

Planning Committee Meeting

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

Thursday, 08 March 2018 at 18:00

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

If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

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

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

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

Have Your Say!

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

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Access

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 08 March 2018 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors;

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

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

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

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

Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

6 Minutes of 15 February 2018

7 - 14

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 15 February 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 173119 Ranges Service Station, 154 Mersea Road, Colchester

15 - 36

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

7.2 173058 Rowhedge Heritage Trust Hut, High Street, Rowhedge, Colchester

37 - 54

To remove temporary building 'The Hut' and replace with a permanent building including disabled access toilet and veranda.

7.3 180185 Gilberd School, Brinkley Lane, Colchester

55 - 66

Application to remove condition 10 (requiring the sports hall to be used in connection with the Gilberd School only) of planning permission 170369.

7.4 180152 Friars Farm, Daisy Green, Eight Ash Green, Colchester

67 - 76

Erection of single dwelling.

7.5	180020 226 Axial Drive, Colchester	77 - 80
	Proposed alteration of windows at first floor level to french doors and balcony over bay windows.	
7.6	180016 18 Albany Crescent, West Bergholt, Colchester	81 - 86
	Erection of a two storey above an existing single side extension.	
8	Rowhedge Wharf - Change of use to the affordable housing plots at the Hills development	87 - 90
	A report by the Assistant Director Policy and Corporate giving details of a request from Hills Development to change the housing plots allocated as affordable homes on their site at Rowhedge Wharf from plots 77/78 to plots 61/62.	
9	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).	
	Planning Committee Information Pages	91 - 102

Part B **(not open to the public including the press)**

Planning Committee

Thursday, 15 February 2018

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

Substitutes: Councillor Dave Harris (for Councillor Chris Pearson)

Also Present:

552 Site Visit

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

553 Minutes of 18 January 2018

The minutes of the meeting held on 30 November 2017 were confirmed as a correct record.

554 171279 BP Eastwood, Eastwood Service Station, Ipswich Road, Colchester

The Committee considered a planning application for the variation of condition 9 (illumination) following the grant of planning permission 160608 at BP Eastwood, Eastwood Service Station, Ipswich Road, Colchester. A decision had been taken by officers to refer the application to the Planning Committee because of the detailed planning and enforcement history attached to the site and in the interests of complete transparency in the planning process. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee members had been invited to visit the site in their own time to coincide with either the opening up or closing of the site 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 Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations.

Douglas Fleming addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the presentation by the case officer demonstrated the situation in November 2017 which was not up to date. He was of the view that the permission which had been granted by

the Committee in 2016 for the operation was intended to protect the residents but the failure to correctly word the relevant planning condition had meant that the intended hours of operation were not being complied with. The applicants had been operating the site, ignoring the 7am to 11pm hours permitted for a period of 10 months before a Breach of Condition Notice (BCN) had been issued. The additional lighting had the effect of making the staff more visible to motorists and, as such were attracting vehicles when the station was not open to customers. This had led to ongoing disturbance to residents' sleep with the level of lighting currently being used being worse than when the first BCN was issued. From 5:30 am staff arrivals were leading to more vehicle noise, people talking and doors slamming. BP seemed to take the view that the conditions were optional whilst the residents view was that, to comply with the planning permission granted, all shutters should be closed and all lighting should be turned off between the hours of 7am and 11pm. He asked the Committee to look after the health and well-being of the residents and requested the application be refused.

Jason Lowes addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the application sought to reduce the level of illumination on the site to comply with the Council's view that unlimited and excessive use of lighting could be detrimental. The application would therefore regularise the situation on site to allow some low level illumination outside the hours of 7am to 11pm every day. The proposals were for external down lighters on 10 minute timers allowing staff to safely access their cars when the site was closing and limited lighting to the ATM (cash machine) which was covered by an existing shutter together with limited lighting on the petrol pumps which were both requirements due the electronic configuration of the machines and which would not be discernible outside the site. In addition, there would be some limited lighting within the forecourt shop which would be considerably less than would be usual in a shop and not to the extent that anyone could reasonably expect the shop to be open. He considered the lighting needed to be considered in the context of Ipswich Road which was a designated A road and a major route in and out of Colchester. He was of the view that the proposed lighting would not have any discernible impact on the surroundings or the amenity of neighbouring residents. The lighting would be neither unlimited nor excessive, rather it would be limited and restrained, no objections had been received from the Highway Authority or from Environmental Protection and, as such, he asked the Committee to support the recommendation of officers as set out in the report.

