

Planning Committee Meeting

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

Thursday, 17 January 2019 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

Audio Recording, Mobile phones and other devices

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

Access

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

Facilities

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 17 January 2019 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Helen Chuah	Nick Cope
Simon Crow	Robert Davidson	Paul Dundas	John Elliott
Andrew Ellis	Adam Fox	Dave Harris	Darius Laws
Mike Lilley	Sue Lissimore	Patricia Moore	Beverley Oxford
Gerard Oxford	Lee Scordis	Lesley Scott-Boutell	Martyn Warnes
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 6 are normally dealt with briefly.

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

6 Minutes of 13 December 2018

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The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 13 December 2018.

7 Planning Applications

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

7.1 182523 Part side garden, 10 Ernest Road, Wivenhoe, Colchester

13 - 26

Erection of a detached bungalow with associated parking facilities.

7.2 182038 Langham Cottage, 9 High Street, Langham, Colchester

27 - 38

Change of use of annex to single dwellinghouse.

7.3 182499 14 Trafalgar Road, Colchester

39 - 46

Proposed single storey rear extension.

7.4 182151, 182155, 182178, 182181, 182192 and 182275 Bromley Road, Colchester, Horkesley Road, Boxted, Harwich Road, Colchester, Clingoe Hill, Colchester, Cymbeline Way, Colchester and Via Urbis Romanae, Colchester

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'Welcome to Colchester' signs

Planning Committee Information Pages v2

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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, 13 December 2018

Attendees: Councillor Vic Flores, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford

Substitutes: Councillor Lesley Scott-Boutell (for Councillor Lyn Barton), Councillor Tim Young (for Councillor Chris Pearson)

Also Present:

644 Site Visits

Councillors Hazell, Higgins, Jarvis, Liddy, Loveland and Maclean attended the site visits.

645 Planning Committee Minutes 8 November 2018

The minutes of the meeting held on 8 November 2018 were confirmed as a correct record.

646 181309 Land to north of Elmstead Road/East of Swan Close, Wivenhoe, Colchester

Councillor Higgins (in respect of her spouse's employment by the University of Essex) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 9(5).

The Committee considered an application for the development consisting of 135 bed space Student Accommodation within five terraces of Town Houses and a Studio Block, complete with Car and cycle parking and Bin Store at land to the north of Elmstead Road/East of Swan Close, Wivenhoe, Colchester. The application had been referred to the Committee because it required a Section 106 agreement and because it constituted a major development where objections have been received. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

RESOLVED (UNANIMOUSLY) that, subject to any amendments, further information, and/or conditions required by Essex County Council in respect of Surface Water Drainage and an agreement with the Agent/Applicant to the pre-commencement conditions under the Town and Country Planning (Pre-commencement Conditions)

Regulations 2018 and delegated authority to make changes to the wording of these conditions as necessary, –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Membership of the Colchester Travel Plan Club for 10 years;
- The development to be for student residences only;
- A tenancy agreement to control cars being brought to the site and the surrounding area;
- A financial contribution to mitigate any recreational impact in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS).

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise be authorised to complete the agreement.

647 182217 Essex and Suffolk Gliding Club, Wormingford Airfield, Fordham Road, Wormingford, Colchester

The Committee considered an application for the use of Touring Motor Gliders (TMG). All other existing uses to remain the same. This application is for permanent consent following temporary consent given on Application Ref 150972 at Essex and Suffolk Gliding Club, Wormingford Airfield, Fordham Road, Wormingford, Colchester. The application had been referred to the Committee because it constituted a major development where objections had been received. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

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

648 181907 Avon Way House, Avon Way, Colchester

Councillor Higgins (in respect of her spouse's employment by the University of Essex) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 9(5).

Councillor T. Young (in respect of his attendance as a ward councillor at meetings

with the applicants and, accordingly, his potential pre-determination of the matter) declared an interest pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination immediately after he had made representations as a visiting ward councillor.

The Committee considered an application for the erection of five new accommodation blocks to provide for an additional 152 student bedrooms, a shared student communal lounge with staff offices and associated facilities, demolition of bungalow, with associated parking, landscaping, and boundary treatment at Avon Way House, Avon Way, Colchester. The application had been referred to the Committee because it was a major application where material planning objections had been received and where a legal agreement was proposed. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

James Ryan, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Simon Talbot addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the application was not a speculative development but had been submitted by a local business which intended to operate the site. The application was part of a ten year strategy for the site which had been built in the 1970s by the University of Essex. The whole of the site would be upgraded, bringing blended forms of accommodation, creating more of a student village which would improve the manageability of the site in what was already recognised as a quiet place to study. It would bring the number of students to 406 with 4.5k sq. ft. of facilities. Their philosophy was to engage with students and young adults and the intention was to address mental health issues which was an important factor for the business and the members of staff.

Councillor T. Young attended and, with the consent of the Chairman, addressed the Committee. He supported the application and confirmed that the applicants had been in discussion with the ward councillors over a number of aspects with the scheme as a result of which a number of suggestions had been taken on board by the applicants. These included security of the site in the form of lockable gates. He welcomed the introduction of the Hub within the development which he considered would be an attractive feature at an affordable cost. He considered the proposed parking provision to be adequate, including space for community vehicles. He confirmed that the site had not benefitted from investment in the past and improvements to the buildings were welcomed as well as the provision for Pickford Walk to not be overlooked and for the bungalow to be demolished as part of the proposals. He was of the view that the applicants had agreed to include sprinklers in the scheme and queried why this had been omitted from the report, given this important fire safety issue. He referred to Block E and was aware that the applicants had endeavoured to include all the requirements of

the urban designer and he welcomed the green wall solution as an improvement to the dated appearance of the Block. He acknowledged the applicant's intention to deliver a community environment and the responsibility they held towards the student residents. He also confirmed that the ward councillors had received no direct complaints about parking associated with the site from neighbouring local residents. He encouraged the Committee members to support the recommendation contained in the officer's report.

The Principal Planning Officer confirmed, in terms of access to the site, that there was reasonable permeability for the students around the site. He considered that this that this could be accommodated by means of an amendment to the proposed boundary treatment condition. He also acknowledged that the applicants had confirmed that sprinklers would be provided within the development and that this could be dealt with by means of an additional condition.

Members of the Committee welcomed the investment in the site and the improvements to the accommodation. Reference was made to the potential for more vibrant colours to be used when redecoration of the doors was planned, as well as the provision of electric charging points for cycles and mobility scooters for residents with disabilities in order to encourage a greater take up of alternative methods of transport. Support was expressed for the inclusion of sprinklers within the development whilst clarification was sought in relation to recycling provision on site and whether there was any evidence of supply and demand to support the number of applications for student accommodation recently considered by the Committee.

The Principal Planning Officer confirmed that the provision of electric cycle and mobility scooter parking and charging points could be accommodated by means of the amendment of proposed condition 13 which referred to covered cycle parking provision and the scheme would include the provision of new recycling facilities and he considered that it would be appropriate to accommodate more vibrant colours during the process of redecoration by means of the addition of an informative.

The Development Manager confirmed that the University of Essex was planning very significant growth whilst it currently guaranteed accommodation for first year students only. He confirmed that there was potential for growth in student numbers at the University and at other tertiary education facilities such that there would be adequate capacity to absorb the student bed spaces proposed. He was also aware that the University itself was planning an expansion of accommodation provision on campus which illustrated a demonstrable demand for further bed spaces. He was of the view that this was likely to lead to the freeing up of accommodation currently used by students for availability on the open market. He also considered purpose built accommodation for students was more suitable for students and better managed than private rental properties in established residential areas.

