been undertaken by Colchester Archaeological Trust in 2014 (CAT report 808). This showed that there has been a considerable amount of post-medieval build-up on the site and that the potential for archaeological remains of national importance (i.e. unrecorded designated heritage assets) is low. On this basis, there are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets.

However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

In this case, an archaeological condition requiring prior submission of and agreement to a Written Scheme of Investigation.'

### **8.3 Contaminated Land Officer**

Comments: 'I am in receipt of the above in support of this application. I note that, based on the investigations undertaken, it has been recommended that precautionary ground gas and hydrocarbon resistant protection is adopted, details to be provided. In addition, the petrol interceptor is recommended for specialist inspection and cleaning. However, based on the information provided, it would appear that the site could be made suitable for the proposed use. Consequently, should permission be granted for this application, conditions are recommended.'

### **8.4 Landscape Officer**

Comments that:

- To accord with the Council's adopted Landscape Strategy the landscape element of the proposal needs to be cross checked against the Council's standard generic requirements
- Where tree types are identified, any tree type/position proposed needs to allow for an anticipated mature crown spread & height and be at a sufficient distance to avoid potential root damage to existing structures, maturity should be considered as 25yr for trees used for early impact and fast establishment. In order to facilitate this requirement the phase 1 building footprint should be shifted west by a couple of meters and north by a meter this would then allow sufficient room for the retention of G002 and T011, T012, T013 & T014 to the site frontage
- Any proposal needs to remove rather than retain tree(s) identified in any tree survey as BS 5837 'C' category in almost all cases and removal of all 'R' category trees. This in order to ensure retention of these poorer quality trees does not compromise the envisaged developments long-term landscape quality/structure. Given the importance of the C category trees on site, consideration could be given to retaining these trees in order to maintain the amenity value they offer, albeit their lifespan and the amenity value offered may be limited. In order to secure the amenity value in the long term additional tree planting should be considered on either side of the existing boundary hedge to help reinforce the boundary.

### **8.5 Environmental Protection**

Comments:' No objection subject to conditions.'

### **8.6 Highway Authority**

Comments that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

### **8.7 Essex County Council SUDS**

Comments that "Further to a series of emails sent in response to our objection, we now do not object planning permission.

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the FRA and the above mentioned documents submitted with this application are implemented and secured by way of a planning condition on any planning permission.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Whether insurance can be gained or not;
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

PLEASE NOTE: Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time."

## **8.8 Environment Agency**

Comments: "We have inspected the application, as submitted, and have no objection, provided the conditions below are appended to any planning permission granted. We also have the following advice:

Contaminated Land

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

We refer to the Supplementary Site Investigation report by Delta Simons, dated September 2015. The investigations carried out to date have indicated the presence of soil contamination by PAHs and hydrocarbons. Further investigation should determine the extent of any hotspots and determine whether groundwater has been impacted upon.

We consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without

these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

#### Flood Risk

Our maps show the site is located in Flood Zones 1 and 2, the low and medium probability zones. This application is therefore covered by our Flood Risk Standing Advice.

However, we are aware that there is a grill on Sheepen Road Ditch, at the north east corner of the site, and consideration should to be given in the Flood Risk Assessment to the increased risk from this not been cleared by either Colchester Borough Council or Essex County Council who own it.

#### Flood Defence Consent

Under the terms of the Water Resources Act 1991 and the Anglian Land Drainage Byelaws, our prior written consent is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of Sheepen Road Ditch, which is designated a 'main river'.

#### Foul Water Disposal

The submitted information indicates that the development will be connected to the public foul sewer. Anglian Water Services should be consulted regarding the available capacity in the foul water infrastructure. If there is not sufficient capacity in the infrastructure then we must be consulted again with alternative methods of disposal.

#### Sustainability

Climate change is one of the biggest threats to the economy, environment and society. New development should therefore be designed with a view to improving resilience and adapting to the effects of climate change, particularly with regards to already stretched environmental resources and infrastructure such as water supply and treatment, water quality and waste disposal facilities. We also need to limit the contribution of new development to climate change and minimise the consumption of natural resources.

Opportunities should therefore be taken in the planning system, no matter the scale of the development, to contribute to tackling these problems. In particular we recommend the following issues are considered at the determination stage and incorporated into suitable planning conditions:

☐ Overall sustainability: a pre-assessment under the appropriate Code/BREEAM standard should be submitted with the application. We recommend that design Stage and Post-Construction certificates (issued by the Building Research Establishment or equivalent authorising body) are sought through planning conditions.

☐ Resource efficiency: a reduction in the use of resources (including water, energy, waste and materials) should be encouraged to a level which is sustainable in the long term. As well as helping the environment, Defra have advised that making simple changes resulting in the more efficient use of resources could save UK businesses around £23bn per year.

☐ Net gains for nature: opportunities should be taken to ensure the development is conserving and enhancing habitats to improve the biodiversity value of the immediate and surrounding area.

☐ Sustainable energy use: the development should be designed to minimise energy demand and have decentralised and renewable energy technologies (as appropriate) incorporated, while ensuring that adverse impacts are satisfactorily addressed.

These measures are in line with the objectives of the NPPF as set out in paragraphs 7 and 93-108."

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## 9.0 Parish Council Response

9.1 N/A

## 10.0 Representations

10.1 (5 objections have been received from 3 residents of Sheepen Place and from Colchester Cycling Campaign the issues raised are summarised below.

10.2 Colchester Cycling Campaign "Please note that the cycle parking in phase one does not meet the standards laid down at 3.6.2 of the Essex parking design guide. In my opinion, it falls because it has a less convenient location than that for cars at the front of the building (adjacent to entrance), and because it is tucked down the side of the building (enjoying good natural observation). I would appreciate it if this could be addressed".

*Officer comment: The cycle spaces are positioned close to the pedestrian access to the site from Sheepen Road, cyclists are more likely to use this access than the vehicular access. The position of these spaces is therefore considered acceptable.*

10.3 Residents' comments

"Traffic grinds to a halt nearly every morning and afternoon/evening because of the Institute and people battling in and out of town to get home/work or to one of a handful of car parks still available. To get out of Sheepen Place and Middleborough every day heading in any direction is an utter disaster, it is noisy and dangerous particularly for emergency vehicles. The junction cannot take increased traffic flow as it currently stands. Adequate consideration has not been given to this. A traffic assessment/appraisal is required."

*Officer comment: This proposal will result in a reduction in traffic.*

"Will roads be maintained adequately? Sheepen Place was clearly not 'improved' after the development of flats or even the additional office block there. What will happen to the state of the roads and any likely improvements required during and after construction?"

*Officer comment: highways have not required any works to the road network*

"This car park is generally always very full and well used by workers, students and visitors, as stated in the D&A statement it is a 10 minute walk to such attractions like the town centre, institute and the railway station. My Family members have also had to use this car park with Middleborough being full, St Marys being overpriced and no resident parking/dropped kerbs for residents in Sheepen Place. Where do you propose people park once a block of 2 offices with 48 private parking spaces is put in its place? Use the 'park & ride'? Certainly not easy as a resident. No encouragement is shown in this proposal for use of the 'park and ride' facilities supposedly provided to reduce the level of Traffic".

*Officer comment: the site is very close to bus stops including the park and ride and Colchester North Station. In addition a Travel Plan is proposed which will promote and encourage staff to use non car modes of transport.*

With Informa/Spicer Haart/The Octagon/Colchester Council offices/the Institute/the Retail Centre, as well as local businesses and residents in the local vicinity of the site

proposed, is it truly necessary to place 2 further office blocks in this area? They do not look particularly attractive from the designs. They do not appear in character with the rest of the streetscape. Has an environmental impact assessment been prepared?  
*Officer comment: the site is allocated for mixed use where office use is acceptable; an Environmental Impact Assessment is not required.*

“Drainage in Sheepen Place and most likely Sheepen Road, is old with pipes known to have burst in recent years and our street often floods in heavy rain as the drainage cannot cope - the River Colne also plays it part here. Will the impact of 2 further offices add to this considering being close to Flood Zones 2 and 3 and a river line nearby and an area that would benefit some improvement? How can you judge the impact a flood may have? The report appears otherwise very sparse.”

*Officer comment: The site is not within flood zone 3. A Flood Risk Assessment has been submitted and considered by Essex County Council SUDS Team and subject to the imposition of conditions they have not objected to the application.*

“The notification of a new planning application arriving through my door was the first I knew of this proposal, incidentally, the council website given in the letter doesn't work, this was not exactly a surprise having been excluded from this decision so far, so, having found another way to access the information, and also having looked through the affiliated stuff on file I note the rather conspicuous omission of having canvassed opinions from anyone in this road beyond no 7, myself included, surely it would not have been asking TOO much to canvas a further 12 tenants in a long established Colchester road, who will be directly affected by this development, but then historically we are used to the council bulldozing it's way through our objections.”