Councillor Smith attended and, with the consent of the Chairman, read a statement on behalf of Councillor G. Oxford. The application site was located in a densely populated residential area and the nearest dwelling was a metre from the boundary. Trees had been removed during previous development of the site, meaning residents were more vulnerable. Breaches of planning conditions had been reported by residents which had led to Breach of Condition Notices to be issued however disruption to residents' ability to sleep was ongoing which potentially constituted a breach of the Human Rights Act.

Residents had been disturbed with noise from vehicles and lighting from as early as 5:30am and were of the view that the condition permitting the operation should have stipulated that no-one would be on site between 7am and 11pm. Residents considered that their concerns were not being addressed sufficiently and that their right to a peaceful night's sleep was being ignored. Councillor Smith added his own view that the application had caused a great deal of concern for residents who had thought the situation would improve following the site's acquisition by BP. He also questioned the need for further applications to be submitted, amending the permission originally granted by the Committee.

A number of Committee members confirmed that they had visited the site either prior to opening or closing of the site, all of whom confirmed that the site gave the appearance of being in darkness. Observations were also made about the busy nature of Ipswich Road at these times

Some members of the Committee considered that the original permission for the operation of the site should have ensured that the site was in darkness when it wasn't open to customers and were concerned at reports that the sight of staff in the forecourt shop was attracting customers outside the opening hours. Reference was made to the need for staff to be present as early as 5:30am and for subsequent applications to vary the original planning permission. It was further considered that the proposal had potential to breach the Human Rights Act, on the grounds that the residents' rights were being infringed whilst the need for the low level lighting was questioned in terms of the material operation of the premises.

Other members of the Committee, whilst acknowledging residents' concerns, accepted the need for low level light for staff leaving the site after closure, that this would generally only be a requirement in winter months and there were insufficient grounds to warrant a refusal of the application. Reference was also made to the busy nature of Ipswich Road at all times of the day and night, the positive improvement made to the appearance of the site by the current operators as well as their sympathetic approach to residents' concerns in order to make the business work. Clarification was sought regarding the part night street lighting in the vicinity.

The Principal Planning Officer confirmed that the application no longer included arrangements for newspaper deliveries to be permitted before 7am as an agreement had now been reached which negated the need for this amendment. The street lighting at the nearby Rovers Tye roundabout was on all night, whilst the streets lights at the application site were illuminated from dusk to 1am and then from 5am to dawn. The nearest dwelling to the site was situated to the west, from where the bulkhead light for staff to safely access their cars would be visible, however, its impact was not considered to be unreasonable. He also explained that the low level lighting to the ATM and the petrol pumps were not considered to be materially harmful. He further confirmed that two legal opinions had agreed that the planning permission granted in 2016 did not prevent

the use of the forecourt shop by staff prior to opening and the Council did not have any measures to control what time staff arrived on site. He also indicated that he had witnessed the use of the shutters at the premises and confirmed these were virtually silent.

The Planning Manager explained that, in relation to the Human Rights Act and the impact on residents rights to a peaceful night's sleep, officers had already stated in the Committee report that it was their view that no significant harm was being caused to the residents. As such, any consideration to refuse the application would lack sufficient grounds and would be very difficult to defend at an appeal

RESOLVED (SIX voted FOR, FOUR voted AGAINST) that the application be approved subject to the conditions set out in the report.

555 172057 Former M & F Watts site, Parsons Heath, Colchester

The Committee considered a retrospective planning application to erection of eight houses and two chalet bungalows at the former M & F Watts site, Parsons Heath, Colchester. The application had been referred to the Committee because it was a major application and material objections had been received. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Ishita Sheth, Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations. She confirmed that UK Power Networks had responded to the consultation and were of the view that the proposal included a land ownership discrepancy as well as a request for a two metre buffer to be maintained between the building plots and the electricity sub-station. She explained that land ownership was not a planning material consideration for the Committee whilst the request for a buffer could be addressed by means of an additional condition. She also explained that the proposed condition 24, relating to noise, needed to be revised to include provision for noise from the electricity substation, the drawing number in condition 34 needed to be amended, a new condition added to provide for the sheds to Plots 1, 2 and 3 to be located two metres from the rear boundary, conditions 9, 12, 13, 14, 15 and 24 to be amended to provide for the demolition of the existing buildings prior to the commencement of the development and condition 28 could be removed as it was a duplication of condition 27.