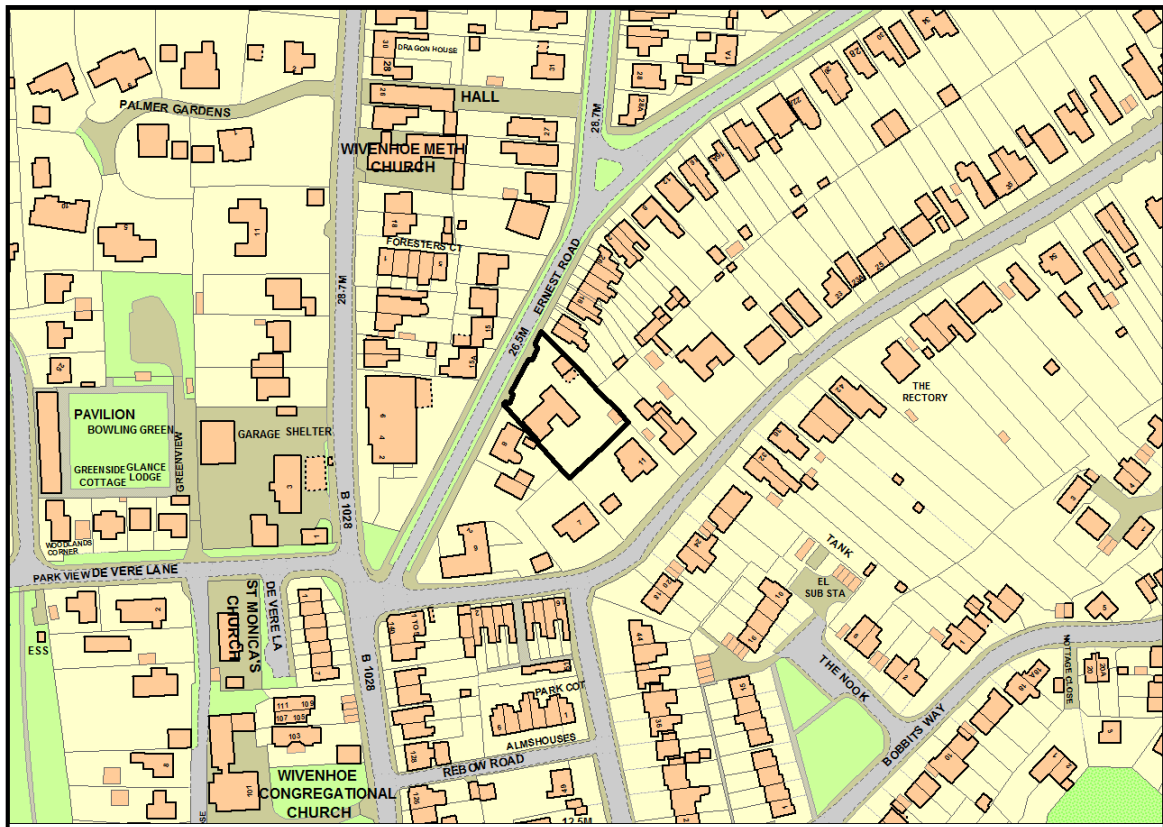
RESOLVED (UNANIMOUSLY) that, subject to an agreement with the Agent/Applicant to

the pre-commencement conditions under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and delegated authority to make changes to the wording of these conditions as necessary, as well as an amendment to proposed condition 13 to provide for electric bike charging points and the provision for mobility scooters; an amendment to the proposed boundary treatment condition to secure the provision of gates at two new access points at Salary Brook; an additional condition to secure the provision of sprinklers and an additional informative seeking redecoration to include a more vibrant colour palette –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- £10,000 Travel Plan contribution;
- £23,000 NHS Contribution;
- £3750 Recreational disturbance Avoidance Mitigation contribution;
- The donation of a strip of land adjacent to Pickford Walk to the Council to facilitate improvements to the access from Avon Way to the Salary Brook Trail.

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise be authorised to complete the agreement.



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Item No: 7.1

Application: 182523

Applicant: Mr Ross Appelby

Agent: Mr Steve Norman

Proposal: Erection of a detached bungalow with associated parking facilities

Location: Part Side Garden, 10 Ernest Road, Wivenhoe, Colchester, CO7 9LG

Ward: Wivenhoe

Officer: Eleanor Moss

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Andrea Luxford Vaughan called in the application for the following reasons:

Impact on visual amenity of adjacent property including potential loss of sunlight. It will mean the overdevelopment of the plot and includes the removal of a period outbuilding. As garden grabbing it contravenes Colchester planning policy. Concerns over highway safety as it reduces the capacity on the existing drive way (which currently has two entry points) and there is no space on the new dwelling for cars to turn, meaning they will be restricted visibility if reversing unto the road. The property is close to a busy junction and the co-op in an area where there are always parked cars in the road.

2.0 Synopsis

- 2.1 The key issues for consideration are the provision of external space, the living conditions of the occupiers of neighboring properties, parking, the character and appearance of the area and amenity of future occupiers are all considered to be acceptable.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site relates to a detached bungalow in the settlement limits of Wivenhoe. The host dwelling, No. 10 Ernest Road, occupies a fairly generous plot containing a large hardstanding drive, detached garage and number of outbuildings at the rear of the plot, including a Victorian coach house. The applicant has confirmed that this is to be retained.

4.0 Description of the Proposal

- 4.1 Erection of one detached bungalow.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 None relevant to this planning permission.

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- CE2b - District Centres
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- UR2 - Built Design and Character
- PR1 - Open Space
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

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

- SA H1 Housing Allocations

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Sustainable Construction
Sustainable Drainage Systems Design Guide
Planning for Broadband 2016
Wivenhoe Town Plan and Executive Summary

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 **Highway Authority** – no objection subject to conditions.
- 8.3 **Environmental Protection** – no objections subject to construction deliveries hours condition.
- 8.4 **Arboricultural Officer** – requests an AIA. Please note one has now been submitted.
- 8.5 **Archaeological Officer** - No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

9.0 Parish Council Response

- 9.1 The Council considered this application at its meeting on 6 November 2018. It resolved to object due to;
- 12 Ernest Road has already got planning approval which is not shown on the site plan.
 - Over development of plot.
 - No turning circle means vehicles may need to reverse on to Ernest Road.
 - Would like Highways to access the proposal as the proposal will adversely impact the parking arrangements for existing property. Although there are proposed to be two park spaces for new property there is no turning circle.
 - It may result in the loss an off road parking space at the adjacent property.
 - This is a busy interchange close to the Co-Operative Store.
 - Like to refer CBC to its Policy: *Back land and infill development supplementary planning document (SPD)*. This is viewed by WTC as ‘garden grabbing’.
 - This proposal may involve the demolition of a Victorian coach house, which is described as a garage on to plan?

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. Two letters of objection were received from one resident, these are summarised below:

- Loss of view
- Loss of sunlight
- Impact upon amenity

11.0 Parking Provision

11.1 Complies with car parking standards

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Planning Obligations

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

14.2 Notwithstanding the above, the site is within a zone of influence of a European designated site and in order to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of any recreational impact including in combination effects will be required in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). The RAMS sets out a tariff which applies to all residential development within the Zone of Influence (Zol). The whole of Colchester Borough is within the Zol. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.

14.3 The applicant will be given the opportunity to pay a financial contribution to the Council prior to the decision being issued. As set out in the informative below, if the applicants choose not pay the financial contribution it is your officers opinion that this does not warrant a refusal of this scheme but may result in a legal challenge as to the lawfulness of the planning permission.

15.0 Report

Principle of Development:

- 15.1 In accordance with Core Strategy policies SD1, H1 and ENV1 development within the Borough is directed to sites within existing settlement development boundaries. The application site is identified within the defined settlement boundary of Colchester and the area is characterised as predominately residential use. Given this, the proposal is considered to be acceptable in principle.

Design and Layout

- 15.2 The application site is within the defined settlement limits where there is a presumption in favour of the development. The ribbon development and architecture give the area a rather suburban character. The proposed design is fairly modest and provide for a single storey dwelling which is considered to be acceptable for this area.
- 15.3 In conclusion, the area is mixed in character and a variety of dwelling types could be introduced without necessarily harming the character. A single storey building within this area, as proposed, would be in keeping with the area and would not have a negative impact upon the street scene when viewed from the public realm.

Impact on Neighbouring Properties

- 15.4 Guidance in Supplementary Planning document 'The Essex Design Guide' states that a 45 degree combined plan and elevation angle from the mid-point of windows should be preserved. This proposal complies with this test.
- 15.5 The proposal has been carefully designed so as to minimise harmful impacts on neighbour's amenities. The proposal is single storey in height and therefore there are no first floor side or rear facing windows. There is a ground floor side facing window which faces 12 Ernest Road however this serves a bathroom and thus can be conditioned as obscure glazed and limited opening. There are two ground floor side facing windows which serve a bedroom and kitchen, these face towards the host dwelling and therefore it is not considered these will be harmful, especially with intervening boundary treatments.
- 15.6 In summary, it is not considered that there would be material harm upon outlook or loss of light to the neighbouring properties and any impact upon residential amenity would be negligible.

