

Planning Committee Meeting

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

Thursday, 02 April 2015 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

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

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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 use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

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Material Planning Considerations

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

The following approach should be taken:

- 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.

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 Colchester’s own Local Plan documents
- Government guidance, case law, appeal decisions, planning history, “fallback” positions
- Design, scale, bulk, mass, appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations such as archaeology, listed buildings or conservation areas
- Environmental issues such as impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism
- Social issues such as affordable housing, accessibility, inclusion, education, recreation
- The ability to use planning conditions or obligations to overcome concerns

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 including 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
- unless they are “exceptional”, personal circumstances, including hardship

Strong opposition to a particular proposal is a common feature of the planning process. However, in the absence of substantial evidence of harm or support from the Development

Plan is unlikely to carry much weight. The same principles apply in reverse where there is strong support for a proposal that is contrary to the Development Plan and there is harm (or lack of substantially evidenced benefit).

Inspectors and Courts (see *North Wiltshire DC V SoS & Clover, 1992*) have established that precedent can be a legitimate consideration, but it is not enough to have a “general anxiety” and there has to be evidence of a real likelihood that similar applications (in all respects) will be submitted.

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 and Considering Reasons for Refusing Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework reinforces this by 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. However, not all development is acceptable and almost every permission will require planning conditions in order to make them acceptable. Some will remain unacceptable and should therefore be refused. Circular 11/95 (The Use of Conditions in Planning Permissions) and Circular 03/2009 (Costs Awards In Appeals And Other Planning Proceedings) set out advice on the government’s policy regarding the appropriate use of planning conditions and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. They derive from an interpretation of court judgments over the years and, although not planning law, are important material considerations. A decision to set them aside would therefore need to be well-reasoned and justified.

In terms of the Planning Committee, Circular 03/2009 makes it clear that “*Planning authorities 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*”.

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that “*Whenever appropriate, planning authorities 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. The Circular adds that “*A planning authority refusing planning permission 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.*” Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, 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, Circular 03/2009 makes it clear that planning authorities must “*properly exercise their development control responsibilities, 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 public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

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.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

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. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



Colchester Borough Council Environmental Control
Advisory Notes for the Control of Pollution during Construction & 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**

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.

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.

Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

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**

- 1) 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.
- 2) 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**

- 1) 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. Dwelling houses

Use as a dwelling house (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 dwelling house 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), nightclubs, or casinos.

Interpretation of Class C3

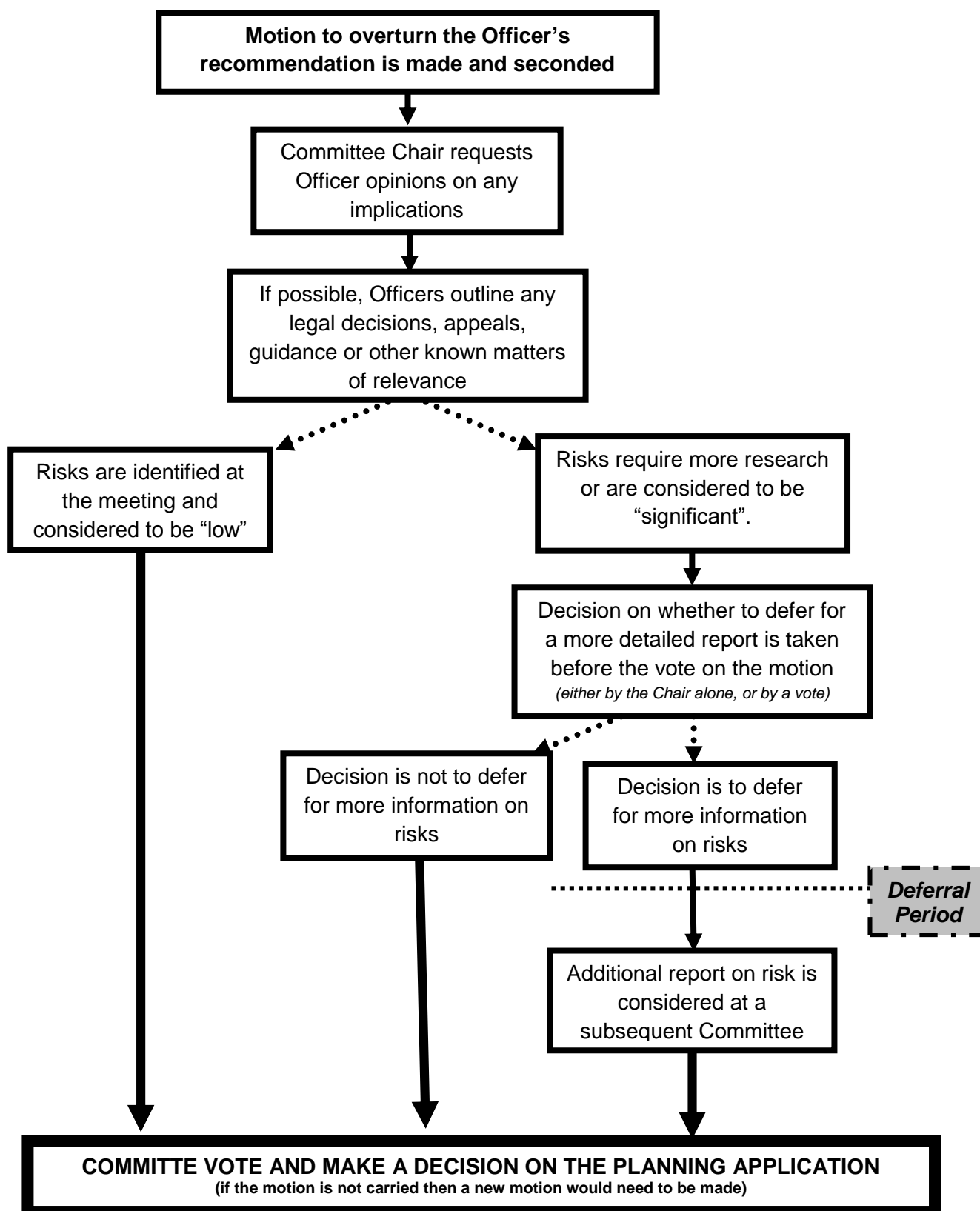
For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

*If Councillors require more information, or minor amendments to be explored, then the item should be deferred.
If no more information or amendment is desired Councillors will proceed to propose a motion.*



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 02 April 2015 at 18:00

Member:

Councillor Theresa Higgins
Councillor Jon Manning
Councillor Peter Chillingworth
Councillor Helen Chuah
Councillor Pauline Hazell
Councillor Brian Jarvis
Councillor Mike Lilley
Councillor Jackie Maclean
Councillor Jessica Scott-Boutell
Councillor Laura Sykes
Councillor Julie Young

Chairman
Deputy Chairman

Substitutes:

All members of the Council who are not members of this Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-

Councillors Christopher Arnold, Nick Barlow, Lyn Barton, Tina Bourne, Roger Buston, Kevin Bentley, Nigel Chapman, Barrie Cook, Robert Davidson, Beverly Davies, Andrew Ellis, Annie Feltham, Bill Frame, Ray Gamble, Dominic Graham, Marcus Harrington, Dave Harris, Julia Havis, Jo Hayes, Peter Higgins, Margaret Kimberley, Cyril Liddy, Sue Lissimore, Kim Naish, Nigel Offen, Gerard Oxford, Philip Oxford, Will Quince, Rosalind Scott, Lesley Scott-Boutell, Peter Sheane, Paul Smith Dennis Willetts and Tim Young.