*Officer comment: all the residents of Sheepen Place, 16 in total, have been notified of the application. In addition the application has been advertised in the local newspaper and on site.*

“I object to the loss of yet another car park to benefit a council who have already apparently owned and sold various developments for financial gain, I.E. The Grange in Lexden Road and Angel Court in High Street, I have no confidence that this proposed new construction will not go the same way once developed.”

“I'm keeping a close eye on this proposal now and read with interest about the flood zone 2 requirements, but some other things have come to my attention as well, and I am hoping I can get local people to think more deeply about things which might otherwise escape scrutiny, for instance, the fact that it was remarked that noise from the proposed office development was not expected to be a problem, but nobody even raised the point that it's traffic QUANTITY which would be an issue, not the noise it may make. Nobody has questioned the amount of noise which will be generated during the development of this site by the attendant heavy vehicles, how noisy the services, like heating, etc; would be, or how long us residents are going to have to suffer with it. We already have considerable intrusive noise from the ex-Royal London heating plant, which we hear clearly if we have a quiet weekend.”

*Officer comment: the Noise Report was informed by CBC Environmental Protection Officers, conditions are recommended in respect of noise from fixed plant and equipment and to limit working times.*

“The plans show provision for signage for Birkett and Long, a firm of solicitors who are currently situated in Crouch Street, so as previously suspected, this is NOT just for the use or benefit of the council, or incidentally, for us.”



*Officer comment: Two applications have been submitted the first the subject of this report proposes 2 office buildings Colchester Borough Council is the applicant and the intention is to lease the buildings. The Council has signed a lease with Birkett Long to occupy the first building. The second application, the following item on this agenda, is for advertisement consent for a Birkett Long sign in front of the building.*

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

11.1 The adopted parking standard for office use is a maximum of 1 space per 30 square metres, 48 spaces are proposed; (the maximum is 106 spaces).

11.2 Cycle parking is a minimum of 1 space per 100 sqm for staff plus 1 space per 200sqm for visitors.

11.3 Powered Two Wheelers is a minimum of 1 space, + 1 per 20 car spaces (for 1st 100 car spaces), then 1 space per 30 car spaces (over 100 car spaces)

11.4 Disabled parking is a minimum of 200 vehicle bays or less = 2 bays or 5% of total capacity, whichever is greater.

11.5 The site is close to Colchester town centre where a lower parking standard is appropriate, the approved parking standard document states the following "A lower provision of vehicle parking may be appropriate in urban areas (including town centre locations) where there is good access to alternative forms of transport and existing car parking facilities. In all cases adequate provision shall be made for the parking and turning of service vehicles serving the site, off the highway.

11.6 The following extract from the Transport and Travel Statement provides details of the parking provision and transport facilities and demonstrates the site is in a sustainable location. *"The site has excellent transport links and is well served by bus and train. The proposal includes 48 car parking spaces, 4 motorcycle spaces and 50 cycle spaces. The nearest bus stops are 368m away (5 minute walk) in Middleborough. They are served by multiple routes with frequencies of up to 5 buses an hour, including the park and ride service, which is located at junction 28 of the A12, the main trunk road serving Colchester. Colchester North railway station, with mainline services to London and Norwich and branch line services to Harwich, Clacton and Walton on the Naze is 0.9 miles away (20 minute walk). Colchester town centre, where there are additional bus routes available, is 0.5 miles away (10 minute walk)".*

11.7 The parking provision is considered acceptable in this highly sustainable location and will be secured by condition.

11.8 A Travel Plan is also proposed which will promote and encourage staff to use sustainable forms of transport

## **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 Development Team and Planning Obligations**

14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission are a Travel Plan plus monitoring of the plan.

## **15.0 Report**

### Design and Layout

- 15.1 The proposed office buildings would be clad in light buff brickwork with recessed mortar joints. The proposed east elevation includes a band of ‘honeycomb bond’ perforated brickwork which conceals ventilation intakes behind. The main entrances would be defined by copper-clad ‘portal’ frames around, with copper and glass canopies above. The proposed windows and doors are aluminium-clad and timber framed. The proposed scheme is targeting a BREEAM ‘Very Good’ rating.
- 15.2 The phase 1 building would face the roundabout set behind the retained trees and both buildings would present built form to Sheepen road and help to provide enclosure in the street scene.
- 15.3 The design of the proposed offices will complement existing buildings and add an attractive feature in the street scene.

### Scale, Height and Massing

- 15.4 The scale and massing of the proposed office buildings reflects existing buildings. The new offices will be 3 storeys in height which is in the middle of the range of existing buildings which are 2-4 storeys.

### Impact on the Surrounding Area

- 15.5 The proposal will have a positive impact on the townscape of the surrounding area replacing a surface car park with built form whilst retaining the majority of the landscape features on the site.

### Impacts on Neighbouring Properties

- 15.6 Whilst objection has been received from residents in Sheepen Place it is considered the proposed offices will have minimal impact. The land is currently in use as a long stay public car park available for use 7 days a week and throughout the day. It is considered that not only will the amount of traffic be reduced but will occur over a shorter period and less days. Whilst there may be some disturbance during construction Environmental Protection are recommending a condition to restrict working times to mitigate any adverse impact.
- 15.7 The site is separated from residential properties in Sheepen Place by West Way a dual carriageway. The office buildings will be a minimum of 35 metres from the nearest residential boundary and a minimum of 65 metres from the residential building and over 90 metres from residential buildings at its furthest point.

### Amenity Provisions Landscaping

- 15.8 The majority of the existing trees are scheduled to remain and this has been achieved by a minor repositioning of the phase 1 building. Several of these trees are category 3 and would normally be removed as they have a limited life. However as these trees have a high amenity value they will be retained and supplemented with new tree planting. Once the new planting is established when existing trees fail they can be removed without a significant impact on visual amenity.

### Highway Issues

- 15.9 The Highway Authority has raised no objection. Traffic generated by the two office buildings will be significantly less than the existing car park. Parking provision is considered acceptable for this edge of town location. A Travel Plan is proposed which will make staff aware of and encourage the use of sustainable means of transport. The existing vehicular access will be retained with cycle parking adjacent to the pedestrian access to the site.

### **Other Matters**

#### Loss of Car Park

- 15.10 The Head of Operational Services has confirmed this carpark has been underused over the last few years by the general public, although usage has increased since CBC employees have been allowed to use it as staff car parking site. As a long stay car park it was also recognised that usage would be impacted on by the introduction of ECC's Park & Ride at Cuckoo Farm. The development of the car park will encourage modal shift away from the private car thereby reducing congestion. There is alternative parking available in the locality (Middleborough) and it is considered that the development of this car park meets the strategic objectives of the local plan.

## Flood Issues

- 15.11 The site lies within Flood Zone 2, with the Sheepen Road Ditch running along the northern boundary of the site. A Flood Risk Assessment has been undertaken to support the planning application and demonstrates that the proposal can provide appropriate safety of the development from flood risk. The Sequential Flood Risk Assessment documents how alternative sites in the locality, with lower probability of flooding, have been considered, in line with the requirements set out within the National Planning Policy Framework (NPPF). This report considers the planning policy context, followed by details of the alternative sites together with the application of the sequential test required by the NPPF. Conclusions are that there are no sequentially preferable reasonably available town centre sites and, given the vulnerability of the proposed use of the building, the proposal represents an acceptable form of development for the site. The Environment Agency defines uses as either Essential Infrastructure, Highly Vulnerable, More Vulnerable, Less Vulnerable or Water-Compatible Development. Offices fall within the Less Vulnerable category.
- 15.12 Essex Council Council SUDS Team has referred to this Council's Flood Risk Responsibilities. The following response is provided:-
- “The site is within a sustainable location on the edge of the town centre and close to existing office uses.”
- 15.13 The Council's Corporate Governance Manager has commented that “the Borough Council has never experienced an issue with insuring properties in the designated flood zones in Colchester, for example Leisure World. We have not had any terms imposed, cover reductions or increased rates”.
- 15.14 The applicant has also confirmed the following matters
- Safety of the building- The building flood safety strategy is to provide flood resistance through a raised ground floor level; The existing ground levels, which are largely to be retained, ensure that the building is surrounded by surfaces that slope northwards to the existing ditch. In line with good practice recommendations the suspended ground floor of the building will be constructed with finished floor level 150mm above the external ground level, with all hard surfacing running away from the building. The highest extent of flooding (1 in 1000 year event) has been calculated by the Environment Agency to be 7.46m AOD. Accordingly, the finished floor level has been set higher than this, at 7.60m AOD, to keep both the ground floor and the escape route above flood level. The risk of flood damage to the building would therefore be low.
  - Safety of people - In line with the above strategy, the flood evacuation plan will include evacuation of occupants to higher ground along dry routes.
  - Sustainability of the development - The Sequential Test has found the location to be appropriate in flooding terms; The site is very well located for proximity to transport links and facilities; The development is designed achieve BREEAM 'Very Good' and includes a roof-mounted solar panel array.
  - The agent has also confirmed the proposed conditions raise no issues – the detailed proposals will be in line with the submitted SW drainage design.