Trees

- 15.7 Whilst there are various small garden trees and hedges bordering the site, none are protected and all could be removed at any time without the Council's permission. In any case, none are such that they could not be easily replaced with others of similar or better quality.
- 15.8 The submitted Arboricultural Impact Assessment (AIA) confirms all surveyed trees have been categorised as C, those of low value. Three trees adjacent the site are subject to a tree preservation order, the trees are sufficient distance away so as not to be impacted upon by development, no further mitigation for the trees subject of TPO is required. Three category C trees/groups are to be removed to facilitate development and improve the end use of the amenity space. The trees to be removed are young-early mature specimens, previously managed below 4m and are obscured from view by existing site features, the loss of these trees will not have a detrimental effect on the character of the local landscape or reduce visual tree amenity. The trees recommended for retention can be adequately protected during the construction phase of development using barrier protection. The development will not further obscure the retained visual tree amenity, the development is considered to have a low impact upon the retained visual tree amenity.
- 15.9 The proposal will result in the loss of some small trees however these trees are not of a quality that warrants a Tree Preservation Order and therefore it is not reasonable to resist their removal. The submitted AIA is considered to be acceptable The Arboricultural Planning Officer has assessed the scheme and the submitted Tree Survey and is happy that the scheme can be built subject to tree protection measures being conditioned. On balance, the removal of trees on site is considered to be acceptable.

Ecology:

- 15.10 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.
- 15.11 In this instance, the application site forms a dwelling with associated hardstanding and mowed lawn. The site is not considered to be a suitable habitat for protected species.

Parking and Highways Safety:

- 15.12 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access.
- 15.13 Given that proposal will provide for the required visibility splays, the proposed scheme is not considered to have a severe impact on the local highway either in terms of highway safety or capacity and accords with planning policies which seek to improve accessibility and changes in travel behaviour. The Highway Authority does not raise any concerns in relation to the proposal, and as such is considered to be acceptable in terms of highways safety.
- 15.14 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of two parking spaces should be provided for each dwelling of two or more bedrooms.
- 15.15 The submitted plan details parking in accordance with the aforementioned policy and SPD and as such the proposal is considered to accord with the requirements.

Flood risk

- 15.16 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures 0.10 hectares and as such a FRA is not required to support the application. Given that the proposal is outside of any flood zone, the proposal is not considered to have a harmful impact upon surface water drainage within the locality.

16.0 Conclusion

- 16.1 To summarise, on balance, the scheme complies with the Development Plan and the NPPF and an approval is warranted.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings Referenced Site Layout, Location Plan, 1840/1 and TPSarb9431218 TPP.

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

3. ZBB - Materials As Stated in Application

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

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

4. Z00 - Trees

All tree measures and/or works (including tree protection), shall be carried out in accordance, with the details contained in the Arboricultural Impact Assessment and Preliminary Method Statements (including Appendices 1 - 6) (dated 31st December 2018) throughout the lifetime of the development works.

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

5. ZFS - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried

out in accordance with BS 3998.

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

6. ZCE - 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.

7. ZDC - Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

8. Z00 - Highways

Prior to the first occupation of the proposed dwelling, the proposed northern vehicular access shall be reconstructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

9. Z00 – Highways

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

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

10. Z00 – Highways

The parking spaces / vehicular hardstandings shall be constructed to minimum dimensions of 6.0m x 3.0m and retained thereafter.

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

11. Z00 – Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex

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Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

Reason: Insufficient information is supplied with the application, the proposed use would be vulnerable to contamination and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

12. ZPE - Limits to Hours of Construction Deliveries/Worker Traffic

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place 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.

13. Z00 – Landscaping

No groundworks shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

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

14. ZFK - Smallscale Residential Boundary Treatments

No groundworks shall take place until details of the provision, siting, design and materials of screen walls and fences have been submitted to and agreed, in writing, by the Local Planning Authority. The approved screen walls and fences shall then be erected prior to the first occupation of the dwelling to which they relate and shall thereafter be retained in the approved form.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to amenities and the surrounding context.

18.0 Informatives

18.1 The following informatives are also recommended:

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

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

(3) INS – Highways Informative

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

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

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

(4) INS - Land Contamination - Ground Gas Risks

The applicant is advised that the site to which this planning permission relates is recorded as being within 250 metres of filled land ('Belle Vue Road'). Prior to commencement of the permitted development the applicant is therefore advised to satisfy themselves that there are no unacceptable risks to the permitted development from any ground gases. Where appropriate, this should be considered as a part of the design of the foundations (and may be required under Building Regulations). As a minimum, any ground gas protection measures should equal those in the main building and not compromise the effectiveness of existing gas protection measures.

Reason: The site lies within 250m of a former (or suspected) landfill site and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from landfill gas in this locality.

(5) INS – RAMS

The proposal is likely to have a significant effect upon the interest features of European sites [Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (south shore) and Essex Estuaries SAC] through increased recreational pressure, when considered in-combination with other plans and projects. The applicant is reminded that mitigation of any recreational impact will be required in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and is entirely the responsibility of the applicant to ensure compliance. The mitigation will equate to a financial contribution. Should the required mitigation fail to be submitted prior to the occupation of the dwelling, the planning permission could be considered to be unlawful.



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Item No: 7.2

Application: 182038

Applicant: Mrs Julia Sawyer

Agent: Mr Robert Pomery

Proposal: Change of use of annex to single dwellinghouse.

Location: Langham Cottage, 9 High Street, Langham, Colchester, CO4 5NT

Ward: Rural North

Officer: Simon Cairns

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the site is outside the adopted settlement boundary for Langham in an area shown as countryside.

2.0 Synopsis

- 2.1 The key issue for consideration is the principle of development; in particular the location of the site outside the settlement boundary. Other issues covered in the report include impact on the character of the area; impact on residential amenity and parking provision.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that approval is recommended.

3.0 Site Description and Context

- 3.1 The site lies in the countryside just outside the Langham Settlement limits, the boundary of which runs along the Eastern boundary of the site. The annexe that is currently on site is a one and half storey, pitched roof building and is located approximately 25 metres outside the settlement limits and around 30 metres from the associated dwelling. The associated dwelling itself lies just within the settlement limits. The site forms part of the garden of the dwelling and annexe. Vehicular access is taken from the High Street.

4.0 Description of the Proposal

- 4.1 The proposal is to change the use of the annexe to a single, independent dwellinghouse. A parking area is shown in front of the annexe that would provide a shared parking area to serve both Langham Cottage and the proposal (two car parking spaces for the new dwelling and two for the existing dwelling). The new dwelling would have 2 bedrooms and further bedroom/study, a sitting room, conservatory, kitchen and bathroom. No external alterations are proposed.

5.0 Land Use Allocation

- 5.1 Countryside and Domestic curtilage.

6.0 Relevant Planning History

- 6.1 95/0846
11/07/1995 - Full
9 Langham Cottage, High Street, Langham, Essex, CO4 5NT
Proposed workshop
Approve Conditional - 24/08/1995

Condition: *The Use of the workshop accommodation hereby permitted shall be restricted to a use incidental to the enjoyment of the dwelling house, Langham Cottage, and not for any commercial purposes whatsoever, and shall at no time be used for any form of residential accommodation. Reason: For the avoidance of doubt as to the scope of the permission and to comply with the established planning policies for the area which seek to resist new dwellings in the countryside.*

- 6.2 O/COL/04/0206
06/02/2004 - Outline
9 Langham Cottage, High Street, Langham Colchester CO4 5NT
Outline application for the demolition of two existing dwellings and replace with a 4 bedroom detached dwelling
Refuse - 02/04/2004
- 6.3 090135
12/03/2009 - Full (8 Week Determination)
9 Langham Cottage, High Street, Langham Colchester CO4 5NT
Erection of 4 single storey detached properties and garages served by a private drive off of High Street within the curtilage of Langham Cottage including demolition of existing annex/workshop building
Refuse - 07/05/2009 (Outside settlement limits, design, no affordable housing, highway safety access.)
- 6.4 Enforcement History: An Enforcement Notice was served in May 1996:

Alleged use of garage/workshop as separate residential unit and in order to comply with the notice: "Restrict use of the garage/workshop unit solely to a use incidental to the enjoyment of the dwellinghouse and ensure that the said unit is not let out sold or otherwise occupied as a separate unit of residential accommodation."