Rodney Gear, on behalf of Wivenhoe Town Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He lived at 41 Parsons Heath and wished to express his concerns about loss of light to rooms in his house due to the forward location of the development, whether the hoarding at the front of the site had received planning approval, the

inclusion of windows to the dwelling on Plot 1 which would overlook his property, the proposed width of the path and the location of the access to the site being in close proximity to a busy roundabout and the increased potential for collisions.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that, the application was for the development of one of the few brownfield sites left in Colchester which had been within no beneficial use for 11 years, although the site was a highly sustainable one with shops, doctor's surgery and schools nearby and a location close to bus routes. As such, it was ideal for redevelopment. The properties proposed were lower cost housing scheme for young families and first time buyers. Discussions had been undertaken with officers for some time which had resulted in significant amendments being incorporated as well as changes to meet Highway Authority requirements. There was no loss of amenity to residents, no overlooking or loss of outlook, the Highway Authority had raised no objections and it was fully policy compliant. He gratefully acknowledged the proposed amended conditions to provide for demolition prior to commencement of the scheme.

Councillor Smith attended and, with the consent of the Chairman, addressed the Committee. He was of the view that there had been a lack of effective communication with residents, the result of which had meant that there were a lot of concerns expressed. He acknowledged that the development would generally enhance the area but some details, such as size and strength of fencing, remained to be resolved. He sought clarification regarding the apparent conflicting wording of condition 25, relating to hours of operation between 8am and 6pm and condition 26, relating to the restriction on vehicle movements between 7:30am and 9:00am. He was surprised the Highway Authority had not been more restrictive. He requested that arrangements be made for the road markings on Parsons Heath to be repainted, especially those close to the doctor's surgery and Roach Vale School. He was concerned that contamination issues associated with the site were adequately addressed and was also aware that the area had known drainage issues. He considered the scheme included two dwellings too many and referred to residents comments about the design being in-keeping with the area, acknowledging the generally terraced housing in St John's Road compared to the much larger housing around Roach Vale. He also queried whether there would be arrangements for charging electric vehicles on the site.

The Planning Officer confirmed that boundary treatment matters had been provided for in condition 9, Anglian Water had proposed conditions to address potential drainage issues and the contamination officer had been fully consulted.

The Planning Manager confirmed that residents' concerns about overlooking windows related to two small secondary windows to the building in plot 8 which could be conditioned to ensure they weren't provided.

Members of the Committee generally welcomed the proposals on the grounds that they addressed problems associated with a derelict site, the site was small and compact and sustainable. However, concerns were expressed that traffic problems may result due the location of the access to the site between a very busy roundabout and a school. It was suggested that a request be made to the Highway Authority for the provision of a road sign to highlight the concealed entrance. Concern was also expressed regarding the noise from the electricity substation. Committee members sought clarification about the conditions for hours of operation and restrictions on vehicle movements, requested confirmation that a condition to provide for charging points for electric cars could be added and the arrangements for refuse collection would be adequate.

The Planning Officer confirmed that the Highway Authority had given approval to the access arrangements, the properties fronting the site would receive roadside refuse collections whilst a collection point would be provided for the properties to the rear of the site. She confirmed that an amendment to the condition relating to noise had been suggested to provide for the inclusion of noise from the electricity substation.

The Planning Manager confirmed that provision for charging points for electric cars could be incorporated by means of an addition to condition 35 and that the contradictory wording in conditions 25 and 26 could be addressed by giving delegated authority to officers to discuss the detail with the Environmental Protection and to amend the conditions' wording accordingly.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the following amendments:

- Conditions 9, 12, 13, 14, 15 and 24 to be amended to provide for the demolition of the existing buildings prior to the commencement of the development;
- Condition 24 to be revised to include provision for noise from the electricity substation;
- Delegated authority be granted to the Assistant Director Policy and Corporate to discuss the detail of the contradictory wording in conditions 25 and 26 with the Environmental Protection team and to amend the conditions' wording accordingly;
- Condition 28 to be removed as it was a duplication of condition 27;
- The drawing number in conditions 2 and 34 to be amended;
- Condition 35 to be expanded to include provision for some electric vehicle charging points;
- A new condition added to provide for the sheds to Plots 1, 2 and 3 to be located two metres from the rear boundary;
- A new condition added to provide for the exclusion of the two small secondary windows to the building in plot 8;
- A request be made to the Highway Authority for the provision of a road sign to highlight the concealed entrance.