AGENDA - Part A

(open to the public including the press)

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

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Members of the public please note that any further information which they wish the Committee to consider must be received by 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

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

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

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

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

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

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

6 Minutes

There are no minutes for consideration at this meeting

7 Planning Applications

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

7.1 150071 Alderwood Care Home, 39 Essex Hall Road, Colchester 17 - 22

Proposed 24 bed specialist care home in the grounds of Alderwood Care Home

7.2 146583 Tesco Stores, Highwoods Square, Colchester 23 - 30

Extension to existing Class A1 retail store

7.3 146509 Tregullon, High Street, Langham 31 - 42

New detached house, comprising two storey main house with two single storey wings (one called 'Annexe' although it shares access and core facilities and services with the house) and garages, forming an L- shaped building enclosing the front parking and turning courtyard. Existing hedges retained and strengthened, new western boundary hedge. Formation of a wildflower meadow/ butterfly reserve in the southern half of the existing two acre site

7.4 150351 Elfin House, 3 Pedders Close, Colchester 43 - 50

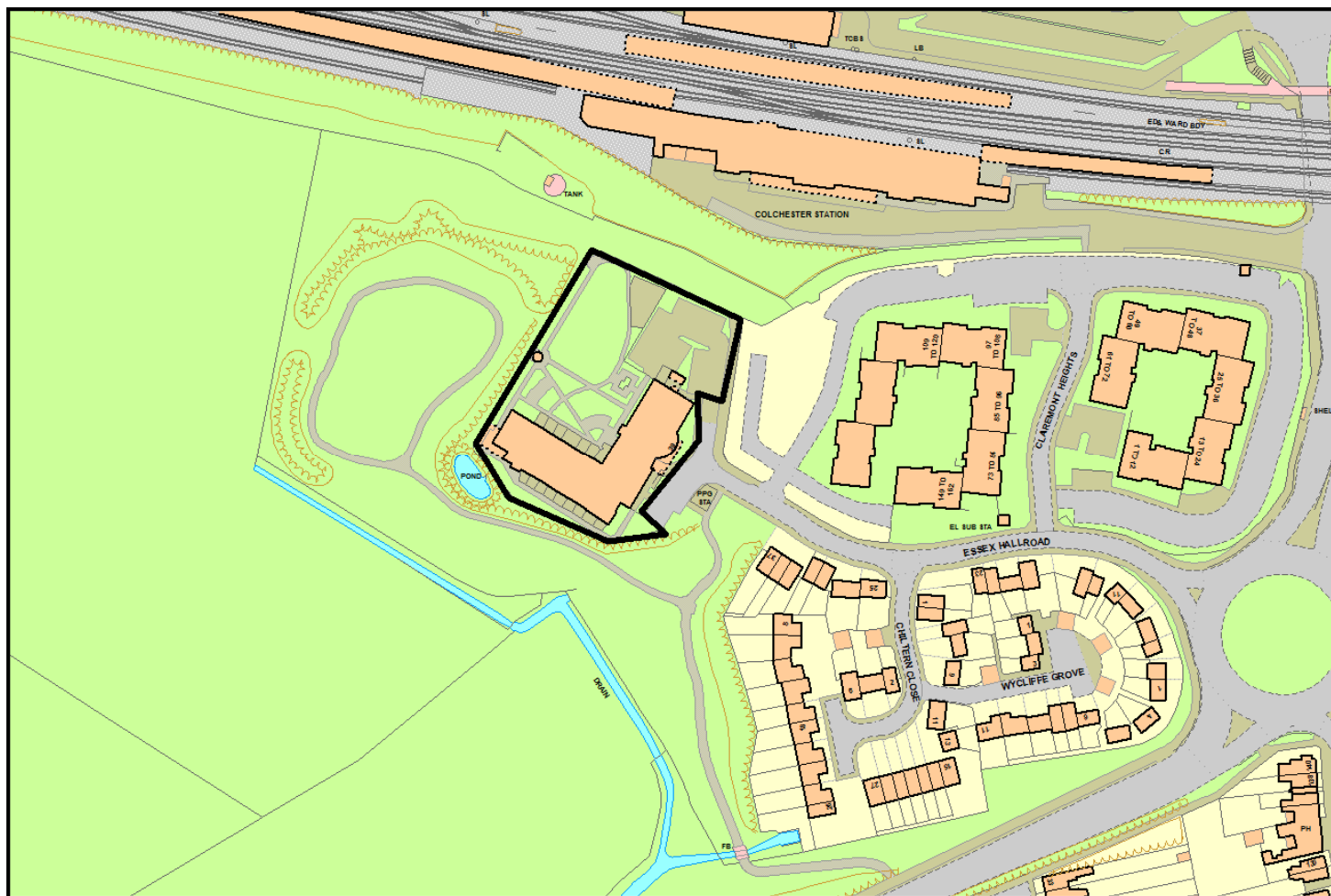
Two storey office extension

8 Exclusion of the Public (not Scrutiny or Executive)

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

Part B

(not open to the public including the press)



Application No: 150071

Location: Alderwood Care Home, Alderwood Care Home, 39 Essex Hall Road, Colchester, Essex, CO1 1ZP

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **2 April 2015**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Mr David Whybrow

Due Date: 20/04/2015

MAJOR

Site: Alderwood Care Home, 39 Essex Hall Road, Colchester, Essex, CO1 1ZP

Application No: 150071

Date Received: 19 January 2015

Agent: Mr John Stockill, DWA Architects Ltd

Applicant: Mr Mike Hirsch, Carebase Ltd

Development: Proposed 24 bed Specialist Care Home in the grounds of Alderwood Care Home.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Introduction

- 1.1 This application was previously reported to and considered by the Planning Committee at the meeting on 5th March. It was approved subject to the signing of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. A contribution of £7,680 was agreed to mitigate the primary care impact of this development. In the event that the legal agreement is not signed within 6 months, delegated authority was given to the Head of Professional Services to refuse the application, or otherwise to be authorised to complete the agreement.