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
UR2 - Built Design and Character
TA5 - Parking

ENV1 - Environment
ENV2 - Rural Communities

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

7.4 Site Allocation Policies

N/A

7.5 Neighbourhood Plans

N/A

7.6 Adopted SPD

N/A

8.0 Consultations

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

The Highway Authority does not object to the proposals as submitted.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

9.0 Parish Council Response

- 9.1 The Parish Council have stated the following:

The notification was received by the Parish Council over one month after the application was received by the Borough Council. It wishes to register a strong formal objection to this application for the following reasons:

1. We are advised that there is an enforcement notice from 1996 and the effect of the enforcement notice is that this property cannot gain immunity from enforcement.

2. The decisions of 2004 (0/COL/04/0206) and 2009 (090135) refusing both applications cite the location outside the settlement boundary. Since 2009 the settlement boundary has not changed, nor has the property moved.
3. This building was originally a garage and then converted to a studio. At some time accommodation was created both above and within the building. Village informants, including the late local district councillor, were not aware of any planning applications to convert this building for occupation. The late district councillor was Chairman of Colchester Borough Council (CBC) planning committee, so was therefore in an excellent position to ascertain this.
4. The present building was extensively renovated in the last several years, a high boundary fence erected along High Street and an entry keypad installed. Access to this building described as an “annexe” is entirely separate from that to Langham Cottage.
5. We are unclear as to whether these works were checked by CBC building control to the standards for human habitation or whether any checks had taken place previously.
6. The Parish Council put some of these points to CBC planners and Planning Enforcement. We consider the enquiry undertaken was cursory, over-reliant on verbal assurances and should have included an extensive search of available records, including any payment of taxes due on this building.
7. We understand that Langham Cottage is not featured in the Electoral Roll 2016.
8. As part of the CBC Local Plan 2017-2033 the Parish Council has had extensive discussions with CBC Planning Policy. Exception sites were agreed and this property was not included. We have a real concern that, if this application is approved, it will open the flood gates for further applications by developers in Langham.
9. The present application may be preparatory to further requests for development on the site.
10. Any access and parking in this narrow country lane is inadequate.
11. Has the subject of the present application had the required building control approval and necessary connection for utilities? Langham is currently over-capacity for sewage and cannot accept new connections to the foul water system.

This case has been a cause célèbre in Langham for over twenty years. The Parish Council and members of the public would welcome reassurances, with accompanying documentation, on the above points from CBC. With regard to the above, the Parish Council would welcome the regularisation of these matters after such a long period of time.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties.

10.2 Two representations were received from the occupiers of The Old Post Office, Moor Road, Langham which are available to view in full on the Council's website. However, a summary of the response is given below;

- The building has been altered and extended without permission and consultation
- Site is outside village envelope
- No details of boundary treatment between site and Langham Cottage
- Inadequate access and parking
- Application should not be compared to a scheme in West Bergholt which the applicants rely on
- The application is seeking to get the plot included in the village envelope to facilitate further housing development.
- Extensive history to the site including refusal of planning permission in 2009 for 4 new dwellings
- If approved it could set a precedent.

11.0 Parking Provision

11.1 Two spaces are provided for the existing property and two for the converted building the subject of this application.

12.0 Open Space Provisions

12.1 Both properties will be provided with extensive private amenity space to the rear.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

15.1 The main issues in this case are:

- The Principle of Development
- Impacts on the Countryside
- Parking Provision.

- 15.2 The main issue in terms of the principle of the proposal is that the site is located immediately outside the settlement boundary. Whilst development is acceptable in principle within the settlement boundary (Core Strategy Policy SD1), development outside settlement boundaries is strictly controlled in order to protect and enhance the character of the countryside, as well as safeguard the biodiversity, geology, history, and archaeology of undeveloped sites (Core Strategy Policy ENV1). Accordingly, the application has been advertised as a Departure to the Local Plan as it involves the provision of a new, independent residential unit in the countryside. It is important to note, however, that planning policy does not rule out development in the countryside altogether, but there are tighter controls to development in these locations. The main planning considerations for the principle of development in these cases are: whether the proposal represents sustainable development, having either a positive or negligible impact upon economic, social, and environmental factors; and its impact upon the character of the countryside.
- 15.3 The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 15.4 The NPPF goes on to state that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. It also states that to ensure sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

- 15.5 Whilst the village of Langham is not specifically identified in the Adopted Core Strategy as a key settlement or development area, it is considered to be a sustainable location for development. The village has a number of facilities, including a primary school, village hall, playing fields, a community shop and pub. All of these facilities are within walking distance of the application site. There is also a bus service to Colchester, Manningtree and Dedham. Therefore, residents in Langham have access to a range of facilities and services that do not require the use of private transport.
- 15.6 Both the use of the building as an annexe and as a private dwelling would support these facilities, as occupants would be likely to use them. The proposal is therefore likely to have a positive economic impact, as well as a social one, by helping to ensure the continued availability of these facilities and services. There would also be an environmental benefit as the services are within easy walking distance from the site and there is access to a wider range of facilities and job opportunities by means other than private car, which would reduce pollution from regular private car use. If the building remained empty because there was no one to occupy it because of the restriction, there would be a negative impact on the social and economic benefits.
- 15.7 The context of the site is relevant in determining the likely impacts upon the character of the countryside. In the first instance the building is in existence and appears to have been since the 1960's. The site is very secluded and not visually part of the open countryside, it being located between longstanding residential development in the High Street and Whitehouse Close. The surrounding area is well planted and screened and there is a strong boundary to the surrounding countryside. The frontage of the site where the building is located already reads more as part of the settlement than it does as part of the countryside. The building already exists and it is considered the development would not be harmful to the character or appearance of the wider countryside.
- 15.8 In assessing the acceptability of the proposal, the planning history of the site has been considered. The 2009 application is considered to be of relevance by the objectors (who incorrectly refer to it being an appeal), but that was for a completely different scheme (4 new build units occupying a larger site) and there have been significant changes to planning policy since the application was determined. Mention is also made of the unauthorised use and work carried out to the building but correspondence from Council Officers in 2004 and 2016 confirm that the building was being used as an annexe or ancillary to the main dwelling.
- 15.9 The building itself comprises a 1.5 storey brick-built annex/outbuilding. The interior of the building incorporates a kitchen, living room, conservatory and WC, together with master bedroom suite with dressing area and en-suite to the ground floor. To the first floor is a further bedroom and a study. The building is already in residential use, albeit ancillary to the main dwelling. No physical works are required to the building to allow the use to operate and there will be no change to the appearance of the site or surrounding area.

- 15.10 The site is located just outside the Langham Village Settlement Boundary as shown in the 2010 Proposals Map. Langham Cottage is within the Settlement Boundary. The emerging Local Plan shows the boundary line being in the same place for this part of Langham.
- 15.11 There is local concern that this application is an attempt to get the site included in the village envelope in preparation to develop the land for housing. The determination of this application relates solely to the occupation of an existing building. The building already exists and the approval of this application would not alter the Settlement Boundary for Langham. The boundary line already includes buildings/houses but not their entire curtilage and there is no reason whatsoever to alter this well-established approach.
- 15.12 The applicant has submitted a representation on the emerging Local Plan which does seek to vary the village envelope in this area. Whilst this is the appropriate route to consider any such change it is not a modification supported by Officers. Approval of this application would not alter that view and would not weaken the approach adopted by the Council to date.
- 15.13 As stated above, applications should be determined in accordance with the development plan unless material considerations indicate otherwise. One such consideration is the expression of Government policy. Paragraph 79 of the updated Framework, states that isolated new homes in the countryside should be avoided unless, amongst other things, the development would involve the subdivision of an existing residential dwelling. This exception is a recent addition to the framework following its revision in July 2018. By explicitly setting out this exception, national policy is acknowledging that there will be some circumstances where rural development will be acceptable despite non-compliance with the general aspiration to locate housing within settlement boundaries. In this instance it has been demonstrated that the building is not isolated, it is well located in relation to the built form of the village and close to community facilities. The proposal would however divide the existing residential unit into two houses, which if considered acceptable in an isolated location should also be approved in more suitable places such as the edge of a village.
- 15.14 A recent appeal decision (28/9/18) at Winslade Manor, Exmouth Road, Cyst St Mary Exeter (APP/U1105/W/17/3191044) has some parallels with this case albeit in a more isolated location than the current proposal in Langham village. That appeal related to the occupation of an annex without complying with the condition that stated “The dwelling hereby permitted includes accommodation which may be used as an annex to the main dwelling but shall not be used as an independent unit of residential accommodation separate from that house.” The Inspector allowed the appeal and concluded the following:

“Para 16. The appeal proposal would divide the existing residential unit into two houses. There is therefore, no doubt that the proposal before me would involve the subdivision of an existing dwelling. Consequently, it is my view that the exception contained in Paragraph 79 (d) of the Framework, namely

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that the subdivision of an existing dwelling is acceptable in isolated locations, applies in this case.