556 180307 Car park at Sheepen Road, Colchester

The Committee considered a planning application for a non-material amendment to relocate the external plant and bin store areas at the car park at Sheepen Road, Colchester. The application had been referred to the Committee because Colchester Borough Council was the applicant. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved.



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Item No: 7.1

Application: 173119

Applicant: Kartik Limited

Agent: Miss Paige Harris, Boyers

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

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

Ward: Berechurch

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Harris “Due to height of proposed extension (flats above garage) overlooking nearby properties” and “Due to existing overhead power cables.”

2.0 Synopsis

- 2.1 The key issues for consideration are the design, scale and form of the extension works, impact upon neighbouring residential amenity, highway aspects, including parking and manoeuvring space, proximity of overhead power line, proximity of gas main and any Environmental Protection issues such as living conditions and potential contamination.
- 2.2 It is considered that the design, scale and form of the proposed works are acceptable and would be in keeping with the character of the street scene. It is not considered that there would be a significant impact upon neighbouring residential amenity from noise and disturbance, an overbearing impact, loss of light, overshadowing or overlooking. Lighting levels and hours of use can be conditioned.
- 2.3 There would be adequate parking provision and manoeuvring space on the site and the residential amenity of the occupants of the new flats is considered to be of an acceptable standard. The proximity to the overhead wire is acceptable subject to a condition requiring the submission of a construction method statement and its agreement in writing. Any contaminated land issues can be covered by condition and an informative can refer the developer to specific requirements in relation to the proximity of the gas main.
- 2.4 The application is subsequently recommended for approval.

3.0 Site Description and Context

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

4.0 Description of the Proposal

- 4.1 The proposal is for an extension to the forecourt shop, reorientation of the drive-through hand car wash and an additional storey at first floor level to house two residential flats with associated parking.

- 4.2 The scheme has been amended to slightly bring down the highest ridge height of the 1st floor flats to 7.97 metres from the originally submitted 8.27metres. The replacement canopy would be 5.7 metres in height and has been slightly amended from the original submission by stepping it back a further 0.75 metres from the road. The existing canopy on the site is 4.3 metres in height although it is 9.7 metres from the house to the North whilst the new canopy which is longer and closer to the road would be 11.4 metres from that dwelling.
- 4.3 Hours of use proposed for the shop are 07:00-23:00 each day and with the car wash open 08:00-18:00 pm. The flats would be for staff working at the site.

5.0 Land Use Allocation

- 5.1 Neighbourhood centre. Within physical limits.

6.0 Relevant Planning History

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

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE2c - Local Centres
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP2 Health Assessments
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP7 Local Centres and Individual Shops
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

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

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Sustainable Construction
Urban Place Supplement
Managing Archaeology in Development.
Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

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

- 8.2 Environmental Protection have no objections to the proposal subject to conditions and informatives.

- 8.3 As these are crucial to the consideration of this proposal, they are listed here in full to assist Members with their deliberations.

Construction/demolition

ZPA – Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:
the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;
loading and unloading of plant and materials;
storage of plant and materials used in constructing the development;
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
measures to control the emission of noise, dust and dirt during construction; and
a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

General operation

ZGA - *Restriction of Hours of Operation*

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

Weekdays: 07:00-23:00

Saturdays: 07:00-23:00

Sundays and Public Holidays: 07:00-23:00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

ZGB - *Restricted Hours of Delivery*

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

Weekdays: 08:00-20:00

Saturdays: 08:00-20:00

Sundays and Public Holidays: No deliveries.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

ZGR - *Light Pollution for Minor Development*

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

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

Car wash

Location

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

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

Hours

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

8.00 and 18:00.