- :
- 1.2 NHS (England) have subsequently indicated that they do not now consider a contribution to be appropriate and the matter is therefore referred back to Committee to consider the reason for their retraction and to seek authority for planning permission to be granted without the need for a unilateral undertaking (UU). As the other merits of the case remain unchanged this report concentrates solely on this UU matter.
 - 1.3 The Committee also resolved that representations should be made to the North East Parking Partnership requesting it consider the introduction of additional restrictions or enforcement measures in the Essex Hall Road area. This is currently in hand.
 - 1.4 This application was originally referred to the Planning Committee because it is a major application that had given rise to material planning objections as a result of neighbour consultation. The key issues on the original application were the design and layout, scale, height and massing, impact on the surrounding area, impacts on neighbouring properties and amenity provisions. Special consideration was also given to access/parking issues as these were the sole matters raised in the representations.
 - 1.5 All of these matters were previously considered to be acceptable subject to the signing of the unilateral undertaking for health care contributions. Having agreed the main planning issues were acceptable, the key issue herein is whether the application remains acceptable in terms of its health care impact without the Unilateral Undertaking originally sought.
 - 1.6 The NHS consultee has confirmed that they have no justification for the contribution having had further discussions with the applicants about the nature of their proposals. The NHS give the following reason for no longer requiring a financial contribution:

"It is presumed that the facility will be registered as CQC hospital status as 24 hour care of the residents will fall to the staff employed at the facility. Therefore as the facility will cater for the full medical care of its residents we would not require a developer contribution in this instance."
 - 1.7 Members will recall that the original planning consent, 082124, delivered a generous package of community gains in the form of the transfer of the public open space to the west of the care complex to CBC and provision of a footway/cycleway link to Westway from the SE part of the site. It is not considered that further s106 contributions can be justified in the present case, a view endorsed by the Corporate Development Team.

2.0 Recommendation

- 2.1 APPROVE subject to the following conditions in section 4.

3.0 Positivity Statement

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

4.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers A3006 80 revC, 81revB, 82 revB and 91 revE.

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

3 - Materials to Match

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

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

4 - Non-Standard Condition/Reason

The additional parking spaces as shown on drawing no. A3006 91 rev D shall be laid out and available for use prior to any occupation of the building hereby permitted.

Reason. In order to ensure adequate on-site parking facilities are available in the interests of highway safety and the convenience and amenity of local residents.

5 – Non Standard Condition

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

6 – Non Standard Condition

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

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

7 – Non Standard Condition

The noise mitigation recommendations as submitted with the Acoustic Report accompanying application ref 082124 shall be fully implemented in order that all residential units are designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 “good” conditions.

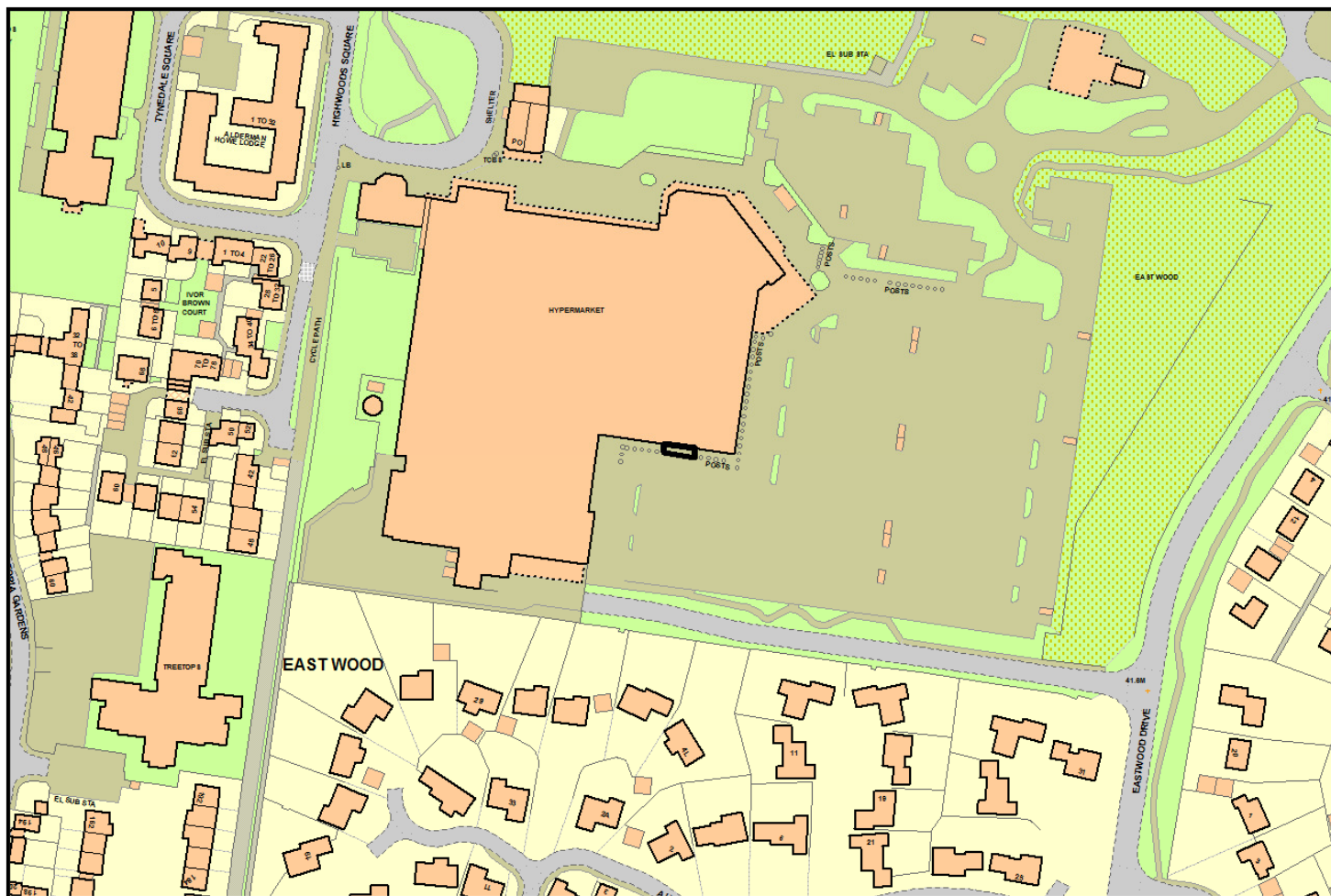
Reason: To ensure residents are not affected by undue noise from the adjoining railway line.