Para 19. The Framework sets out a clear and recent statement of the Government's policy in respect of the acceptability of residential subdivisions in isolated rural locations. As such, it is a material consideration that carries substantial weight in my decision and, in the particular circumstances of this case, outweighs the conflict with the development plan."

- 15.15 The objector to the application does not consider that a recent appeal decision in West Bergholt is relevant to the consideration of this scheme. Officers however disagree; the proposal related to the change of use of an outbuilding to a single dwelling house, in a location on the edge of the village, just outside the settlement boundary. The Inspector in that case concluded the following;

"The proposed development would be physically well related to West Bergholt and to the surrounding housing, and its occupiers would have good access to facilities and services. There would be no harm to the character or to the appearance of the village or the countryside. Having regard to this and the modest benefit to housing supply and to the economy, I conclude that the proposal would be a sustainable form of development which outweighs any conflict with the development plan which arises from the site's location outside the settlement boundary. For the above reasons and having had regard to all other matters raised, the appeal is allowed."

- 15.16 The local objections also refer to parking arrangements for the 2 units and the applicant has been asked to clarify the situation. There is plenty of space within the residential curtilage to provide adequate parking for both properties and a condition will be imposed to ensure the parking is available from first occupation of the unit as an independent dwelling and at all times thereafter. Essex County Council as the Local Highway Authority do not object to the proposal. It should be noted that regardless of whether the building is occupied as an annexe or as a separate unit, the occupiers are likely to own cars.

- 15.17 Given the specific, physical circumstances of the proposal described above, and the lack of harm to the character and appearance of the area, the proposed development would not conflict with Core Strategy Policy ENV1 which aims to conserve and enhance Colchester's countryside. Overall it would achieve the three dimensions of sustainable development sought by Core Strategy Policies SD1 and H1, and which the Framework promotes, and which justify the allowing of the appeal.

16.0 Conclusion

- 16.1 Whilst the proposal is contrary to planning policy in terms of its location outside the village settlement boundary, planning approval is justified due to the particular site circumstances which would enable a change of use to take place without any negative impacts. The environmental aspects of the application are considered to be neutral but the proposal will provide limited social and economic benefits by affording a permanent new home for a family. The views of local residents and the Parish Council have been taken into account but are not considered to outweigh the benefits. Although such benefits would be small, nevertheless, it would fulfil the social and economic dimensions of sustainable development as set out in Paragraph 8 of the Framework which is a material consideration which outweighs the minor harm and conflict with the development plan. A conditional approval is recommended.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM- Development To Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: Floor plans received 18/9/18, site plan received 22/11/18, SK001 received 29/11/18.

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

3. ZDC-Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

4. Non Standard Condition – Parking arrangements

The parking arrangements shown on the submitted site plan SK001 shall be provided prior to occupation of the dwelling as a separate unrelated unit. This shall include at least 2 spaces for the existing dwelling and two for the unit hereby approved (each space to be a minimum of 5.5 m x 2.9 m) and the spaces shall thereafter be retained as such.

Reason: To ensure there is adequate off street parking available for both dwellings in the interest of highway safety.

18.0 Informatives

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

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



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Item No: 7.3

Application: 182499

Applicant: Mr Gary Pamment

Proposal: Proposed single storey rear extension.

Location: 14 Trafalgar Road, Colchester, CO3 9AS

Ward: Prettygate

Officer: Sean Tofts

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is a member of Colchester Borough Homes (Gate Way Partnership) staff.

2.0 Synopsis

- 2.1 The application seeks the erection of a flat roofed single story rear extension to allow for a disabled user bedroom and shower room.
- 2.2 The application is subsequently recommended for approval

3.0 Site Description and Context

- 3.1 The dwelling is semi-detached and located in a predominantly residential street.

4.0 Description of the Proposal

- 4.1 The scheme seeks the erection of a shower room and bedroom off of a new lobby to the rear of the property.

5.0 Land Use Allocation

- 5.1 Residential location.

6.0 Relevant Planning History

- 6.1 No relevant planning history.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

H3 - Housing Diversity
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access

- 7.4 The adopted Site Allocations (adopted 2010) policies are not relevant to the case.

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

The Essex Design Guide
External Materials in New Developments

- 7.6 Submission Colchester Borough Local Plan 2017-2033

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

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

8.0 Consultations

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

- 8.2 Environmental Protection and the Contaminated Land Officer have no objection subject to an informative.

9.0 Parish Council Response

9.1 Not applicable

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighboring properties. The full text of all of the representations received is available to view on the Council's website.

10.2 No representations have been received from third parties.

11.0 Parking Provision

11.1 No change in parking is required or sought.

12.0 Open Space Provisions

12.1 Not applicable.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

15.1 The main issues in this case are:

The Principle of Development

15.2 The development is in a residential area and the scheme is considered acceptable in principle.

Design and Layout

- 15.3 The design and layout of the proposal can be summarised as a single storey rear extension with a flat roof. The layout of the building includes some windows which only face onto the properties own private amenity space and the layout of the proposal affords the property a new internal lobby connected to the existing kitchen to one side and a bedroom to the other with an ensuite bedroom.
- 15.4 The design and layout of the proposal is considered acceptable and suited to the needs of the applicant whilst not impacting negatively on the required provision of private amenity space.

Scale, Height and Massing

- 15.5 The scale of the development is limited not considered excessive and is broadly in line with what would be expected as a result of the need identified for the intended user. In terms of the height of the development the single storey and flat roof nature of the development is considered acceptable. Similar rationale can be applied to the massing of the development and location of the extension is in officers view the most logical for the proposed uses.
- 15.6 Accordingly the proposal would comply with Policy DP1 of the Local Plan which provides that development must respect and enhance the character of the site and surroundings in terms of architectural approach, height, size, scale and form. Policy DP13 is also complied with which provides that residential alterations will be supported where they meet other policy requirements.

Impact on the Surrounding Area

- 15.7 There is no material harm caused by the proposal. The proposal will not be visible from the street scene or any public vistas.

Impacts on Neighbouring Properties

- 15.8 The most significant planning issues are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy. The extension is 7.8 metres in length and close to the boundary with the attached property. The next door neighbour has a kitchen to the ground floor that runs along the back of the property with a window and glazed door. The window is located a sufficient distance away from the proposed extension to not be impacted by the development in terms of impact on light. The glazed door is closer to the extension but by virtue of the single storey height of the extension the proposal complies with the Councils 45 degree test in the vertical direction and is therefore considered acceptable in this respect.

Amenity Provisions

- 15.9 The amenity space for the dwelling is in excess of the minimum provision required for this size of dwelling. No other amenity concerns are identified.

Landscape and Trees

- 15.10 No material impact on any trees or landscape matters.

Highway Safety and Parking Provisions (including Cycling)

- 15.11 No change in parking provision, including cycle storage.

Public Open Space Provision

- 15.12 Not applicable

Private Amenity Space Provision

- 15.13 The amenity space is in excess of the minimum provision required for this size of dwelling.

Parking Provision

- 15.14 The development does not result in any change in parking provision.

Other Matters

- 15.15 No other potential issues have been identified.

16.0 Conclusion

- 16.1 To summarise, the proposed development fully accords with the Council's policy requirements and no objections have been received.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. 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 Plans Submitted

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number 04 dated July 2018.

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.

3. Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

18.0 Informatives

Contaminated Land Informative:

The applicant is advised that the site to which this planning permission relates is recorded as being within 250 metres of filled land ('London Road'). Prior to commencement of the permitted development the applicant is therefore advised to satisfy themselves that there are no unacceptable risks to the permitted development from any ground gases. Where appropriate, this should be considered as a part of the design of the foundations (and may be required under Building Regulations). As a minimum, any ground gas protection measures should equal those in the main building and not compromise the effectiveness of existing gas protection measures.