## **16.0 Conclusion**

16.1 The proposal is in compliance with adopted land use policies and represents sustainable development on the edge of the town centre in conformity with the aims of the NPPF. The sequential test has been applied and the flood risk assessment agreed with the County SUDS team. The office buildings are considered acceptable and permission is recommended.

## **17.0 Recommendation**

17.1 That subject to no objection(s) being raised by Anglian Water planning permission be granted subject to the following conditions.

## **18.0 Conditions**

### **1 - 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 - \*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 1842 DE 10- 01A, 10-03B, 10-04B, 20-01A, 20-02A, 20-03A, 20-10A, 20-11A, 20-12A, 30-01A, 35-01A, 35-02A, 35-03A, SK30-10A, 30-11A, 40-02A, 30-02A, 40- 01A.

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

### **3 - Non-Standard Condition/Reason**

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works.

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

Reason: To safeguard archaeological assets within the approved development boundary

from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

NB In this case, further trial-trenching will be required in advance of development. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

#### 4- Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos; (ii) an assessment of the potential risks to:

- (i) human health,
- (ii) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

#### 5 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

#### 6 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

#### 7 -Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 4, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 5, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 6.

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 - \*Validation Certificate

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 4.

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

#### 9 - Non-Standard Condition/Reason

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: None

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

#### 10 - Non-Standard Condition/Reason

Prior to commencement of the development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided prior to commencement and during construction of the development.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

#### 11 - Non-Standard Condition/Reason

No occupation of the development shall take place until the applicant has demonstrated that there is a satisfactory travel plan with appropriate approval, monitoring and review mechanism in place.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

#### 12 - Non-Standard Condition/Reason

No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation.

The scheme shall include:

- Limiting the discharge from the site to a maximum of 2l/s.
- Provide attenuation storage for all storm events up to and including the 1:100 year storm event inclusive of climate change.
- An appropriate level of treatment for all runoff leaving the site in line with table 3.3 of the CIRIA SuDS Manual.
- Provide suitable mitigation measures against any high seasonal groundwater levels found on site.

Reason To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development.

#### 13 - Non-Standard Condition/Reason



The development hereby permitted shall not be commenced until such time as a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved. Reason The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates.

Reason: To mitigate against increased flood risk to the surrounding area during construction therefore, there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

#### 14 - Non-Standard Condition/Reason

Prior to commencement of the development the applicant must submit a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

#### 15 - Non-Standard Condition/Reason

The adopting body responsible for maintenance of the surface water drainage system must record yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

#### 16 - 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.

#### 17 - Non-Standard Condition/Reason

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;
- 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.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- 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.

The submitted landscape proposal requires amendment to ensure compliance with the Councils Adopted Landscape Strategy.

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.

#### 18 - Non-Standard Condition/Reason

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- (1) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
- (2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- (3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- (4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The

scheme shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters (particularly groundwater associated with the underlying Secondary and surface water of the River Colne, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

#### 19 - Non-Standard Condition/Reason

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved. #

Reason: To protect and prevent the pollution of controlled waters (particularly groundwater associated with the underlying Secondary and surface water of the River Colne, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

#### 20 - Non-Standard Condition/Reason

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reason : To protect and prevent the pollution of controlled waters (particularly groundwater associated with the underlying Secondary and surface water of the River Colne, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

#### 21 - Non-Standard Condition/Reason

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters (particularly groundwater associated with the underlying Secondary and surface water of the River Colne, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

## 22 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction 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.

## 23 - Non-Standard Condition/Reason

No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Good.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

## 24 - Non-Standard Condition/Reason

Within 3 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Good/Very Good has been achieved for this development.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

## 25 - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

## 26 - 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.

#### 27 - \*Powered Two Wheeler/Cycle Parking As Shown

Prior to the first occupation of the development, the POWERED TWO WHEELER/CYCLE PARKING facilities as shown on the approved plans are to be provided and shall thereafter be retained as such at all times.

Reason: To ensure appropriate POWERED TWO WHEELER/CYCLE PARKING is provided.

#### 28 - Non-Standard Condition/Reason

Prior to the first Occupation/Use of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ4 town/city centres with high levels of night-time activity shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

Reason: In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

### 19.0 Informatives

#### (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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

#### (3) 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. Please pay particular attention to these requirements.

#### (4) Highway Informatives

All highway related details should be agreed with the Highway Authority. The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009. Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River. If the applicant believes they need to apply for consent, further information and the required application forms can be found at [www.essex.gov.uk/flooding](http://www.essex.gov.uk/flooding). Alternatively they can email any queries to Essex County Council via [watercourse.regulation@essex.gov.uk](mailto:watercourse.regulation@essex.gov.uk). Planning permission does not negate the requirement for consent and full details of the proposed works will be required at least two months before the intended start date.

#### **(5)Essex County SUDS Informatives**

PLEASE NOTE: Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time.

#### **(6)Environment Agency Informatives**

Advice to Applicant We recommend the applicant refers to our document, Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention (NC/99/73 May 2001).

##### **Flood Risk**

Our maps show the site is located in Flood Zones 1 and 2, the low and medium probability zones. This application is therefore covered by our Flood Risk Standing Advice.

However, we are aware that there is a grill on Sheepen Road Ditch, at the north east corner of the site, and consideration should to be given in the Flood Risk Assessment to the increased risk from this not been cleared by either Colchester Borough Council or Essex County Council who own it.

##### **Flood Defence Consent.**

Under the terms of the Water Resources Act 1991 and the Anglian Land Drainage Byelaws, our prior written consent is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of Sheepen Road Ditch, which is designated a main river.

##### **Foul Water Disposal.**

The submitted information indicates that the development will be connected to the public foul sewer. Anglian Water Services should be consulted regarding the available capacity in the foul water infrastructure. If there is not sufficient capacity in the infrastructure then we must be consulted again with alternative methods of disposal.

Climate change is one of the biggest threats to the economy, environment and society. New development should therefore be designed with a view to improving resilience and adapting to the effects of climate change, particularly with regards to already stretched environmental resources and infrastructure such as water supply and treatment, water quality and waste disposal facilities. We also need to limit the contribution of new development to climate change and minimise the consumption of natural resources.

Opportunities should therefore be taken in the planning system, no matter the scale of the development, to contribute to tackling these problems. In particular we recommend the following issues are considered at the determination stage and incorporated into suitable planning conditions:

- Overall sustainability: a pre-assessment under the appropriate Code/BREEAM standard should be submitted with the application. We recommend that design Stage and Post-Construction certificates (issued by the Building Research Establishment or equivalent authorising body) are sought through planning conditions.
- Resource efficiency: a reduction in the use of resources (including water, energy, waste and materials) should be encouraged to a level which is sustainable in the long term. As well as helping the environment, Defra have advised that making simple changes resulting in the more efficient use of resources could save UK businesses around £23bn per year.
- Net gains for nature: opportunities should be taken to ensure the development is conserving and enhancing habitats to improve the biodiversity value of the immediate and surrounding area.
- Sustainable energy use: the development should be designed to minimise energy demand and have decentralised and renewable energy technologies (as appropriate) incorporated, while ensuring that adverse impacts are satisfactorily addressed. These measures are in line with the objectives of the NPPF as set out in paragraphs 7 and 93-108. Reference should also be made to the Climate Change section of the draft National Planning Practice Guidance, in particular: “Why is it important for planning to consider climate change” and “Where can I find out more about climate change mitigation and adaptation?”

## **20.0 Positivity Statement**

- 20.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.







**Application No:** 151826

**Location:** Car Park at, Sheepen Road, Colchester

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

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**7.2 Case Officer: Sue Jackson**

**Due Date: 06/11/2015**

**OTHER**

**Site:** Car park at Sheepen Road, Colchester

**Application No:** 151826

**Date Received:** 26 August 2015

**Agent:** Kevin Whyte, Barefoot & Gillies

**Applicant:** Mr Reg Patterson, Colchester Borough Council

**Development:** 1 no totem sign board to front of building.

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Council.

## **2.0 Synopsis**

- 2.1 The key issues explored below are the impact of the sign on the amenity of the surrounding area and public safety.

## **3.0 Site Description and Context**

- 3.1 The site, which is the same as that of the previous item, has a corner location facing the roundabout at the bottom of Balkerne Hill and a frontage to Sheepen Road and West Way. The specific location for the advertisement is the Sheepen Road/Westway corner just in front of the building.