5.0 Informatives

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

(2) 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.

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



Application No: 146583

Location: Tesco Stores Ltd, Highwoods Square, Colchester, CO4 9ED

Scale (approx): 1:1250

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7.2 Case Officer: Nadine Calder

Due Date: 07/04/2015

MINOR

Site: Highwoods Square, Colchester, CO4 9ED

Application No: 146583

Date Received: 19 January 2015

Agent: Mr Laurence Piper, Fuse 3

Applicant: Tesco Stores Ltd

Development: Extension to existing Class A1 retail store

Ward: Highwoods

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Cllr Gerard Oxford and for the following reasons: Overdevelopment of the site and loss of parking spaces.

2.0 Synopsis

- 2.1 This site has an established use as a large retail development. The key issue of this development is whether it constitutes overdevelopment of the site. Other potential issues include impact on trees, parking facilities and neighbouring amenities. The detailed assessment of this proposal highlights that the proposal does not impact on trees or the provision of parking spaces while the impact on neighbouring amenities is limited. Similarly, the assessment has not provided any clear evidence that the proposed development would amount to overdevelopment of the site and due to its limited scale, no material harm could be identified. The proposal is, therefore, recommended for approval subject to appropriate conditions.

3.0 Site Description and Context

- 3.1 This application relates to the Tesco superstore in Highwoods and specifically to a paved area to the rear of the store where there is an existing hand car wash facility. The store has a 24 hour opening and, as a major store, has a large car park area. The access point to the car park is off a roundabout to the north-eastern corner of the site. The superstore benefits from a Click and Collect facility to the rear of the site and within the building itself there are ancillary uses to the main use at present. These used include a coffee shop, a photo development service, an optician's and a pharmacy. However, these are ancillary and not separate uses in their own right.

- 3.2 The application site is surrounded by residential properties to the east, south and west. There are some mature trees planted along the eastern and southern boundaries and there are three metre high acoustic fences along the southern side of the site which provide the residential properties with some screening from the store and the associated noise.

4.0 Description of the Proposal

- 4.1 This proposal seeks permission for a small extension to the rear of the existing store to provide a phone-shop which would be accessible from inside the existing store. The proposed extension would measure 12.24 square metres (4.3m x 2.846m) and would be located behind the existing car wash dry bays. The development would have a maximum height of 4.48m and would be constructed using the same materials that are used on the existing building.

5.0 Land Use Allocation

- 5.1 The site is allocated as an Urban District Centre and is used for local shopping.

6.0 Relevant Planning History

- 6.1 The site has a long list of planning applications attached to it. Significantly, the use of the site as a supermarket originated from the 1979 permission (72/0805/H) for the larger development of the Highwoods area. The food retail use was one of several services approved under phase 1 of this scheme, although the finer details were not approved until 1982 when application 82/0361 gave permission for retail development approximately 88,000 square feet in size. There have been various additions since then, the most recent and most relevant ones are listed below:

- 071025 – New non-food bulk store extension and canopy extension to be used for Tesco home delivery service.
- 080770 – Extension to existing foodstore to form opticians and pharmacy.
- 121385 – Change of use of nine parking spaces to a hand car wash and valeting operation including the installation of an office.
- 121386 – Provision of signage to advertise proposed hand car wash and valeting operation.
- 140327 – Home shop (Dot com) canopy extension and extension to store and associated works to existing retail store. Click and Collect canopy and associated parking amendments.
- 142466 – Proposed signage to Click & Collect facility.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out how the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

DP1 Design and Amenity

8.0 Consultations

8.1 Environmental Protection does not raise any objection to the proposed development.

8.2 The Highway Authority does not wish to submit a formal recommendation with regard to the proposed development.

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

9.0 Parish Council Response

9.1 This area is non-parished.

10.0 Representations

10.1 Six households have submitted letters of objection. Whilst one local resident did not have any serious problem with the proposed extension, the other five have raised overdevelopment as a primary reason for their objection. All six of them have, however, raised major concerns with regards to the repositioning of the car wash facility. Given that this element no longer forms part of the proposal, no weight is given to these objections.

10.2 Further concerns that have been raised with regards to the proposed extension are as follows:

- Loss of trees
- Loss of parking facilities
- Additional lighting
- Potential highway safety issues
- Inaccuracies in plans and application form

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

11.0 Parking Provision

11.1 The proposed development would not have an impact on the provision of parking which complies with current parking standards.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is not classed as a “Major” application, therefore there was no requirement for it to be considered by the Development Team. It is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 The application initially consisted of a larger phone-shop extension as a result of which the existing car wash facility was proposed to be relocated further into the site despite neither application form nor the Design and Access Statement making any reference to the latter. The relocation of the car wash would have resulted in the loss of a recently planted tree and 12 parking spaces, although seven parking spaces would have been reinstated in the location of the existing car wash facility. There would therefore have been a net loss of five parking spaces.

15.2 Following the objections from local residents and the ward member, as well as concerns that were raised by the Council’s Environmental Protection Officer, the Agent suggested moving the car wash to the left rather than further into the site and turning it around 90 degrees so that it faced the store rather than nearby residential properties.

15.3 However, following further objections, the Agent indicated that Tesco no longer wish to relocate the car wash facility and instead seek to erect a smaller phone shop to the rear of the store and behind the existing car wash. As such, the proposal does not have any impact on landscaping, as set out within the application form, and the description of the proposal is now correct. The form makes reference to the loss of five parking spaces, however, this would no longer be the case given that the car wash facility remains in situ. The application has been assessed on this basis.

15.4 Turning to the design of the proposed extension, this is in keeping with the existing building. The extension would be concrete based, with metal cladding to match the existing retail store and would have a flat roof. It would be attached to the existing store adjacent to the opticians/pharmacy building for which permission was granted in 2008 and it would not have an external entrance point. Whilst its use would be as a phone-shop, this would be an ancillary use to the main retail unit and is therefore not considered to represent a change of use.