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

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

Residential units

Occupancy

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

Noise/fumes

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

Car parking

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

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

- The hardstanding is in relatively poor condition; tanks are old but still in operation, and all are single skinned, as are the site's fuel supply pipework; there is a hydrocarbon sheen on the standing water in all three chambers of the brick interceptor; a former paraffin tank is known to be located under the forecourt, size and location unknown; fuel losses have been recorded from

DC0901MWeV9.3

tank 4 in 1994, and unknown quantities from three pumps in 2006 (although it is also noted that no significant hydrocarbon contamination was identified in either soil or groundwater during the 2014 site investigation and that there is no evidence to suggest there has been, or is any on-going loss of product from the site petroleum infrastructure since the Subadra 2014 site investigation).

- It has been recommended that a watching brief be established at the site during the proposed works and further risk assessment and verification sampling must be completed and the conceptual site model updated accordingly, if any potential contamination is suspected.
- The report also identifies that new water supply pipework must be protected – *the applicant should be advised that this must be laid to the specification of the service provider.*

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

Reporting of Unexpected Contamination

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

Reason – The site lies on or in the vicinity of an operational fuel filling station where there is the possibility of contamination and Environmental Protection wish to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

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

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

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

8.4 UK Power networks states:

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

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

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

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

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

8.5 Cadent (Gas Network): Has not objected to the application but has confirmed:

“Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.”

“Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity).”

Full comments received are on the Council’s website and include the developer’s requirements when undertaking the works.

- 8.6 Highway Authority has stated “from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions.” Again, it is appropriate to repeat these conditions in full here, as they are fundamental to the acceptance of the scheme.

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

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

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

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

3. All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

4.Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for each dwelling sufficient for all occupants of that dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority’s Development Management Policies February 2011.

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The Highway Authority strongly recommends that the applicant provides accurate swept path analysis drawings commensurate with the largest delivery tanker vehicle attending the site can access the unloading area and rejoin the highway in a single convenient and efficient manoeuvre.

- 8.7 Archaeology: "No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation."

9.0 Parish Council Response

- 9.1 Not applicable.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- 10.2 Councillor Harris makes the following points:

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

The issues residents have, include

- 1. Proximity to boundary. Moving the building of the garage closest to the boundary residents feel will have an adverse effect on their dwellings.*
- 2. Increase in height and flat above. The proximity of a flat to 32000 volt overhead cable is a worry and also means houses closest in Mersea road will be overlooked. This will need sorting.*
- 3. The removal of the bund wall (trief) at the base of the boundary wall is a deep concern. Resident feel that the previous accidents where the wall was knocked over regularly in the 1980s will recommence, especially with less room for cars to move.*

I get the impression the residents want improvements and I am hopeful that the list of issues that residents have can be 'resolved by amendments to the plans using discussions with planning dept and owners I am hopeful that the residents will have their concerns addressed.

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

- Now directly affected by the garage operations with noise from jet wash, vehicular movements, litter and disregard for front of site. Had to complain to Environmental Protection about excessive noise in 2015-noise abatement notice served in 2015. Still noise concerns.
- Failure to maintain exit/access sign is dangerous.
- Overhead lines directly above building
- Building will be 8.7 m high and extend 19 m along our boundary and 3 metres nearer.
- Concerns about noise and disturbance from 7 customer spaces alongside our boundary and from deliveries.
- Removal of tref kerb leaves the wall vulnerable to collisions, as occurred before tref kerb.
- Boundary wall shown incorrectly.
- Car parking and landscaping could impede visibility.
- Not enough room for cars to reverse.
- Access road not wide enough.
- Cars will be moving in forward gear towards our wall from drying area.
- Pollution impact on son who has MS and Asthma.
- Narrow, dark shaded access would be created.
- More air pollution and decline in air quality.
- Garage would be open longer than it is.
- Forecourt shop will have a significant detrimental impact upon our amenity.
- Incorporation of jet wash in building is welcomed. Hoovering and cleaning operations should also be included in building.
- Should be acoustic fencing.
- Detriment to street scene from canopy extending forward and beyond building line.
- Dominating and overbearing impact on our house. Building too high and too close to our boundary.
- Outlook from our property, including from kitchen window and conservatory would be unacceptably affected. Sky will be obscured. Will block light to rooms and garden.
- Facing wall is flat and featureless.
- Significant light pollution from canopy.
- Lack of planting mitigation.
- Overshadowing/loss of light beaches BRE25 degree- have received expert advice on this. Further tests should be undertaken.
- When we bought property, garage had not been built. Were not made aware of it.
- Poor living conditions of future residents. Fumes, no outdoor space.
- Concern about vent pipe emissions to rear.