## **4.0 Description of the Proposal**

- 4.1 The proposal is for a single advertisement panel 3 metres wide, 6 metres high and 0.5m deep constructed of brick to match the building with built up acrylic lettering and halo lighting. The sign comprises the company name "Birkett Long and logo"

## **5.0 Land Use Allocation**

- 5.1 Mixed Use

## **6.0 Relevant Planning History**

- 6.1 Application 151825 Proposed phased development of 2 new office buildings and associated outbuildings, parking and landscaping. (The previous item on this agenda)

## **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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

CE2 - Mixed Use Centres  
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity

7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Shopfront Design Guide

## **8.0 Consultations**

8.1 Highway Authority has raised no objection and comments that the proposal is in accordance with the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

9.1 N/A

## **10.0 Representations**

10.1 None received

## **11.0 Parking Provision**

11.1 N/A

## **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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

15.1 There are two issues to be assessed in determining an application for advertisement consent. The first is impact on "amenity", consideration has to be given to the effect upon the appearance and visual amenity of the immediate area. It is considered that the impact of the advertising on the surrounding area will be minimal and the sign will be seen against the backdrop of the new office building. The immediate area comprises office and residential development. Existing premises have limited signage and the sign proposed is in keeping with signage already present in the area. The proposed advert will not impact on residential amenity. Halo illumination is proposed which accords with adopted guidance.

15.2 The second issue is public safety and regard has to be given to the effect upon the safe use and operation of any form of traffic or transport. Members will note no objection has been received from the Highway Authority.

## **16.0 Conclusion**

16.1 Given the lack of impacts upon the amenity of the area and upon public safety it is recommended that Planning Committee approve the application subject to the conditions below.

## **17.0 Recommendation**

17.1 APPROVE subject to the following conditions

## **18.0 Conditions**

1 - Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

## 2 - \*Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings 1842DE30-01rev A , 02 rev A and 1842 DE 90-01 rev A.

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

## 3 - Letters/Symbols only to be illuminated

The illustrated fascia shall be constructed so that only the letters or symbols are illuminated and the background shall have a matt external finish and shall be impervious to the passage of light.

Reason: To ensure that the fascia sign does not appear unduly prominent or obtrusive in the street scene in the interests of visual amenity.

## 4 - Non-Standard Condition/Reason

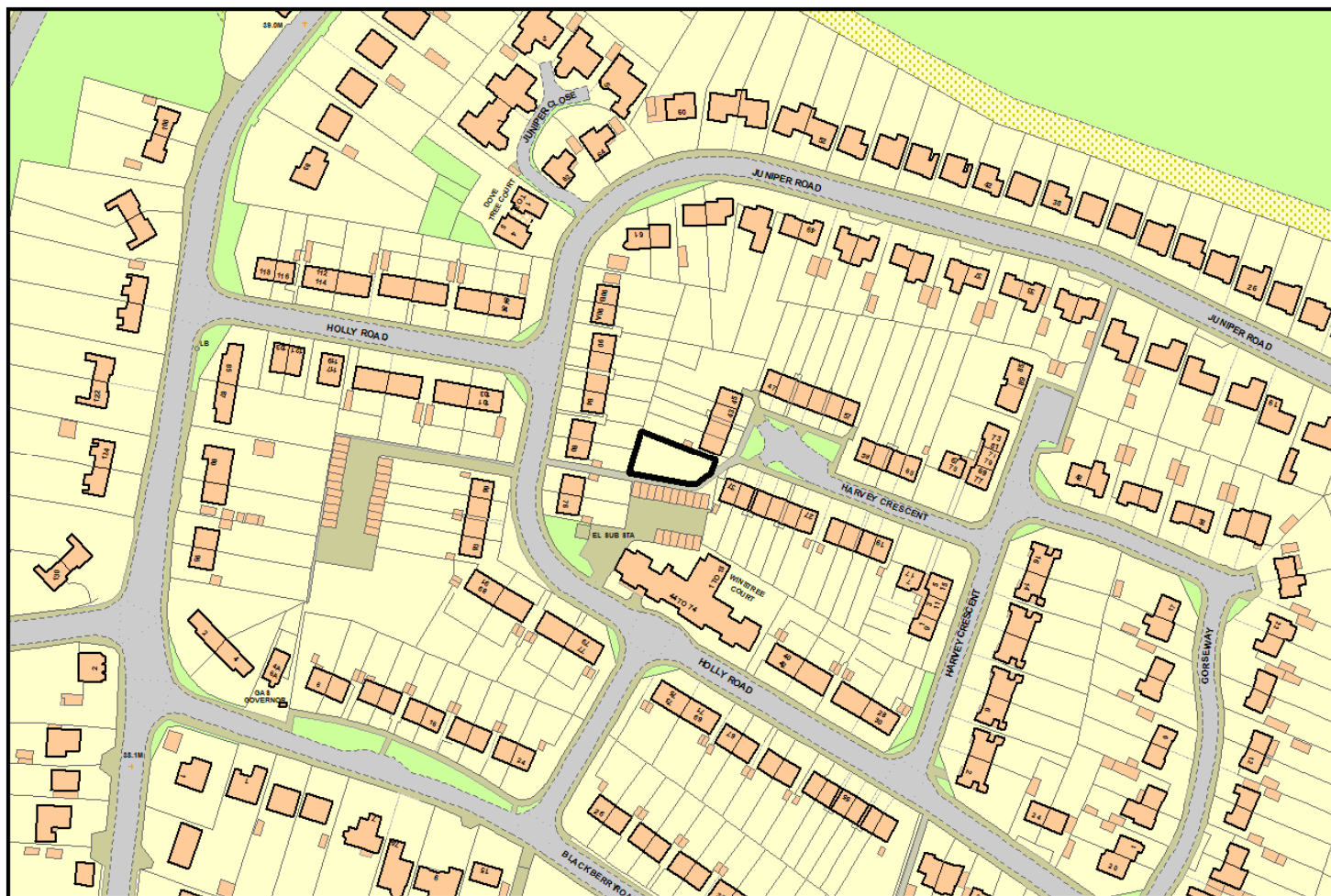
The sign permitted by this consent shall only be illuminated Monday - Friday during the opening hours of the premises to which it relates or 21.00 hours whichever is the earlier.

Reason: This is an area where illumination is not common and where unlimited or excessive use of lighting could be detrimental to the visual amenity of the area.

## 19.0 Positivity Statement

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





**Application No:** 152042

**Location:** Land Adjacent to, 39 Harvey Crescent, Stanway, Colchester, CO3 0QW

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

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**7.3 Case Officer: Eleanor Moss    Due Date: 19/11/2015**

**MINOR**

**Site:** Land adj. 39 Harvey Crescent, Stanway, Colchester, CO3 0QW

**Application No:** 152042

**Date Received:** 24 September 2015

**Agent:** Robert Pomery Planning Consultants Ltd

**Applicant:** Mr Lee Holohan

**Development:** Erection of detached 3 bedroom dwelling and parking

**Ward:** Stanway

**Summary of Recommendation:** Refusal

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because Councilor Sykes considers the application should be referred to the Committee on the grounds of the potential impact on the street scene and the previous planning history in relation to the site. Councilor Sykes has not formed an opinion on the application.

## **2.0 Synopsis**

- 2.1 The key issues explored below are the impact of a new residential dwelling upon the street scene of Harvey Crescent and residential amenity.
- 2.2 It is explained that this application follows an earlier refusal for a similar scheme and that pre-application advice has been that this proposal is unacceptable.

## **3.0 Site Description and Context**

- 3.1 The site is a plot of land that appears to have been the garden of 39 Harvey Crescent. The site is currently open and rough grassed. To the north is the rear garden of number 39, to the east a grassed verge and the highway of Harvey Crescent. To the south is a footpath that links Harvey Crescent with Holly Road with a garage block beyond. To the west are the wooden panel fences that form the boundaries with the rear gardens of dwellings in Holly Road

## **4.0 Description of the Proposal**

- 4.1 This applications seeks planning permission for the erection of the three bedroom detached dwelling within Harvey Crescent.

## **5.0 Land Use Allocation**

- 5.1 Residential



## **6.0 Relevant Planning History**

- 6.1 The application site has been subject to two recent planning applications:  
145104 - Refused  
146304 – Refused

## **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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
UR2 - Built Design and Character  
TA5 - Parking  
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

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

- 7.4 Further to the above, 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 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Backland and Infill  
Vehicle Parking Standards  
Sustainable Construction  
The Essex Design Guide  
External Materials in New Developments  
Affordable Housing

## **8.0 Consultations**

- 8.1 ECC Highway Authority – No objection
- 8.2 Environmental Control had suggested informatives relating to Demolition and Construction and Contaminated Land.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

- 9.1 The Parish Council have raised no objections to the scheme.