- 15.5 At 12.24 square metres, the amount of the proposed development is minimal. The development is also located to the rear of the main store where it is less prominent. The overall scale of the proposed development is subservient to the main building in terms of height and most certainly by size. As such, the scale is unlikely to have any significant impacts, particularly outside of the site or the immediately visible area. This is supported by the design and materials of the proposed development, which will help to blend the extension into the existing building. It would be visible from the far end of the car park, albeit these views would be limited and somewhat obscured by the car wash dry bays.
- 15.6 The Agent has stated that the phone-shop would operate between the hours of 09:00 and 20:00 Monday to Saturday and from 10:00 to 16:00 on Sundays and Bank Holidays. It is noted that the existing store is a 24 hours openings store, thus these hours seem to be reasonable given the existing usage. However, it would be unnecessary and unenforceable to condition the hours of this small element differently to the rest of the store. Therefore no hours of use condition will be carried forward.
- 15.7 At its meeting on 20 March 2014, when an application for a home shop extension and a click and collect facility was determined, the Committee wished to communicate to the applicant that the site appeared to be at its capacity for development and that alternative sites, with better traffic access, should be considered for further development of the business. Notwithstanding this, whilst it is accepted that the size of the store has considerably increased since it was first permitted, every application has to be determined on its own merits.
- 15.8 Local residents and the ward member repeatedly raise concerns that the site is overdeveloped and that any further development of the site, no matter what scale or use, is unacceptable. These objections are based on the fact that the size of the retail store through various alterations and additions has significantly increased since it was first brought into use. Overdevelopment, however, needs to be justified by identifying material harm that cannot be mitigated. The mere fact that the size of the store has significantly altered in recent years does not justify a reason to refuse permission for any future development that is proposed on this site and it is your Officer's view that a refusal on that basis would not be sustainable at appeal. As a result of its location and minimal scale, the proposed extension would not be excessive in terms of demands on infrastructure and services and it would not have any materially harmful impact on local amenity and the character of the area. On this basis, it is your Officer's opinion that, despite further increasing the size of the store, albeit marginally only, the proposed development would not constitute overdevelopment of the site given that no material harm could be identified, thereby not presenting any sustainable reasons for refusal.
- 15.9 Located behind the existing car wash dry bays and given its limited scale and height, the proposed development would have limited impact on the surrounding area as a whole, including neighbouring properties. The proposed extension would neither impact on trees nor would it affect the parking facilities for the existing store which, at a maximum standard, are in compliance with current parking standards. Similarly, the provision of a phone-shop at the application premises is not considered to increase the traffic associated with the store to such a degree that would result in any highway safety or efficiency issues. Although it is recognised that traffic congestion is an existing problem on this site, the proposed development will not make a significant

difference to this problem. Additionally, the proposed extension would not affect the traffic flow within the site or any of the zebra crossings that are provided within the car park and the proposed development is therefore not considered to impact on the safety of pedestrians walking across the car park.

- 15.10 The application form and the proposed drawings have not made any reference to the installation of any lighting. Having regard to concerns raised by local residents, it is your Officer's opinion that, in the event that permission is granted for the proposed development, this should include a condition stating that no external lighting fixtures shall be installed at any time. This would ensure that the Council is able to control any future lighting, thereby ensuring that the amenities of nearby residents will be safeguarded.

16.0 Conclusion

- 16.1 Overall, it is concluded that the proposed development is a minimal extension that would provide an ancillary use expected at a store of this size. The extension does not present any significant concerns due to its small scale nature and given its location, it would not have any materially harmful effect on the existing landscaping, the provision of parking spaces or the amenities of nearby residents. Whilst the proposed small scale extension makes a further contribution towards the extension of the existing retail store, it has to be assessed on its own merits and given that no material harm could be identified, it is your Officer's opinion that refusing the proposed development on the basis of overdevelopment of the site is not justified and it is considered that such a refusal would not be sustainable at appeal.

17.0 Recommendation

- 17.1 APPROVE subject to conditions.

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 2326gag#b.dgn, 2326gag1f.dgn and 2326gag1a.dgn.

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

3 - Non-Standard Condition/Reason

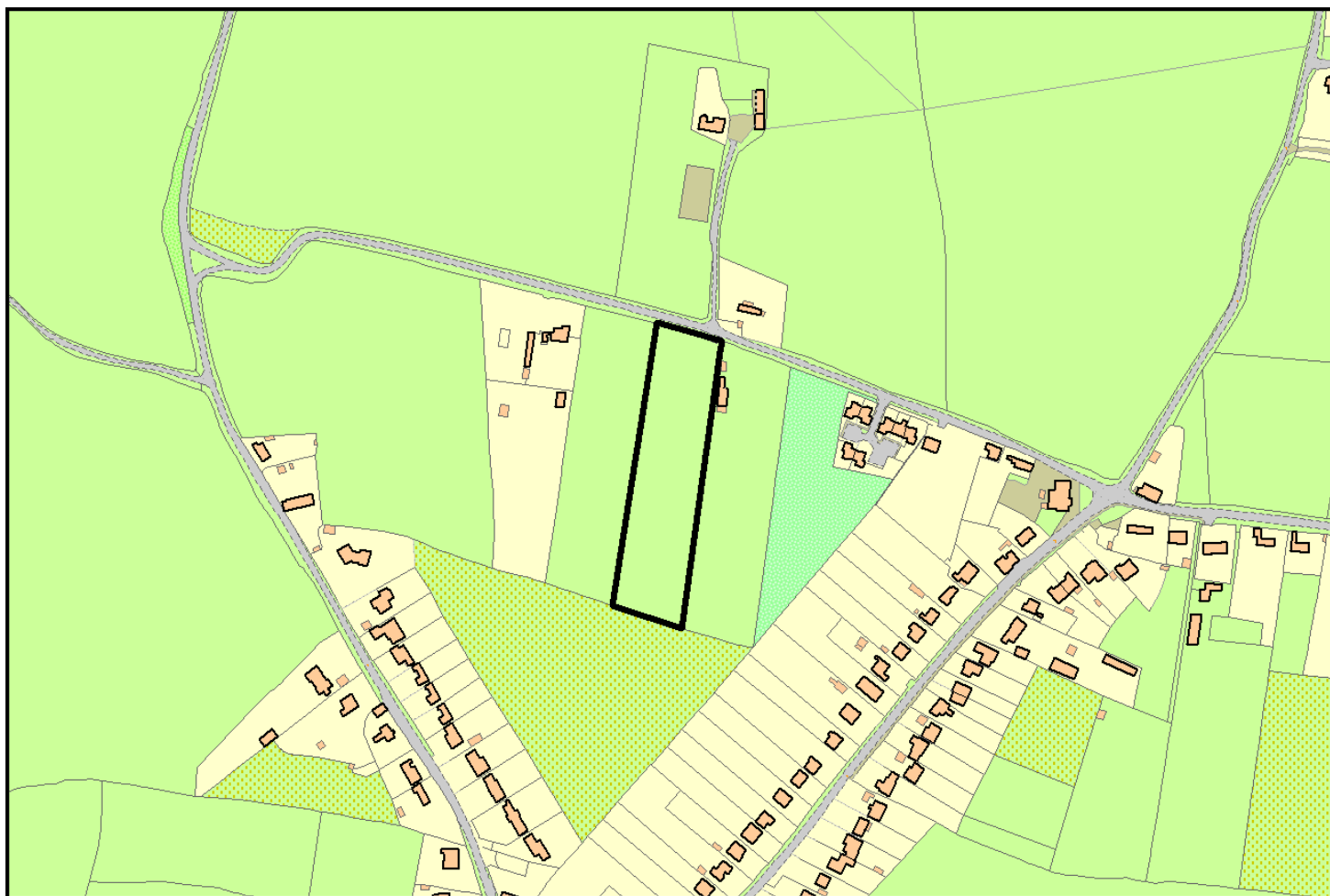
The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