- Too much being proposed on the site.
- Don't object to principle of redevelopment but strongly object to this application.
- Since Kartik has operated the garage we have suffered ongoing stress and disturbance.
- Extra hours of operation will cause more disturbance. Not clear if wash facility hours extended.
- A reduction in sunlight and increase in shading throughout the day will not only impact on the enjoyment of our property but may restrict and alter the range and diversity of plants and wildlife that currently utilises the habitat.
- Out of date contamination study submitted.
- Phase 1 contaminated land study is a desk top study and essentially reviews and other relevant historic data. Is there any reason why MCERTS accredited testing laboratories weren't used across all of the analysis?
- The Building Research Establishment (BRE) "Site Layout Planning for Daylight and Sunlight: a good practice guide" 2011 by PJ Littlefair provides guidance for the planning department to consider. We understand the proposal breaches the BRE 25 degree test in relation to the side windows within no 152, which serve habitable rooms. As a result, the proposal is likely to cause a reduction of light to the property and the further tests for daylight and sunlight should be undertaken to evaluate the impact upon our client's property.
- We note that the applicant has not submitted a BRE daylight or sunlight study in support of their application which establishes the impact of the proposal upon our client's property. We would therefore request that no decision in favour of the application is made until the applicant undertakes a daylight and sunlight study.

11.0 Parking Provision

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

12.0 Open Space Provisions

12.1 Not applicable.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

The Principle of Development:

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

Design, Scale and Form:

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

Neighbouring residential amenity:

- 15.3 It is considered the proposal is acceptable in terms of its impact upon neighbouring residential amenity. The canopy, at 5.7 metres in height, would be 1.4 metres higher and would be longer than the existing, but it would be positioned 11.4 metres away from the neighbouring dwelling as opposed to the current distance of 9.7 metres. It is considered this 11.4 metre gap is sufficient to avoid the canopy having an overbearing impact or causing any significant loss of light or having an overbearing or overshadowing impact upon the neighbours to the North. This includes to the nearest side window, garden and conservatory. This is similar to the height of a single storey dwelling and the 11.4 metre gap is substantial.
- 15.4 Similarly, the extension to the rear would be well away from the neighbouring dwelling and would be nearly four metres from the side boundary. Again, this is considered to be far enough to avoid an overbearing impact or causing a significant loss of light or having an overbearing or overshadowing impact on the garden or dwelling. The extension would be similar to the height of a two storey dwelling, and whilst longer than a dwelling, again a gap of nearly four metres to the neighbour's boundary is substantial.
- 15.5 The objections from the neighbours in this respect have been carefully considered and the first floor extension has been reduced to 7.97 m which is as low as is feasible for the two-storey element. Similarly, the canopy length was reduced to the minimum required to cover the tanker delivery point. Whilst these reductions are relatively modest, they help to minimise the impact on the neighbouring properties.

- 15.6 The canopy and extension would be far enough from the flats to the South to avoid impact from overbearing, overshadowing and loss of light. As the proposed building is to the north of these and therefore there can be no loss of direct sunlight.
- 15.7 It is considered that, subject to the hours of working conditions and light level conditions recommended by Environmental Protection, there will not be a significant impact on neighbouring residential amenity from noise and disturbance or obtrusive lighting. The garage is already a working garage and hours of use will be retained as existing. The car wash should also be quieter as it will be located within the building adjacent to the forecourt shop. A condition will restrict its use to between 08:00 and 18:00.
- 15.8 The area to the North of the site is already used for vehicular manoeuvring so it is not considered that parking by customers to the site in this location can be objected to. The number of spaces has, however, been reduced to five on this boundary to ensure the spaces meet the parking standards.
- 15.9 There would not be any significant overlooking of neighbouring properties from first floor windows on the extended property. The first floor windows on the front elevation would look towards the garage forecourt rather than into neighbouring windows or private amenity space. There would not be 1st floor windows on the side elevations except for two small, high-level bathroom windows. These can be obscure glazed and non-opening. The first floor rear windows would face towards the substation.
- 15.10 The building work conditions suggested by Environmental Protection such as the Construction Works Management plan should ensure that there is not significant disturbance to neighbours at inappropriate times whilst the construction work is being undertaken.