## **10.0 Representations**

- 10.1 Four letters of support have been submitted in respect to this scheme.

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

- 11.1 The application provides two off road parking spaces which satisfies parking standards

## **12.0 Open Space Provisions**

- 12.1 N/A

## **13.0 Air Quality**

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

## **14.0 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### Background

- 15.1 Members are reminded that applications 145104 and 146304 were both refused. The first of these was for two apartments, the second for a three bedroom dwelling, slightly larger and pushed back further than, the proposal at hand.
- 15.2 These applications were dismissed out of hand for being entirely inappropriate, stating that it was fundamentally wrong to fill this corner site with a building.

- 15.3 Further pre-application advice was then sought on two occasions via the Council's pre-application procedure. On both occasions Your Officers advised against the proposals. The most recent of these (our reference 151242) showed an arrangement very similar to the one at hand (with some differences, such as the parking layout) and your Officers gave a firm view that:

*"I consider that the development of this site, despite being located within the defined development boundary, is unacceptable as the principle of erecting any new dwelling, regardless of its size or design would be likely to harm the character, nature and appearance of the area."*

- 15.4 The position of your Officers is, thus, crystal clear – they will not support any dwelling in this location. This position has been reached after many hours of consideration and discussion, following which it has become obvious that no satisfactory development is achievable here.

#### Design, Layout and impact on surrounding area

- 15.5 Harvey Crescent contains strong, uniform rows of terraced houses, the majority of which are of the same age, design and materials. The most noticeable dwelling that is out of character with the cul-de-sac is number 39 itself due to its being of render construction. There is, however, a strong building line within the area which all of the plots comply with. Plot sizes are also identical, all of the properties are of equal size and characterised by long narrow rear gardens. The cul-de-sac is thus characterised by traditional dwellings and their uniform, mirrored, intimate layout. Positioned adjacent to numbers 39 and 45 are deliberately undeveloped areas and these are mirrored, thus creating two corner open spaces, which penetrate the otherwise tight development pattern to give views out and a contrast to the sense of enclosure which is created by the dwellings.
- 15.6 The application site concerns the open space adjacent to number 39. Although the proposed two storey dwelling appears to be fairly modest in size, the proposed dwelling and hardstanding would fill a large part of the site adjacent to the boundary and behind the strong building line. In addition, the proposed dwelling relates poorly to the traditional terraced houses and would appear alien to the character and layout of Harvey Crescent. The design of the detached dwelling would appear incongruous in the context of the traditional design so characteristic of the area. The proposal is thus contrary to Policy DP1: Design and Amenity (i) which requires new development to respect and enhance the character of the site, its context and surroundings and this is also reflected within the NPPF which requires development to have a strong sense of place. Furthermore, the Council's adopted Supplementary Planning Document (SPD) 'Backland and Infill' states that 'all infill development should reflect the character of the surrounding area and protect the amenity of neighbours. It should reinforce the uniformity of the street by reflecting the scale, mass, height, form, materials, fenestration and architectural details of its neighbours.' This is important in re-enforcing local character and ensuring the context of the street scene is not adversely affected.'

- 15.7 The SPD goes on to state that 'the proposed building plot(s) should be of similar dimensions in size and shape to the existing plots in the immediate locality. Proposals that would lead to over-development of a site or the appearance of cramming will be resisted.' Furthermore, the SPD sets out that 'the layout should create a sense of place and integrate well with existing development. The site layout should reflect the original development of the area.' This is particularly important in older established residential areas where there is a uniform plot layout and street scene.' Policy UR2 of the Colchester Core Strategy and Policy DP1 of the Development Policies seek, amongst other things, to ensure development is of a high quality, relates well to its surrounding context and enhances the character of an area. In these respects they are consistent with the NPPF.
- 15.8 In this instance, the land adjacent to number 39 Harvey Crescent, as it is proposed, would result in a contrived plot which would be out of character with the shape and form of the plots surrounding the site. Based on the information submitted, it is demonstrated that a minimum of 100 square metres of private rear amenity space can be provided. However the resulting plot creates an out of keeping addition and a large portion of land would be used as hardstanding to accommodate sufficient parking. As such it is questioned if the resulting amenity space could be used effectively as a rear garden for any future occupiers. As a result of the limited size and awkward shape of the resulting plot, the provision of a two storey dwelling on this plot would result in a visually cramped appearance which is considered to lead to overdevelopment of this site.
- 15.9 Emphasis on landscaping has been submitted by the agent, but only a small amount of front garden space is realistically workable on site. One metre is required to plant and grow a hedge and some of the illustrated hedges within the coloured site plan are proposed within less than one metre. In addition, the tree illustrated on the front elevation would in reality create serious implications for the proposed parking and therefore it is much more realistic to assume that the frontage, and boundary treatments would be of concrete.
- 15.10 It is argued that the erection of a dwelling would be better use of the land rather than it currently stands. The erection of a dwelling would create a dominance of car parking to the front of the site in order to tick the boxes for park parking standards. There are many other avenues which could be explored in order to create a more pleasant corner, as the other corners of this cul-de-sac have achieved. The erection of a dwelling would create paraphernalia such as bins, cars, storage sheds, washing lines and so on rather than the landscaping which is suggested above, which is in any case unworkable and does not outweigh the harm of the proposal. Although the proposals include a very small area of landscaping to the front of the site, it is not consider that any scheme of landscaping would reduce the harm caused by a dwelling.
- 15.11 Consequently, the proposed house would not be well related to existing dwellings or the pattern of development. Furthermore, although the dwelling would neither be prominent in the street-scene, nor would it be hidden from public view, it would be seen through gaps between the existing houses, including along the proposed access, and would also be evident from Harvey Crescent and the public footpath to the site boundary. The proposal would appear incongruous and at odds with the surrounding area.

- 15.12 On the basis of the above, it is considered that the development of this site, despite being located within the defined development boundary, is unacceptable as the principle of erecting any new dwelling, regardless of its size or design would be likely to harm the character, nature and appearance of the area.

#### Impact on residential amenity

- 15.13 The proposal would not overshadow any neighbouring windows although part of the rear garden of number 39 would be overshadowed. However, this would not be the garden closest to the existing rear elevation and so on balance would not be detrimental to amenity. The only windows that could overlook are the rear elevation rooflights. These are shown to have a cill height of 1.8 metres, so in theory there would be no overlooking. However, given the close proximity to the rear gardens (6 metres) of numbers 80 and 82 Holly Road, these may well experience the perception of overlooking from the rear gardens – where there is a greater expectation of privacy.

### **16.0 Conclusion**

- 16.1 It is considered that the development of this site, despite being located within the defined development boundary, is unacceptable as the principle of erecting any new dwelling, regardless of its size or design would be likely to harm the character, nature and appearance of the area.

### **17.0 Recommendation**

- 17.1 REFUSE planning permission for the reasons set out below.

#### **1 - Non-Standard Refusal Reason**

The National Planning Policy Framework (NPPF) requires that developments '...establish a strong sense of place (and) are visually attractive as a result of good Architecture and appropriate landscaping'. It goes on to state that '...permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area'. The National Planning Practice Guidance states 'Good quality design is an integral part of sustainable development' and goes on to state 'Local planning authorities are required to take design into consideration and should refuse permission for development of poor design'. These objectives are reflected in Colchester Borough Council's Local Development Framework, through Policy UR2 of the Core Strategy (December 2008 as revised 2014), and Policy DP1 of the Development Policies (October 2010) all of which require a high standard of design, an appropriate architectural approach and an enhancement in the character of an area. In this instance, Harvey Crescent contains strong, uniform rows of terraced houses, the majority of which are of the same age, design and materials. The most noticeable dwelling that is out of character with the cul-de-sac is number. 39 itself due it being of render construction, however there is a strong building line within the area which all of the plots comply with. Plot sizes are also identical, all of the properties are of equal size and characterised by long narrow rear gardens. The cul- de-sac is thus characterised by traditional dwellings and their uniform, mirrored, intimate layout. Positioned adjacent to numbers 39 and 45 are deliberately undeveloped areas and these are mirrored, thus creating two corner open spaces, which penetrate the otherwise tight development pattern to give views out and a contrast to the sense of enclosure which is created by the dwellings. The application site concerns the open space adjacent to number 39. Although the proposed two storey dwelling appears to be fairly modest in size, the

proposed dwelling and hardstanding would fill a large part of the site adjacent to the boundary and behind the strong building line. In addition, the proposed dwelling relates poorly to the traditional terraced houses and would appear alien to the character and layout of Harvey Crescent. The resulting proposed house would not be well related to existing dwellings or the pattern of development. Furthermore, although the dwelling would neither be prominent in the street scene, nor hidden from public view, it would be seen through gaps between the existing houses, from the public realm, including along the proposed access, and would also be evident from Harvey Crescent and the public footpath to the site boundary.