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

4 - Non-Standard Condition/Reason

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

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



Application No: 146509

Location: Tregullon, High Street, Langham, Colchester

Scale (approx): 1:2500

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Case Officer: Mark Russell

MINOR

Site: Tregullon, High Street, Langham, Colchester

Application No: 146509

Date Received: 16 January 2015

Agent: Chris Exley

Applicant: Mr Jack Phillips

Development: New detached house, comprising two storey main house with two single storey wings (one called 'Annexe' although it shares access and core facilities and services with the house) and garages, forming an L- shaped building enclosing the front parking and turning courtyard. Existing hedges retained and strengthened, new western boundary hedge. Formation of a wildflower meadow/ butterfly reserve in the southern half of the existing two acre site

Ward: Dedham & Langham

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

- 1.1 This application has been called in to the Planning Committee by Councillor Mark Cable for the following reasons:

"I'm calling in due to this being a substantial development in an area which is outside of the village envelope. It is a large building aimed at providing a solution for several generations.

I would like the committee to review without dependence on the officer's recommendation. (I would like there to be no doubts surrounding the decision on this type of development)."

2.0 Synopsis

- 2.1 The key issues explored below are the principle of this proposal. It is explained that this is an unacceptable proposal, being in a relatively remote location far removed from any facilities and is, thus, unsustainable.
- 2.2 It is further explained that the design is inappropriate and that the Highway Authority also opposes the application.
- 2.3 Refusal is therefore recommended.

3.0 Site Description and Context

- 3.1 The site is remotely located outside of the Langham Moor settlement limit. It comprises half of a field between another field/paddock and the house “Six Acres.”
- 3.2 Across the road is the house “Serenity” and land belonging to “Bardles Barn” (which is set back 100 metres from the road).
- 3.3 All about is open countryside, largely comprising agricultural land.
- 3.4 At its nearest point, the site is 75 metres outside of the Langham Moor settlement limit. However, this is a notional back garden-to-back garden scenario. In fact, a more logical way to interpret its position is to state that it is 180 metres along Langham High Street from the nearest dwelling within the settlement (Langham Cottage).

4.0 Description of the Proposal

- 4.1 Whilst the proposal was originally described as “formation of a wildflower meadow/butterfly reserve in the southern half of the existing two acre site. New gardens and detached house, comprising two storey main house..” etc. It was quite clear that the main element was, indeed, a new dwelling. The description was, therefore, changed.
- 4.2 The application documents give many details about the low-energy credentials of the proposal as well as what is held to be an “innovative design.” These matters are discussed in the main report section.
- 4.3 The building itself is approximately 26 metres across and 12 metres deep. This comprises the main two-storey house and what has been described as an “annexe” at single storey to the side. In front (to the north) it is proposed to place garaging. All of these elements read as one continuous built form.
- 4.4 The main public aspect to the High Street (north) facing elevation would comprise a zinc roof, with glimpses of lime render and softwood horizontal boarding. The roofs of the single storey elements (annexe and garaging) are to be green.
- 4.5 Access is on the left-hand (eastern) side of the property.
- 4.6 At the rear of the residential half of the site is a garden with what is described as a “half-sized allotment.”
- 4.7 To accompany the built form aspect of the proposal, the application is offering what has been described as a “Wildflower Meadow/Butterfly Reserve”.
- 4.8 Details of this have not been provided, but in their supporting statement the applicants have stated that they will enter in to a Section 106 agreement to grant the land to “an appropriate nature conservation body that is agreed with the Borough Council.”

5.0 Land Use Allocation

- 5.1 Unallocated

6.0 Relevant Planning History

6.1 None

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

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

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA2 - Walking and Cycling
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP8 Agricultural Development and Diversification
DP9 Employment Uses in the Countryside
DP12 Dwelling Standards
DP19 Parking Standards
DP25 Renewable Energy

7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

n/a

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

Sustainable Construction
The Essex Design Guide
External Materials in New Developments
Langham Village Design Statement

8.0 Consultations

- 8.1 Highway Authority: The proposal is outside the development boundary in an area where all trips will be by private vehicle.

The proposed access does not provide suitable vehicle visibility splays and as such will lead to additional conflict between vehicles in this narrow lane.

The proposal is therefore contrary to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011;

- 8.2 Landscape Planner: was involved at pre-application and voiced concerns about the impact on the rural landscape.

- 8.3 Urban Designer: was involved at pre-application and stated:

In my opinion I cannot see how this design could be related to the character of the area. The mass is overly large for a rural dwelling and the style is a confused blend of visually aggressive side elevations with more modest, unexceptional, front and rear. The annexe appears visually unbalanced in the composition, out of scale with the main house

My interpretation is that this is an imposition on the character of the area, unrelated in form and style and without any attempt to understand local distinctiveness and produce a sympathetic design. There is nothing exemplar about this design to justify a new dwelling in the countryside. It is contrary to policy.

OFFICER COMMENT – The scheme has evolved a little since pre-application, but the fundamental issues, if improved upon, still remain.

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

9.0 Parish Council Response

- 9.1 Langham Parish Council has commented as follows:

We note the following in relation to this application for a new property:

- 1. It falls outside the village settlement boundary;*
- 2. The design is completely out of character with neighbouring properties;*
- 3. The property is totally out of keeping with the landscape context.*

We also note that pre-application advice given to the applicant was that it was very unlikely that the application would be approved. Accordingly we cannot support this application for good material reasons.

10.0 Representations

10.1 Ten letters of objection were received, with the following points raised:

- Visually intrusive;
- Narrow road;
- Outside of the village envelope;
- Loss of farmland;
- Loss of wildlife;
- Would be a precedent;
- Unsafe access;
- Design out of keeping;
- Unsustainable
- More people should have been consulted;

OFFICER NOTE – On this last point all affected properties were consulted. As this is such a remote location there are not many neighbours to consult.

11.0 Parking Provision

11.1 A parking area is shown to the front which indicates sufficient parking for several cars in compliance with adopted standards.

12.0 Open Space Provisions

12.1 A wildlife meadow of 3,600 m² is being offered as part of the proposal.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Principle:

15.1 Members will be aware that there is a *prima facie* reason for refusing this application. The site is remote from the Langham Moor settlement limit.