Reason - The site lies within 250m of a former (or suspected) landfill site ('London Road') and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from landfill gas in this locality.

Item No: 7.4

Applications: 182151, 182155, 182178, 182181, 182192, 182275

Applicant: Colchester Borough Council

Proposal: 'Welcome to Colchester' signs

Locations: Bromley Road, Colchester
Horkesley Road, Boxted
Harwich Road, Colchester
Clingoe Hill, Colchester
Cymbeline Way, Colchester
Via Urbis Romanae, Colchester

Ward: Various

Officer: Benjy Firth

Recommendation: Conditional Approval

SITE PLANS ARE INCLUDED AS AN APPENDIX

1.0 Reason for Referral to the Planning Committee

- 1.1 These applications are referred to the Planning Committee because the applicant is Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of the proposed signs in terms of their potential impact on public amenity and on highway safety.
- 2.2 The applications is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 Applications have been submitted for signs at six locations around the Borough; Bromley Road, Horkesley Road, Parson's Heath, Clingoe Hill, Cymbeline Way and Via Urbis Romanae (some of the locations were revised following submission of the applications).
- 3.2 Each of the proposed signs are located at points of entry to the Borough from either neighbouring boroughs or the wider highway network.

4.0 Description of the Proposal

- 4.1 These applications seek permission for six 'Welcome to Colchester' signs, three of which replace similar existing signage and three of which are new locations for such signage. They are each located adjacent to public highways.

- 4.2 The signs will sit 1.6m above ground level on two posts and measure 1.38m by 0.875m. The signs are made of aluminium and contain gold text on an indigo background that reads "Welcome to Colchester Britain's 1st City".

5.0 Land Use Allocation

- 5.1 None of the sites have any relevant allocation.

6.0 Relevant Planning History

- 6.1 None applicable.

7.0 Principal Policies

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

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

UR2 - Built Design and Character
PR2 - People-friendly Streets
ENV1 - Environment

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

DP1 Design and Amenity

- 7.4 The Neighbourhood Plan for Boxted / Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Council's Archaeological Officer has confirmed that the proposed signage will not cause material harm to the significance of below-ground archaeological remains by the proposed development. As a result there will be no requirement for any archaeological investigation.

- 8.3 The Highways Authority have confirmed that from a highway and transportation perspective the impact of the proposed signs is acceptable, with the exception of the sign proposed on Harwich Road (182178). The Highways have raised an objection to this sign on the basis that its proximity to the highway boundary may have implications for highway safety. However it is noted that the sign in this location will replace an existing sign and as such would not represent a change to the existing circumstances at this location.

9.0 Parish Council Response

- 9.1 Great Horkesley Parish Council and Myland Community Council have confirmed they support the proposals for the signs within their wards.
- 9.2 Wivenhoe Town Council have objected to the sign proposed on Clingoe Hill (182181) on the basis that it is located at an accident hotspot and would be more appropriately located closer to Salary Brook. It is noted that this sign will replace an existing sign in this location and the Highway Authority have not raised any concerns regarding the safety of a sign in this location.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the issues raised are set out in the table below
- 10.2 Other consultation responses:

182151	Bromley Road	No comments received.
182155	Horkesley Road	Objections overcome by revised location.
182178	Harwich Road	Objections overcome by revised location.
182181	Clingoe Hill	Received one comment of support and three comments of objection from members of the public, stating that the sign would be better located adjacent to Salary Brook, its appearance is "ugly", that "1 st " is grammatically incorrect and that Colchester is not a City.

182192	Cymbeline Way	Received one comment of objection from an elected Member stating that this is not an appropriate location for a sign of this content.
182275	Via Urbis Romanae	No comments 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 Planning Obligations

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

15.0 Report

15.1 As the applications seek permission for advertising consents, particular regard should be given to the impacts of the proposed signage on the amenity of the surrounding area and to issues of public safety. It should be noted that the accuracy of the content of the signage and its location in relation to ward/parish/borough boundaries are not material planning considerations.

15.2 In assessing an advertisement's impact on "amenity", regard has to be paid to the effect upon the appearance and visual amenity of the immediate area where it is to be displayed. It is therefore necessary to consider what impact the advertisement, including its cumulative effect, will have on its surroundings. The relevant considerations for this purpose are the local characteristics of the neighbourhood, including scenic, historic, architectural or cultural features, which contribute to the distinctive character of the locality.

15.3 The proposed signs are consistent with traditional approaches to information signs adjacent to highways in terms of their location, size and design. As a result the signs will not look out of place in the locations proposed. Due to their size it is considered that the signs will appear as minor incidents within the existing landscapes within which they are

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proposed. As such it is not considered the new signs will have a significant detrimental impact on their immediate settings. It is also beneficial the three out of the six signs will replace existing signs. It is therefore considered that the impact of the signs on their surrounding area will be minimal.

- 15.4 In assessing an advertisement's impact on "public safety", regard has to be given to the effect upon the safe use and operation of any form of traffic or transport. In assessing the public safety implications of an advertisement display, one can assume that the primary purpose of an advertisement is to attract people's attention; therefore it should not automatically be presumed that an advertisement will distract the attention of passers-by. The vital consideration, in assessing an advertisement's impact, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety.
- 15.5 The proposed signage, by virtue of their size and location, are not considered to have an adverse impact on public safety.

16.0 Conclusion

- 16.1 To summarise, given the lack of impacts upon the amenity of the area and upon public safety it is recommended that Planning Committee approve the applications subject to the conditions below.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission for all six applications subject to the following conditions:

1. ZQA - 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. ZAM - *Development to Accord With Approved Plans*

The advertisement hereby granted consent shall be carried out in accordance with the details submitted as part of this application, the Block Plan dated 15th November 2018 and the Site Plan dated 19th November 2018.

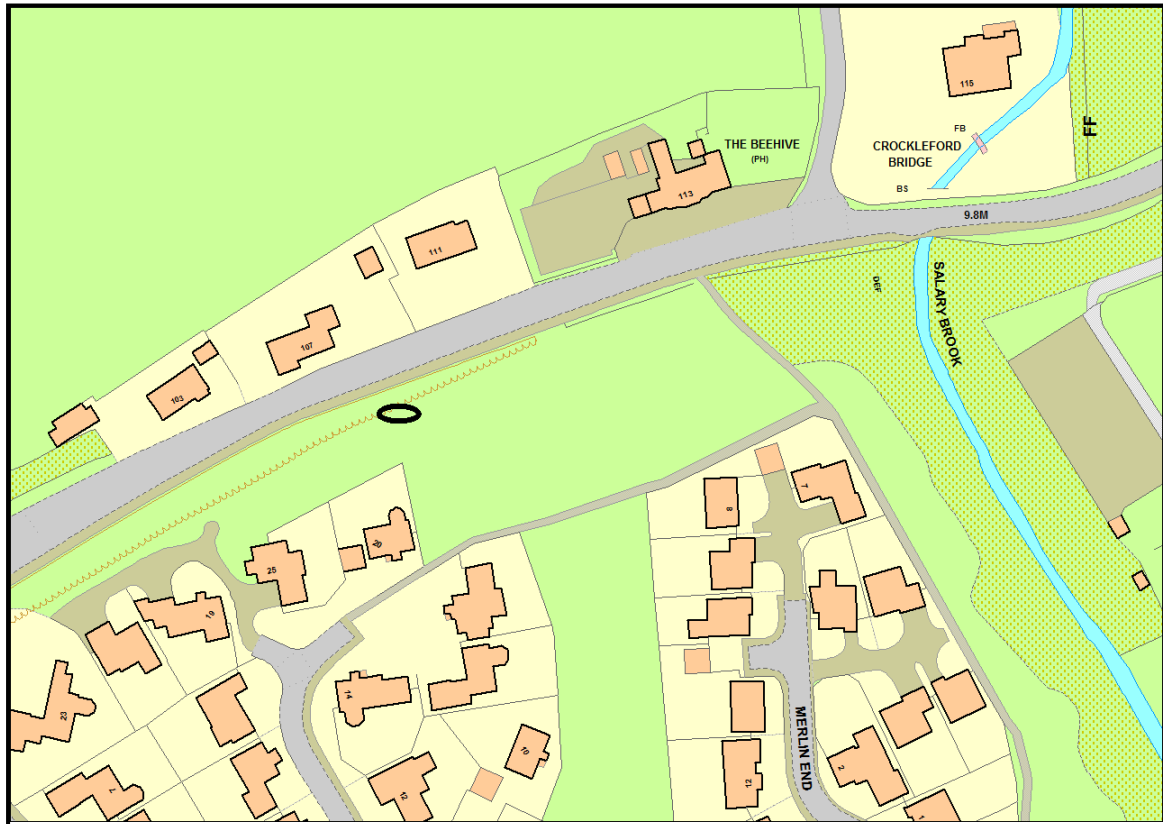
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