It is considered that the development of this site, despite being located within the defined development boundary, is unacceptable as the principle of erecting any new dwelling, regardless of its size or design would be likely to harm the character, nature and appearance of the area.

## **19.0 Positivity Statement**

- 19.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development through its Preliminary Enquiry service (please refer to the Council's website for details).



**Application No:** 151831

**Location:** 48a William Harris Way, Colchester, CO2 8WJ

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

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**7.4 Case Officer: Eleanor Moss**

**Due Date: 06/11/2015**

**OTHER**

**Site:** 48a William Harris Way, Colchester, CO2 8WJ

**Application No:** 151831

**Date Received:** 3 September 2015

**Applicant:** Mr S Gecin

**Development:** Use of premises as restaurant & takeaway (A3/A5) & installation of associated kitchen extract system and external ducting with brick effect cladding - on the rear elevation of the building.

**Ward:** Berechurch

**Summary of Recommendation:** Conditional Approval

### **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it was called in by Councilor Harris due to the impact the scheme will have on neighboring amenity in terms of noise, odour and disturbance.

### **2.0 Synopsis**

- 2.1 The key issues explored below are the impact the scheme will have on the surrounding area in terms of design.
- 2.2 The recent appeal dismissal on the grounds of visual amenity is referred to and the improved design is described.
- 2.3 This is held to be acceptable and approval is recommended.

### **3.0 Site Description and Context**

- 3.1 The site is a vacant and boarded up commercial unit in the central mixed use section of a modern housing estate. There are three floors of flats above and a convenience store next door. To the rear is a parking court, bike store and bins for the flats. Three large stair cores protrude from the rear elevation. Windows, serving the flats and communal stair ways are located on this elevation also.
- 3.2 In front of the unit is an attractive area of public realm. A children's nursery, a barber's, a tanning salon and another small vacant unit also front this area. There are 13 short term parking bays (two of which are disabled parking bays), seating and planting. This area is the focal point of the mixed use development.



## **4.0 Description of the Proposal**

- 4.1 The change of use to an A3/A5 restaurant and take-away mix is proposed. The agent has estimated that due to the relatively large floor area the mix will be 80 per cent restaurant and 20 per cent take away. A new shop front is proposed. An internal extraction system with carbon filtration and an external metal flue clad in brick effect to match the existing structure is also proposed.

## **5.0 Land Use Allocation**

- 5.1 The site is located in a Neighbourhood Centre as allocated in the Local Development Framework Proposals Maps (October 2010).

## **6.0 Relevant Planning History**

- 6.1 The unit was granted consent as part of the wider Garrison Masterplan estate permission O/COL/01/0009 in June 2003 and the reserved matters were approved via application RM/COL/04/1871 in January 2005. This scheme does not appear to have been implemented. Following this the reserved matters were approved again in March 2006 under reference RM/COL/05/2071 and this permission does appear to have been implemented.
- 6.2 This application has previously been determined at Planning Committee on 8/11/2014 under application 145607. The application was refused by Committee for the following reasons:

*Proposing the change of use of this ground floor retail unit to an A3/A5 mix has necessitated a large external flue on the rear elevation that runs from the ground floor up past three floors of flats and then on to one metre above eaves level. The scale of the flue, along with the inherently industrial design will create an element that will become a dominant feature of the rear elevation. The flue measures 400mm square and is proposed to be wrapped in a mineral wool lagging which will be held in place by a light metal mesh and plastic straps. This will create an uncompromisingly industrial addition to the rear of the building. This issue is exacerbated as the elevation on which the flue is proposed has a great degree of public visibility from the well used parking court to the rear of the block that also houses the bike store and the bin store for the flats.*

It is worth noting that the proposal was refused on design grounds alone.

- 6.3 Subsequently, the refusal was appealed and dismissed at appeal for the following reason:

*Given the resulting industrial and utilitarian appearance I consider the proposed flue would be of an unacceptable design given its location on an elevation that, whilst to the rear, acts as the main entrance to the properties and faces an area that is well used by residents.*

- 6.4 Below is an excerpt from the appeal decision relating to other matters. Other matters includes the noise, smell and disturbance of the proposal.

*Interested parties have raised a number of concerns. Those relating to the flue have been taken into account in the main issue above. Other concerns relate to noise, disturbance, smell, parking and waste storage. The property is located within a small parade which includes a small supermarket that opens late into the evening. Provided the opening times of the proposed use are similar I do not consider the proposed change of use would cause noise and disturbance that would justify dismissing the appeal. There are a number of parking spaces in front of the parade for visitors which would provide adequate parking for customers. **Subject to adequate maintenance the flue should not give rise to noise or smell and the Council has not raised concerns regarding waste storage provision. In the circumstances I see no reason to object to the principle of the proposed change of use.***

## 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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
CE2c - Local Centres  
CE3 - Employment Zones  
UR2 - Built Design and Character  
TA5 - Parking

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity  
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses  
DP7 Local Centres and Individual Shops  
DP17 Accessibility and Access  
DP19 Parking Standards

- 7.4 Further to the above, 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 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Vehicle Parking Standards  
Shopfront Design Guide

## **8.0 Consultations**

8.1 Environmental Services – No objection subject to conditions (which will be imposed)

8.2 ECC Highway Authority – No objection

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

9.1 Non-parished

## **10.0 Representations**

10.1 At the time of writing, nine objections had been received, in summary objections to the scheme have been raised on the following grounds:

1. The proposal would blight the properties above as due to the stricter lending criteria from the majority of high street mortgage lenders, they will not give a standard mortgage with a takeaway/restaurant below. Owners would lose equity and decrease property value.
2. The application has been refused and heavily objected from the council and local residents. This should enforce a precedent on any future applications of this nature.
3. The bins within the communal area are already overflowing
4. The use will introduce more vermin into the area
5. The use will cause parking problems from the customers, staff and deliveries
6. The scheme will be a fire risk
7. The use will create disruption within the area
8. The extraction and filtration is insufficient and not fit for purpose
9. The scheme is an eye sore
10. The use will cause smells, noise and vibration from the extraction system.
11. The use will encourage people to congregate outside the premises
12. The applicant is proposing to attach this flue on the stair core of the entrance to three flats part of the building not owned by them
13. When we bought our dwellings we did not expect an A3 or A5 use in this unit

The full text of all of the representations received is available to view on the Council's website.

In response:

1. The impact this scheme will have on property value or the saleability of a property is not a planning consideration.

2. This application has previously been refused on design grounds alone, which will be discussed further in the report. Applications for planning permission or change of use may come in at any time and each application will be considered on its own merits.
3. The commercial bin (measuring 1 metre x 1.27 metres x 1.38 metres) will be stored in or next to the communal bin store that was provided on site for the entire block – the flats and the commercial units. This is considered to be an acceptable solution. The fact the existing bins are sometimes overflowing is not relevant as the unit will have its own commercial bin which will be emptied by commercial waste contractors – possibly the Council in this instance.
- 4 and 10 - The Environmental Services Team has assessed the detail of the scheme and is satisfied with the findings. On the basis of the technical specifications they do not have reason to object to the scheme.
5. Parking will be discussed within this report (under heading 11.0 Parking Provision)
6. It is not considered that this scheme poses a materially greater fire risk than an equivalent A3 use. Restaurants and hot food take-aways are often located below residential properties and there are a number of examples of similar situations across the Borough. To refuse the scheme because restaurants/take-aways are a perceived fire risk to residential properties above would therefore be unreasonable. There is no evidence to suggest that this scheme will cause materially harmful warming of the flats above.
7. To be discussed further in the report
8. To be discussed further in the report
9. To be discussed further in the report
- 11 To be discussed further in the report
- 12.This is a civil matter rather than a planning consideration
- 13.Residents appear to have been promised at the point of sale that the unit is to be an (A1) retail use only. The vendor may have meant that the approved use on site was A1 retail. If the vendors said the unit will only ever be A1 that is unfortunate as it would mean that the residents would have been made promises over possible uses that the vendor had no control over. Regardless of an approved use, applications for changes of use can be made at any time and must be assessed on their own merits in line with national and local adopted policy.

## **11.0 Parking Provision**

- 11.1 This scheme will generate a demand for short term parking. However the adopted standards do not require any minimum parking provision and therefore this scheme complies with the adopted parking standards. This section of the estate has short term parking spaces in bays located directly outside the unit.