- 15.2 The supporting statement to the application seeks to deconstruct this remote status by claiming that the site is “only a short distance” from the settlement boundary “...and is “cut back at this point.” This is misleading on both fronts. The nearest part of the settlement limit is Langham Cottage, 180 metres from the site (rear gardens to Moor Road are 75 metres away from the southern part of the site, but would have to be accessed via woodland in third party ownership and obviously could not be so accessed as they are privately owned). The settlement limit is not “cut back” it is linear along Moor Road, Chapel Road and a small part of School Road, barely touching the High Street.

Sustainable Development:

- 15.3 In any event, a simple physical description of remoteness is not the full story. We are asked to consider the “golden thread” of sustainable development – environmental, social and economic. These are indivisible and need to be looked at as a totality. However, for clarification, the three strands can be examined separately.

Environmental

- 15.4 The application makes much of the low carbon credentials and “passivhaus” standard (i.e. level 5 or 6 of the Code for Sustainable Homes). Whilst the claims have not been analysed by your Officers in any great detail, they are taken on face value and the claimed credentials are not disputed here. This weighs in favour, to some extent, in terms of environmental considerations.
- 15.5 However, the same limitations apply here as to any isolated dwelling and relate to car use and distance from facilities. The submitted drawings show garaging for several cars, which shows an obvious intention to use them, although a bus service of reasonable regularity (8 or 9 per day) does run to both Colchester and Ipswich.
- 15.6 The distance from facilities is 250 metres to the Shepherd and Dog public house, 600 metres to the community shop and sportsfields and one kilometre to the local primary school. These are the only facilities within distances likely to be walked. The nearest secondary schools are The Gilberd and St. Helena several miles away and the community shop is limited in its offering.
- 15.7 There are no healthcare facilities in Langham, with the nearest doctor’s surgeries being in Colchester, East Bergholt or Nayland, dentists are in town or Dedham.
- 15.8 Employment opportunities do exist at School Farm (one kilometre away) and Park Farm (nearly 1.5 kilometres using a public footpath).
- 15.9 Given the limited offering of facilities within walking distance, it is highly likely that most off-site activities undertaken by occupiers of the house and annexe would be car-borne. This is environmentally unsustainable.
- 15.10 A further environmental consideration is the physical impact of the building. Whilst the applicants have made some attempts to keep the profile of the building low and to meld with the landscape, it does represent, nevertheless, a built form in what is currently field and pasture with a woodland backdrop. The design of the building itself is discussed below.

- 15.11 The application does carry the promise of some, vaguely-defined, environmental benefit in terms of some form of biodiversity. However, this has not been elaborated upon and in any event would appear to be a weak justification for relaxing policy.
- 15.12 In total, notwithstanding the passivhaus and biodiversity aims, the environmentally sustainable credentials weigh against the proposal.

Social

- 15.13 In terms of being socially sustainable, the proposal would allow four generations of a family to live together. This is in favour of the application. However, the social benefits would be limited just to the occupiers. There would be no wider social benefit.

Economic

- 15.14 Economically, the house-building phase would provide a temporary income stream for the builders (unknown) and the Cambridgeshire-based garden design consultancy. Beyond this there are no economic benefits from this proposal.
- 15.15 In total, the scheme is held to be unsustainable and should be refused for that reason alone. Members are advised of recent appeal decisions at Boxted and Eight Ash Green where proposed housing, nearer than this application to, but still outside of, settlement limits has been refused by Colchester Borough Council and both appeals were dismissed.

Exceptions

- 15.16 A principal reason for allowing residential development outside of settlement limits is if it is low-cost for local people. This proposal is not.
- 15.17 Another reason is that a house is required for a rural worker. This argument has not been used, and it is clear that there is no functional justification for allowing a house so that a wildflower meadow/ butterfly reserve can be looked after (in fact the applicants make it clear they wish to divest themselves of the land) and it is inconceivable that a wildflower meadow/ butterfly reserve will be able to financially support the building of a house.

NPPF

- 15.18 The applicants are, therefore, left with no policy justification other than citing NPPF paragraph 55 which states that isolated dwellings should not be permitted unless there are exceptional circumstances such as:

“Exceptional quality or innovative nature of the design of the dwelling.

Such a design should:

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards in architecture;
- significantly enhance its immediate setting; and

- be sensitive to the defining characteristics of the local area.”

15.19 Such a raft of considerations immediately opens up a subjective debate about what is and is not acceptable and whether or not a design can be described as exceptional and innovative.

15.20 To take the bullet points one-by-one. Is the design outstanding or innovative? Certainly it would stand out, but this is not the same thing. The chosen form of asymmetry (which would be read from east and west) and lack of roof form to the front (north) would visually disappoint in your Officer’s opinion. Placing an asymmetrical roof on a building is not a new design feature and is in no way innovative or outstanding.

15.21 The only positive slant that can be placed here, as above in the environmentally sustainable section, is the low carbon, passivhaus, offering, which in part informs the design (for example, south-facing windows). This, however, is insufficient to justify any claims of being outstanding or innovative.

15.22 Such a narrative immediately draws one to conclude that the architecture cannot be readily described as being of the highest standard. The definition of architecture is “the art or practice of designing and constructing buildings..... the complex or carefully designed structure of something.” It cannot be denied that several pages of justification have been given in the supporting documents to justify the chosen final product. However, this does not mean that the architecture reflects the highest standards.

15.23 The proposal is not held to “significantly enhance its immediate setting”, in fact the very opposite is true. At pre-application stage (when the applicants were given the advice not to proceed) our Landscape Planner clearly stated:

The proposal should clearly identify how the change of use of land from agricultural pasture to domestic would conserve the mostly rural character of the area, particularly as the site appears reads as part of a historic open (possibly strip) field pattern, i.e. it has a clear agricultural character. The fragmentation of the plot through the introduction of the buildings & divisional planting and the swaling to the plot frontage would appear to run contrary to this open, relatively flat field character.

15.24 Such analysis bleeds in to the consideration of “defining characteristics of the area” which are open and rural. That aside, if the concept of a dwelling is entertained, the prevailing pattern of built form requires analysis and should inform the design solution.

15.25 In this case, the application justifies the proposal at hand by stating that its proportions (width to depth of the plot being 1:3:5) and vague form (two-storey, detached with a projecting forward wing) comply with the prevailing form of development in the vicinity. There is some credence to this, but it must be recalled that there is a bungalow nearby. Beyond this, the comparison ends. The asymmetry (as discussed above) is an alien introduction to a rural landscape where one would expect traditional forms. The materials, similarly, would visually jar where one would expect a traditional palette of materials which melded better with the landscape. This is also contrary to the recommendations of the Langham Village Design Statement which states on page 12: “New housing development should be sympathetic in scale, design and materials to surrounding buildings.”