18.0 Informatives

18.1 The following informatives are also recommended:

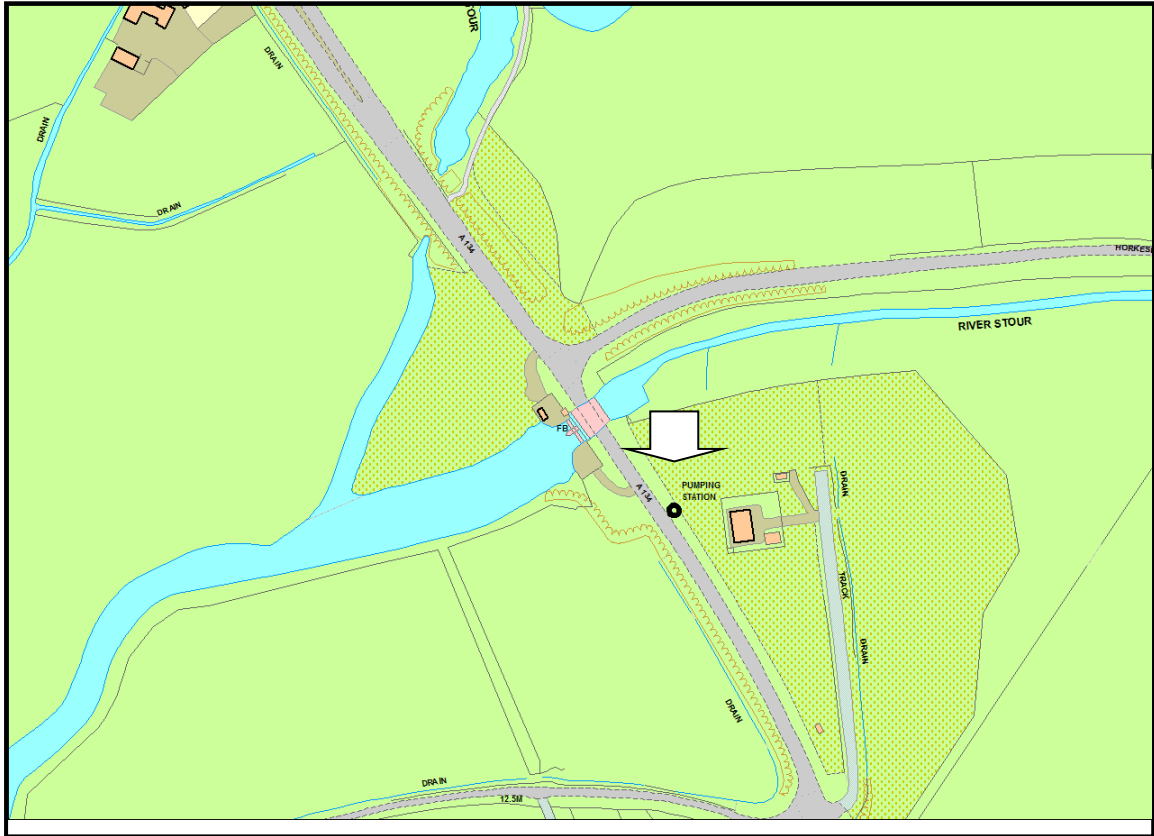
All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

APPENDIX A – SITE PLANS



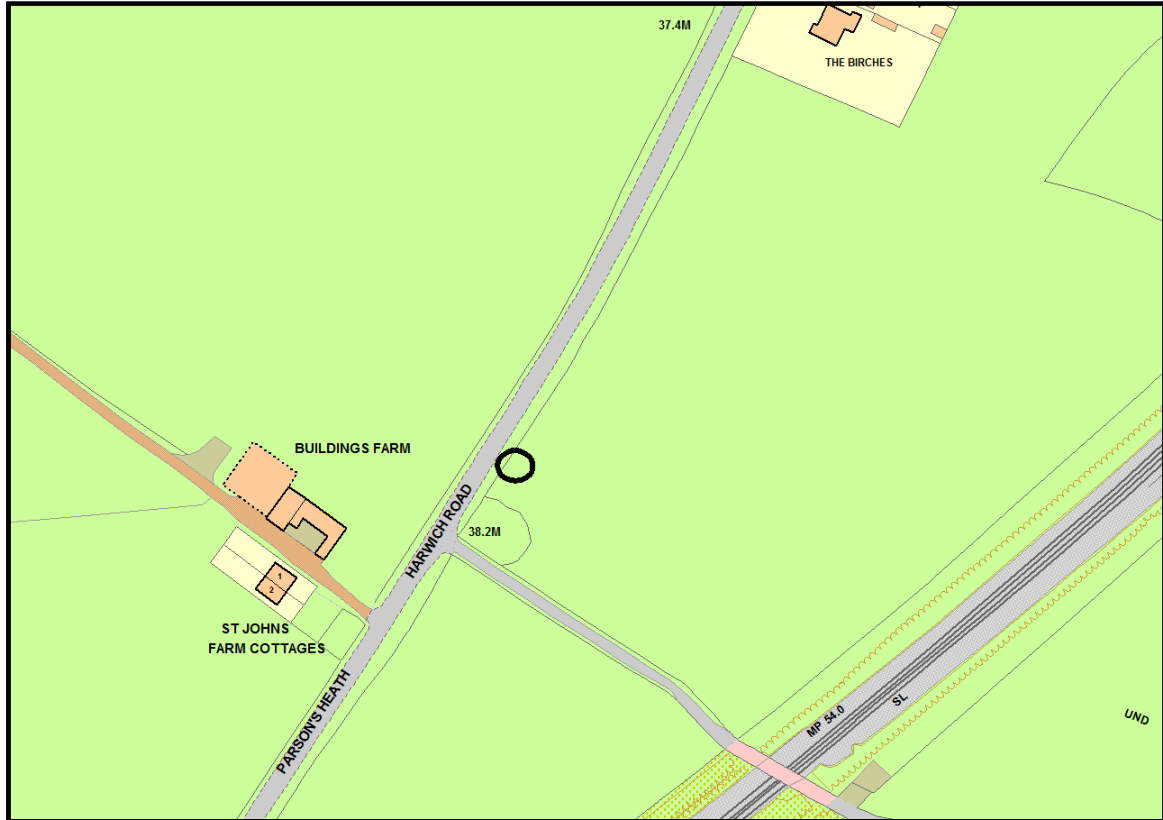
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182151 – Bromley Road, Colchester