- 11.2 The Highway Authority has also stated that staff will park in the spaces to the rear. This is not the case. This was brought to the attention of the Highway Authority but it does not want to change its recommendation. The site is sustainably located a short walk from a bus stop and from other residential areas therefore there is a good chance staff will not have a car. However if the staff do drive they will have to park in non-controlled sections of the highway. This situation will be the same as with any commercial use, for example A1 retail.
- 11.3 Residents are concerned that customers will find the short term spaces full and will use the parking court to the rear. The Council cannot control customers parking in spaces that customers have no right to park in. However in this instance it is considered that there are sufficient short term parking spaces (13 in total, two of which are disabled bays) in front of the unit to limit this possibility to within tolerable levels.
- 11.4 Therefore a refusal on parking grounds is not warranted, nor was this raised as a previous determination for refusal by the Council or Appeal Inspector.

## **12.0 Open Space Provisions**

- 12.1 No issues in this regard

## **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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### Principle of Development

- 15.1 The original permission for the site (reserved matters application RM/COL/05/2071) granted A1 use for these units under condition 19. No conditions were imposed to restrict the opening hours of the use.
- 15.2 Policy DP7: Local Centres is relevant to this scheme. It requires development to a) meet the needs of residents within the neighbourhood development and b) requires that a proposal would not reduce the number of A1 retail units in any retail centre to below 50 per cent of the units used for commercial purposes.
- 15.3 With regards to a) this scheme is designed to meet the needs of the residents of the neighbourhood and also the wider area.

- 15.4 With regards to criterion b) the policy test is met. The day nursery forms part of the original permission for the estate layout. Out of the five ground floor units one is a convenience store, one is a tanning salon, one is a barber's and two are vacant. The store, the barber's and the other vacant unit are A1. The tanning beauty salon has the character of an A1 use but is sometimes held to be a *sui generis* use. Either way, this proposal would not take the number of non-A1 units below 50 per cent.
- 15.5 The Policy Team is comfortable with the scheme in policy terms and accepts that the multipurpose convenience store directly next door reduces the likelihood of another A1 use being viable in this unit.
- 15.6 In terms of marketing, the application has supplied details demonstrating how the unit has been marketed. It was advertised as an A1 unit. The particulars mention the possibility of other uses but are clear that applicants would need to check regarding consents first. Therefore the unit has not been marketed as an A3/A5 use. The estate agent has confirmed that there have been 13 accompanied viewings and also suspects that a number of interested parties have visited the site unaccompanied. They have had interest from three different parties, all of which drew up heads of terms for an A3/A5 use. There does not appear to be interest in an A1 use in this site and no representations have been received from anyone suggesting they wish to open a retail use in this unit.
- 15.7 The NPPF and the development plan is supportive of economic development such as this and is especially supportive of schemes that provide new jobs, four of which will be created.
- 15.8 As mentioned above, the Appeal Inspector had no objections to the scheme in terms of principle.

#### Design and Layout

- 15.9 Although for a change of use, this scheme also involves the installation of a new shop front. The shop front proposed is simple and contemporary in design and is similar to that used next door at the existing convenience store. In this context the proposed new shop front is acceptable.
- 15.10 This scheme proposes a large flue. It takes the shape of a square metal tube that is 400mm square. It would exit the unit to the rear at ground floor level, run along the rear elevation at ground floor level and then run up the side of the existing stair block. It would terminate one metre above the eaves of the building. As an amendment from the previous scheme, the proposal would utilise brick effect cladding to the outside of the proposed flue which would match the existing brick on site in terms of colour and size. Effectively the proposed flue would appear as a harmonious addition to the rear, rather than as a utilitarian addition.

- 15.11 Whilst the proposed flue would be visible from the private parking court to the rear, it has been sited in a position that is as tucked away as possible. The front of the flats is attractively designed with a great deal of detail, modelling and variation in materials that break up the mass of the building. However the rear elevation of the large block of flats is of no particular architectural sensitivity and is not publicly prominent. It is dominated by three large protruding stair cores that serve the flats. As the stair cores project out and the proposed flue would be situated in a corner close to the junction of the central stair core and the rear elevation, the flue would therefore be read (in visual terms) as an matching addition and would not be visually prominent when viewed from the public realm. In this context, it would not be overly dominant and would not have a materially harmful impact on the composition of the rear elevation. There does not appear to be any way in which the flue could be internalised. It has therefore been positioned in as sensitive a position as is possible. On balance it is considered to be acceptable in design terms.
- 15.12 In terms of the appeal decision, effectively all other considerations such as noise, smell, principle and disturbance were not considered to be materially harmful. The appeal decision was based on design terms alone. It is considered that this proposal has moved on significantly since the previous submission and therefore the design is considered to be acceptable.

#### Impact on the Surrounding Area

- 15.13 Unlike some other purely residential sections of this recently built estate, the site is located in the mixed used section with residential uses located over ground floor commercial units. The unit in question is currently vacant and therefore is still boarded up from when it was built. Empty units such as this have a negative impact on the street-scene. Unlike the small vacant unit opposite, this unit is very prominent in the street-scene due to its position and size. The boarded up nature of the unit does not create the vitality that was planned when this mixed used section of the estate layout was designed. It is therefore considered that this scheme will have a positive impact on the surrounding area by introducing an active frontage that is missing currently.

#### Impact on Neighbouring Amenity

- 15.14 Intensifying the use from a vacant unit to an A3/A5 restaurant and take-away will have an inevitable impact on neighbouring amenity, however it is worth noting that the appeal decision did not consider that the proposed flue could give rise to increased levels of noise or disturbance subject to regular maintenance. Copied below is the paragraph from the appeal decision which discusses matters of noise, smell, disturbance and parking.
- 15.15 *'Interested parties have raised a number of concerns. Those relating to the flue have been taken into account in the main issue above. Other concerns relate to noise, disturbance, smell, parking and waste storage. The property is located within a small parade which includes a small supermarket that opens late into the evening. Provided the opening times of the proposed use are similar I do not consider the proposed change of use would cause noise and disturbance that would justify dismissing the appeal. There are a number of parking spaces in front of the parade for visitors which would provide adequate parking for customers. Subject to adequate maintenance the flue should not give rise to noise or smell and the Council has not raised concerns*

*regarding waste storage provision. In the circumstances I see no reason to object to the principle of the proposed change of use but this does not outweigh the harm I have identified above.'*

- 15.16 Discussions with the Agent have confirmed that the proposed cladding system would not impact upon the ability to effectively maintain and clean the proposed flue as seamless access hatches would be provided. In addition, the Environmental Protection team has been consulted and raised no objection to the proposal.
- 15.17 Therefore it is considered that the quality of the extraction system and flue is sufficient and therefore it is felt that a refusal on the basis of odour, noise or vibration would not be sustainable at appeal.
- 15.18 Set against the current vacant situation, the scheme would cause intensification in noise and disturbance to residential neighbours. It is accepted that restaurant/take-aways, and in particular the take-away element, can cause noise and disturbance beyond that which one would expect from a retail unit for example. They can generate a large number of comings and goings, particularly in the evening when nearby residents are at home and expect to be able to relax.
- 15.19 Notwithstanding the neighbours' objections which have been carefully considered, it is not considered that this use will cause a level of noise and disturbance that would be materially harmful to the point of warranting a refusal of this scheme. The following hours of opening are to be conditioned:

Weekdays: 08:00-21:30

Saturdays: 08:30-21:30

Sundays and Public Holidays: 10:00-21:30

These proposed opening times have not resulted in an objection from Environmental Protection. This is considered to be a marked improvement on the approved A1 permission which has no conditions relating to its opening hours.

#### Highways

- 15.20 Essex County Council has no objections to the scheme on highways grounds. Parking has been dealt with in the relevant section above.

#### Economic Development

- 15.21 As this scheme comprises economic development and proposes four full time jobs it will make a small but useful contribution to the jobs market. It therefore accords with the economic development sentiments of the NPPF.

#### Access for All

- 15.22 The unit has a level entrance with a proposed internal ramp to finished floor level and therefore will be accessible for those in wheelchairs.



## **16.0 Conclusion**

- 16.1 This change of use to a mixed A3/A5 restaurant/takeaway would have an impact on neighbouring amenity but that impact is considered to be within tolerable levels. Members are only able to consider this application on design grounds alone due to the previous appeal decision which has been raised within this report. The flue would be to the rear, would harmonise with the existing brick on site and has been sited in a position where it is as tucked away as possible. Therefore it is considered that the proposal is acceptable in terms of design and the proposal would not sustain a refusal at appeal. This scheme would bring a commercial unit that has been vacant since it was built into use and would also provide employment. Therefore, on balance, the scheme complies with the Development Plan and the NPPF and an approval is warranted.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions

## **18.0 Conditions**

### **1 - 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 - \*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 TD01, TD03, TD04, TD05, TD06, TD07, TD08 TD09 and TD10 dated August 2015 and TD11 dated October 2015, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

### **3 - Food Premises (Control of Fumes and Odours)**

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. The duct termination must be designed to achieve a vertical efflux velocity of 15 m/s. More information will need to be provided to the Local Planning Authority prior to first use to demonstrate how this can be improved to achieve this. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order. Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

#### 4 - Non-Standard Condition/Reason

No food may be prepared or cooked on the premises without the grease/odour system being in use. No food may be prepared or cooked on the premises unless the grease/odour system is serviced and maintained in line with the manufacturer's details.