- 15.26 It is further of concern that the DAS states that this scheme is “potentially setting a low-density development and land-use template for the remaining un-developed areas of this Langham Block” thus suggesting a precedent. To describe unallocated countryside as a “block” because it happens to be between two arms of the settlement limit is to grossly undersell its rural credentials. It is also of concern that if this application is allowed it will act as a precedent for further infill development in the 5ha of land between Moor Road and Chapel Road. Members are asked to consider whether they would wish to see such a design replicated in surrounding and nearby plots of land and also in other remote locations near to or far from village settlement limits.
- 15.27 From the above it is clear that the proposal is unacceptable within the context of NPPF paragraph 55 and should not be permitted.

Other Matters

- 15.28 It is noted that the Highway Authority has also objected on the grounds of highway safety.

16.0 Conclusion

- 16.1 The proposal is against policy and has advanced no cogent justification for an exception. It fails to meet any of the criteria for exception offered by the NPPF. The location is unsustainable, the design is incongruous and there are also issues of highway safety. For these reasons, the application is recommended for refusal.

17.0 Recommendation

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

18.0 Positivity Statement

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

1 – Non-Standard Refusal Reason

The application is hereby refused for the following reasons:

- Outside of the settlement limit
- Unsustainable
- Unacceptable design
- Negative effect on landscape
- Highway safety issues
- Contrary to Langham Village Design Statement.



Application No: 150351

Location: Elfin House, 3 Pedders Close, Colchester, CO3 4QX

Scale (approx): 1:1250

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Case Officer:	James Ryan	Due Date: 13/04/2015	MINOR
Site:	Elfin House, 3 Pedders Close, Colchester, CO3 4QX		
Application No:	150351		
Date Received:	16 February 2015		
Agent:	Mr P Tyler		
Applicant:	Mr Robert Andrew		
Development:	Two storey office extension		
Ward:	Shrub End		
Summary of Recommendation: Conditional Approval			

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the agent works as a consultant for the Council in Building Control.

2.0 Synopsis

- 2.1 The key issues explored below are the design of the scheme and its impact on the character of the area.

3.0 Site Description and Context

- 3.1 The site comprises a warehouse and parking/servicing area access off of Pedders Close. The site is visible from Shrub End Road. The existing warehouse is a buff brick building with a very slack pitched roof and high level cladding on the elevations. It is not a building of any particular architectural merit. It is, however, more interesting than many contemporary industrial sheds.
- 3.2 Elfin Kitchens specialises in supplying and fitting small self-contained packaged kitchens for student accommodation, flat conversions and holiday lets. The company is successful and is expanding.

4.0 Description of the Proposal

- 4.1 An extension is proposed to provide office space to allow for the expansion of the growing business.

5.0 Land Use Allocation

- 5.1 The land is allocated for employment uses.

6.0 Relevant Planning History

- 6.1 There is no planning history particularly relevant to this scheme.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

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

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

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

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP19 Parking Standards

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

Vehicle Parking Standards
Sustainable Construction
External Materials in New Developments

8.0 Consultations

- 8.1 None.

9.0 Parish Council Response

- 9.1 Non-parished.

10.0 Representations

- 10.1 n/a.

11.0 Parking Provision

- 11.1 The adopted parking standards maximum provision for office uses is 1 parking space per 30 square metres of office space. The adopted parking standard for storage and distribution is 1 parking space per 150 square metres of warehouse space. If both uses are combined this equates to a maximum requirement of 11 spaces in this instance. The scheme provides 13 spaces including 2 disabled spaces. The scheme will therefore meet the maximum adopted parking standards with 13 spaces. The Design and Access Statement (DAS) sets out how the use is for storage and distribution only, with no retail from the site. This is not a trip generating use.
- 11.2 The adopted parking standards do have a minimum requirement for cycle parking which equates to 4 spaces in this instance. This will be secured by condition.

12.0 Open Space Provisions

- 12.1 This application does not raise any requirements for open space.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Design and Layout

- 15.1 The design of this scheme is the key issue. The existing building does not lend itself to an extension and the site does not allow for an extension to the rear where it would be tucked away. The extension cannot be set further back from the street as the warehouse has its loading bay towards the rear. This leaves the position that has been selected for the extension as the only real option. The position is prominent in the street scene.
- 15.2 The building has been designed as a separate entity that abuts the existing warehouse. It appears somewhat domestic, but it reads as an honest separate addition and therefore on balance it is considered to be acceptable.

Scale, Height and Massing

- 15.3 The building is much smaller than the warehouse in terms of its scale and massing. The pyramidal roof is no higher than the ridge of the warehouse. Therefore the scale, height and massing proposed ensure that this scheme is a subservient addition to the existing building.

Impact on the Surrounding Area

- 15.4 The scheme is publically visible as the southern flank will run along the boundary of the site with Shrub End Road. In the context of the industrial nature of the immediate vicinity the proposed extension will not have a harmful impact on the surrounding area.

Impacts on Neighbouring Properties

- 15.5 The proposal is located adjacent to the existing warehouse which is set away from residential properties. As the residential neighbours are on the opposite side of Shrub End Road, it is not considered that this scheme will cause material harm to neighbouring properties.

Highway Issues

- 15.6 The proposal is serviced off of Pedders Close which is a cul-de-sac serving similar industrial uses. The extension has deliberately been set away from the loading bay to retain the existing turning and manoeuvring situation for vans and HGVs. The DAS sets out how the kitchens that the company specialises in come from Germany on an HGV that is too long to turn on site. It drives in, unloads and then reverses out into Pedders Close so it can drive onto Shrub End Road in a forward gear. This application will not change this process which appears to work without causing a problem. A minor widening of the existing access is proposed to help facilitate the HGV reversing.
- 15.7 Therefore this scheme raises no issues in highway safety terms.

Other Matters

- 15.8 It is also proposed to remove the top section of the boundary wall nearest to the extension and replacing it with railings. Behind this a new landscaped area is proposed. This will be a welcome addition to the street scene and the details will be agreed by condition.

16.0 Conclusion

- 16.1 The NPPF, PPG and Development Plan all look to support economic development wherever it can occur subject to mitigating against any harmful impacts of the scheme. On that basis the scheme is acceptable and therefore an approval is warranted.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 415-1, 415-6, 415-7, 415-8, 415-9, 415-10, 415-11, 415-12 and 415-13 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Materials to Match

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

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

4 - Simple Landscaping Scheme Part 1 of 2

No works 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 existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

5 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any 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, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

6 - *Smallscale Non-Residential Boundary Treatments

No works 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 USE of the development 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.

7 -Cycle Parking TBA

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

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

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

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

(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