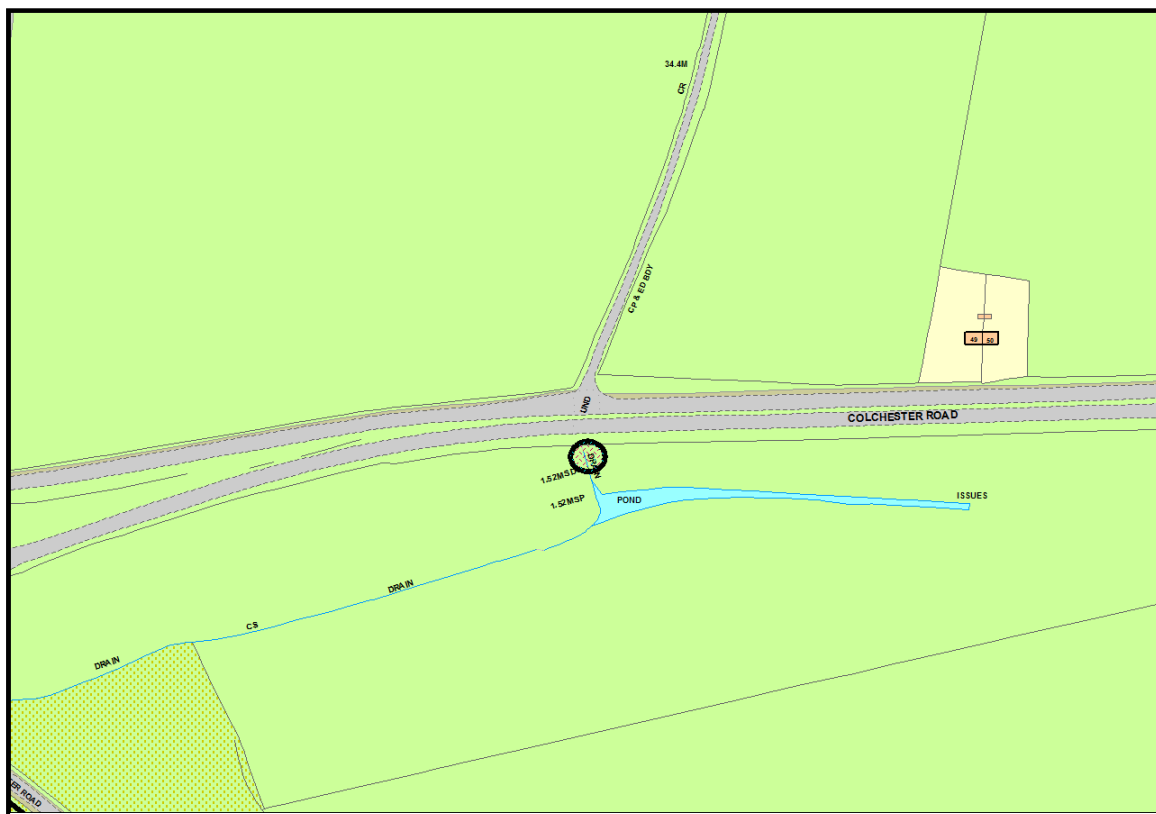
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182155 – Horkesley Road, Boxted



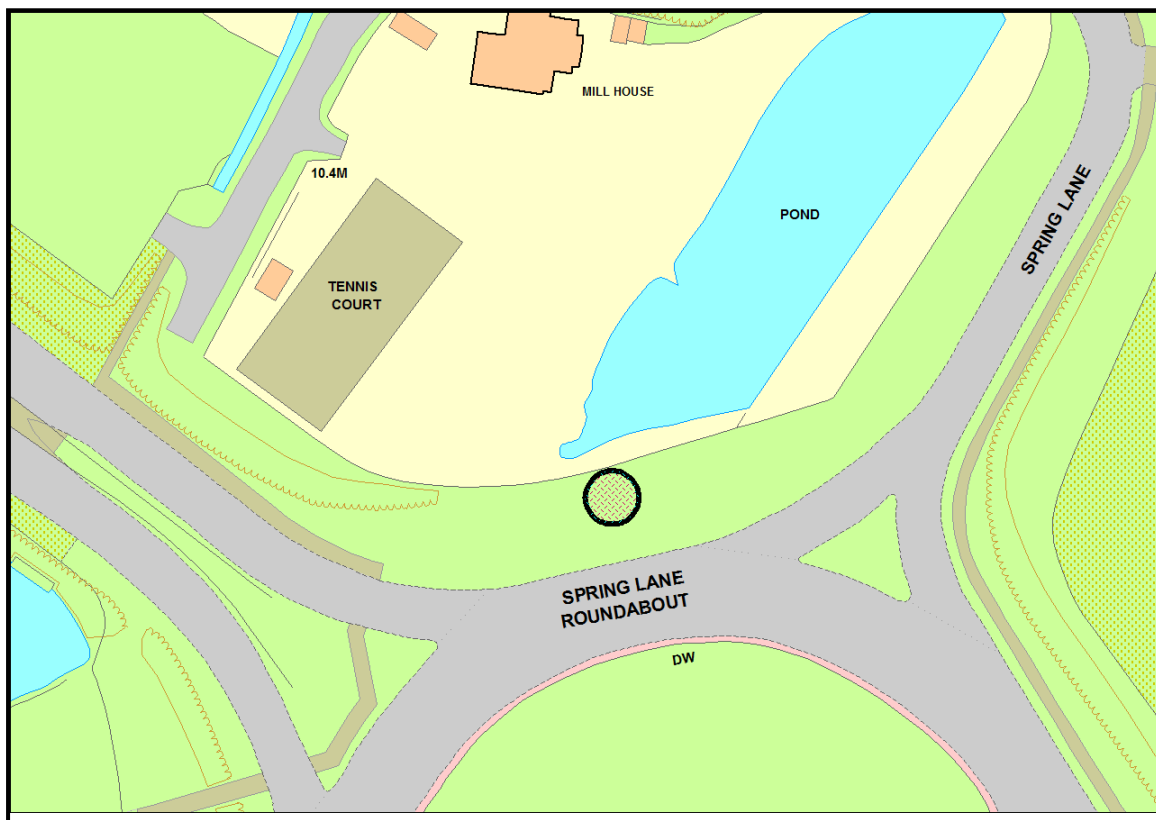
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182178 - Harwich Road, Colchester



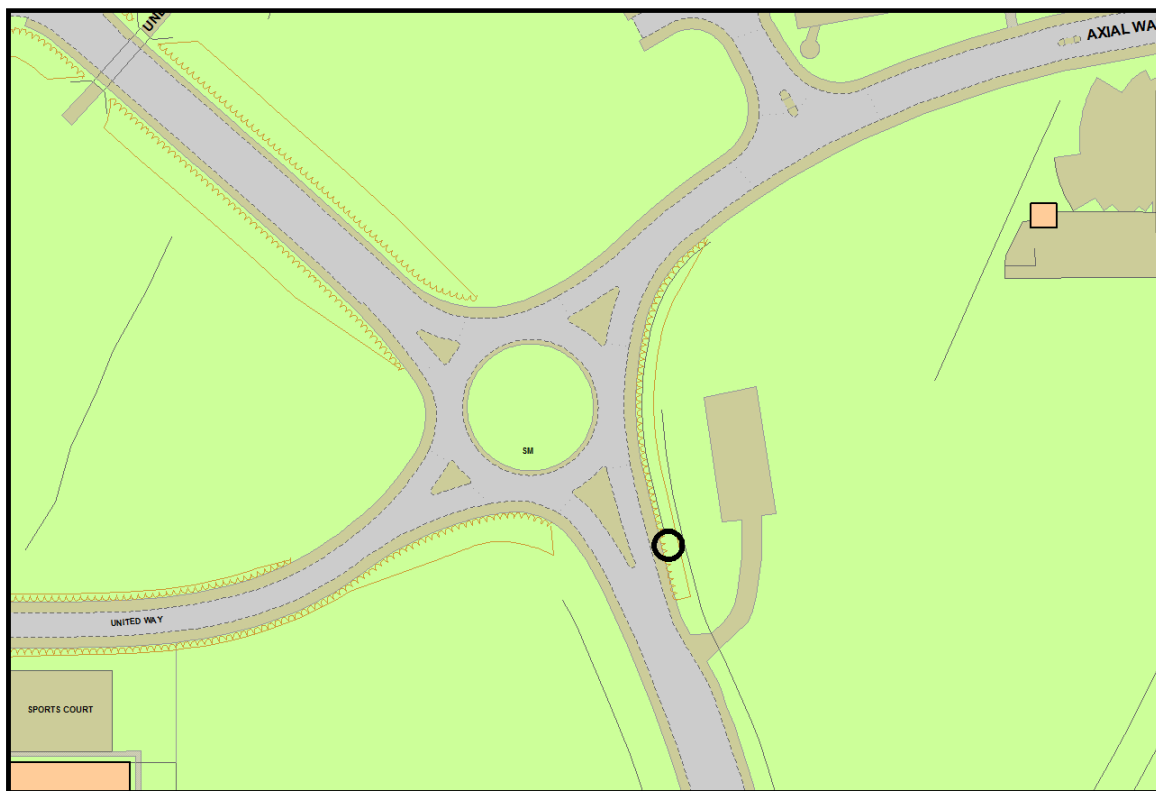
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182181 – Clingoe Hill, Colchester



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182192 – Cymbeline Way, Colchester



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182275 – Via Urbis Romanae, Colchester

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction and Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
- (b) for research and development of products or processes, or
- (c) for any industrial process,

being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