Reason: To ensure that the extracting system is used when food is being prepared and cooked and to ensure the system is correctly maintained to ensure scheme does not cause material harm to neighboring amenity in terms of odour.

#### 5 - \*Restriction of Hours of Operation

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

8am to 9.30pm Monday to Friday with the (A5) Hot Food Takeaway element not opening until 10am but closing at 9.30pm;

9am to 9.30pm on Saturdays with the (A5) Hot Food Takeaway element opening not opening until 10am but closing at 9.30pm;

10am to 9.30pm on Sundays and Bank Holidays with the (A5) Hot Food Takeaway element not opening until 11am but closing at 9.30pm.

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.

#### 6 - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

#### 7 -Litter

Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order.

Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment where the application lacks sufficient information.

## 8 - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions. Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

## 9 - Self-Closing Doors

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

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.

## 19.0 Informatives

### (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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

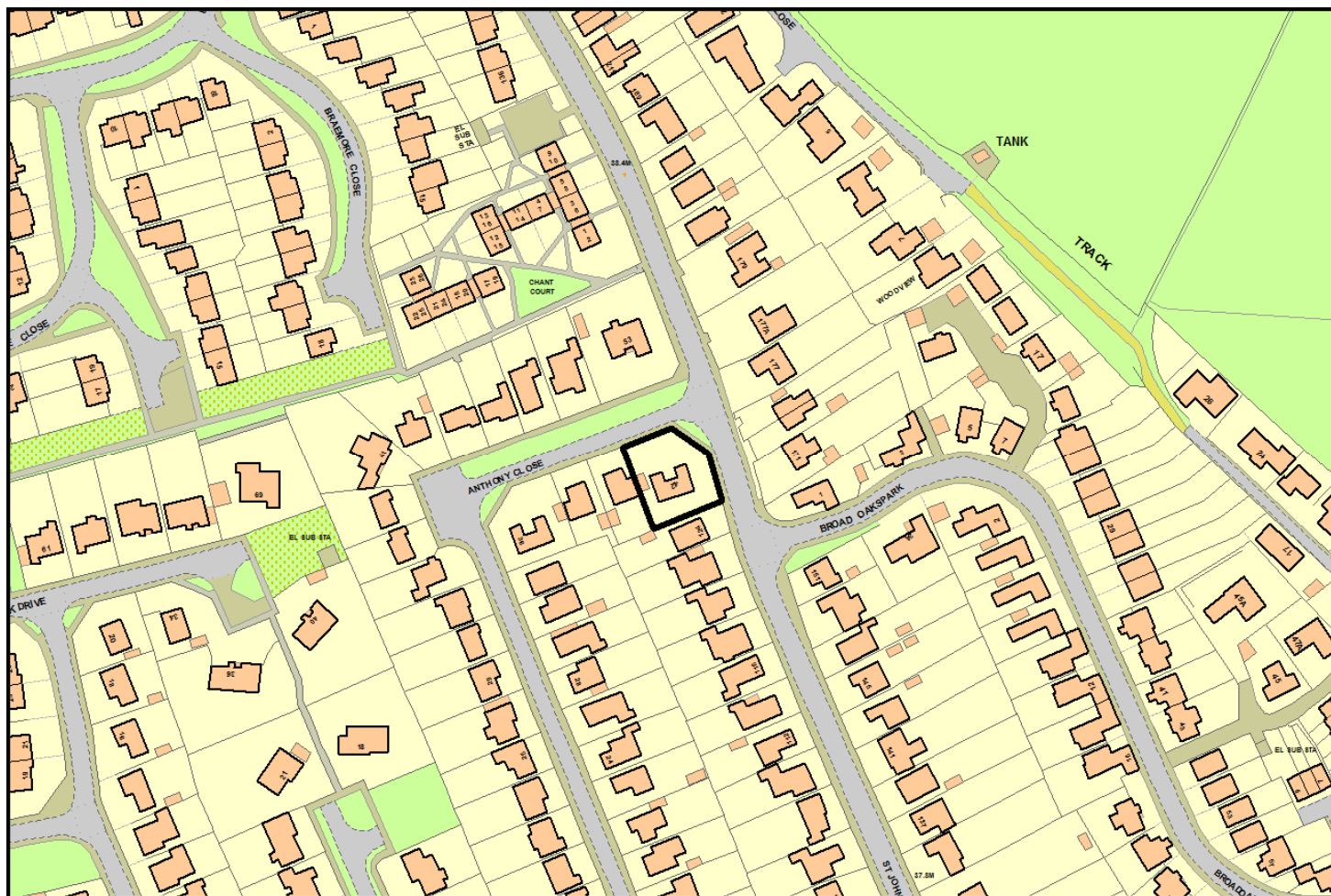
### (3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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. Please pay particular attention to these requirements.

## 20.0 Positivity Statement

20.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.





**Application No:** 152062

**Location:** 42 Anthony Close, Colchester, CO4 0LD

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

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**7.5 Case Officer: James Ryan    Due Date: 17/11/2015**

## **HOUSEHOLDER**

**Site:**                    **42 Anthony Close, Colchester, CO4 0LD**

**Application No:**   **152062**

**Date Received:**   22 September 2015

**Agent:**                Mr Peter Tyler

**Applicant:**           Mr Christopher Lee

**Development:**      Infill front extension and rear extension

**Ward:**                 St Johns

**Summary of Recommendation:** Conditional Approval

### **1.0    Reason for Referral to the Planning Committee**

- 1.1    This application is referred to the Planning Committee because the agent works for the Council on a consultancy basis.

### **2.0    Synopsis**

- 2.1    The key issues explored below are the design of the proposal and its impact on the amenity of the neighbours. Both are considered to be acceptable and therefore an approval is warranted.

### **3.0    Site Description and Context**

- 3.1    The site is located within the predominantly residential area of St Johns. The site faces Anthony Close and sides on to St Johns Road. The garden is relatively shallow but the bungalow benefits from a side garden amenity area that is useable as it sits behind a three metre high hedge. The bungalow is a C-shape in plan.

### **4.0    Description of the Proposal**

- 4.1    The infilling of the 'cut out' element on the front is proposed along with a rear extension.

### **5.0    Land Use Allocation**

- 5.1    The site is located within the defined settlement limits where development such as this is acceptable in principle.

### **6.0    Relevant Planning History**

- 6.1    N/A

## **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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

7.4 Further to the above, 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 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Extending Your House?

The Essex Design Guide

External Materials in New Developments

## **8.0 Consultations**

8.1 None received.

## **9.0 Parish Council Response**

9.1 The area is non-parished.

## **10.0 Representations**

10.1 None received.

## **11.0 Parking Provision**

11.1 This scheme will not impact upon the on-site parking provision.

## **12.0 Open Space Provisions**

- 12.1 This scheme raises no issues in terms of open space.

## **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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### Design and Layout

- 15.1 The design of the proposal is entirely in keeping with the design of the existing dwelling. Infilling the ‘cut-out’ section on the front elevation will provide more internal space without pulling built form forward of the majority of the front elevation.
- 15.2 The rear element is a simple rear extension with a pitched roof. It has very limited public visibility. It is therefore acceptable.

### Scale, Height and Massing

- 15.3 The front and rear extensions are acceptable in this regard.

### Impact on the Surrounding Area

- 15.4 The scheme will have a neutral impact on the street scene and is therefore acceptable in that regard.

### Impacts on Neighbouring Properties

- 15.5 The front extension will have no material impact on the neighbours.
- 15.6 With regards to the rear extension, it is considered that the proposed development would not appear overbearing on the outlook of neighbours.
- 15.7 Similarly, there are no concerns regarding loss of light. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD.



- 15.8 As a single-storey addition, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD.

#### Amenity Provisions

- 15.9 This scheme allows the retention of ample useable amenity space and the side garden area that sits behind the hedge also contributes to this. The scheme is therefore acceptable in that regard.

#### Highway Issues

- 15.10 This scheme raises no highway issues.

#### Other Matters

- 15.11 This scheme does not raise any other issues.

### **16.0 Conclusion**

- 16.1 This modest scheme is only before Members as the applicant's agent works for the Council on an ad-hoc consultancy basis. The scheme is acceptable in design terms and raises no issues in terms of its impact on amenity. An approval is warranted.

### **17.0 Recommendation**

- 17.1. APPROVE subject to the following conditions

### **18.0 Conditions**

#### **1 - 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 - \*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 595-01, 595-04 and 595-05 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

#### **3 - Materials to Match**

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

## **19.0 Informatives**

### **(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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

## **20.0 Positivity Statement**

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