Highway Safety and Parking Provision:

- 15.11 It is considered there is adequate parking provision to serve the proposed use. There will be four parking spaces for the flat occupants, five for the customers (excluding the six petrol forecourt bays) and a disabled parking bay. The proposal has been amended to ensure that parking spaces meet the required 2.9 metre x 5.5 metre size. This has made the spaces larger, but has reduced the number of spaces from the original submission to accommodate the required size of spaces. The Highway Authority has raised no objections and consider this is adequate provision. This is potentially an improved level of parking provision compared to what currently exists on the site which is a rather random parking arrangement to the rear of the shop which doubles up as the part of the drive-through for the car wash.
- 15.12 Space for vehicular manoeuvring, including access, exit and the drive-through car wash are considered satisfactory. Visibility splays leaving the site are acceptable and any landscaping at this point can be conditioned to be no higher than 0.6 metres to ensure the splays are not impinged upon.

- 15.13 The scheme has also been revised to provide a crash barrier alongside the wall with the neighbours where the customers would park. This should protect wall from accidental collisions at this point and is an adequate replacement for the trief kerb that is to be removed.

Proximity to overhead wires:

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

Residential Amenity of the occupants of the new flats:

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

Other Issues:

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

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

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

15.21 There are no archaeological implications.

16.0 Conclusion

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

16.2 There would be adequate parking provision and manoeuvring space on the site and the residential amenity of the occupants of the new flats is considered to be of an acceptable standard. The proximity to the overhead wire is acceptable subject to a condition requiring the submission of a construction method statement and its agreement in writing. Any contaminated land issues can be covered by condition and an informative can refer the developer to specific requirements in relation to the proximity of the gas main.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PA-01 received 1/12/18 and PA-04d, PA-05d & PA-06e.

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

3. Z00 – Construction Method Statement- Overhead Wires

Prior to commencement of development, precise details of a construction method statement in respect of the proximity of the overhead powerline shall be submitted to and agreed in writing by the Local Planning Authority. The agreed method statement shall be adhered to at all times during the lifetime of development works hereby approved. No element of the construction should encroach beyond 0.98m above the planned apex and the statement shall include but not be limited to, use of scaffold poles and equipment, hoists, cranes or other lifting equipment or loose materials that can be caught by the wind.

Reason: To ensure no impingement beyond the safety zone around the overhead powerline in the interests of the safety of construction workers.

4. ZBC – Materials To Be Agreed

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

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

5. ZKK- Parking Provision

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

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

6. ZKK – Parking Provision

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

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

7. Z00 – Parking Standards

All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

8. ZPA – Construction Method Statement

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities
- v. hours of deliveries and hours of work;
- vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vii. measures to control the emission of noise, dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and in order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

9. Z00 – Crash Barrier

Prior to occupation of the development hereby approved, precise details of a crash barrier to protect the wall adjacent to the customer parking area shall be submitted to and agreed in writing by the Local Planning Authority. The approved barrier shall be installed prior to occupation of the development hereby approved and shall thereafter be retained as such.

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

10. ZPJ – Demolition Before Development

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.

11. Times

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

Weekdays: 07:00-23:00

Saturdays: 07:00-23:00

Sundays and Public Holidays: 07:00-23:00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

12. Z00 – Delivery Times

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

Weekdays: 08:00-20:00

Saturdays: 08:00-20:00

Sundays and Public Holidays: No deliveries.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

13. ZGR – Light Pollution For Minor Development

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

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

14. Z00 – Car wash operation times

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

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

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

15. Z00 – Staff Occupation

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

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

16. Z00 – Front windows non-opening

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

Reason: In the interest of residential amenity.

17. ZG0 – Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development

shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of an operational fuel filling station where there is the possibility of contamination and Environmental Protection wish to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18. ZGY- Contaminated Land Remediation

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

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

19. ZFI – Tree or Shrub Planting

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

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

20. ZCF – Refuse and Recycling Facilities

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

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

21.Z00 – Air Conditioning Condensers

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

Reason: In the interests of neighbouring residential amenity.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

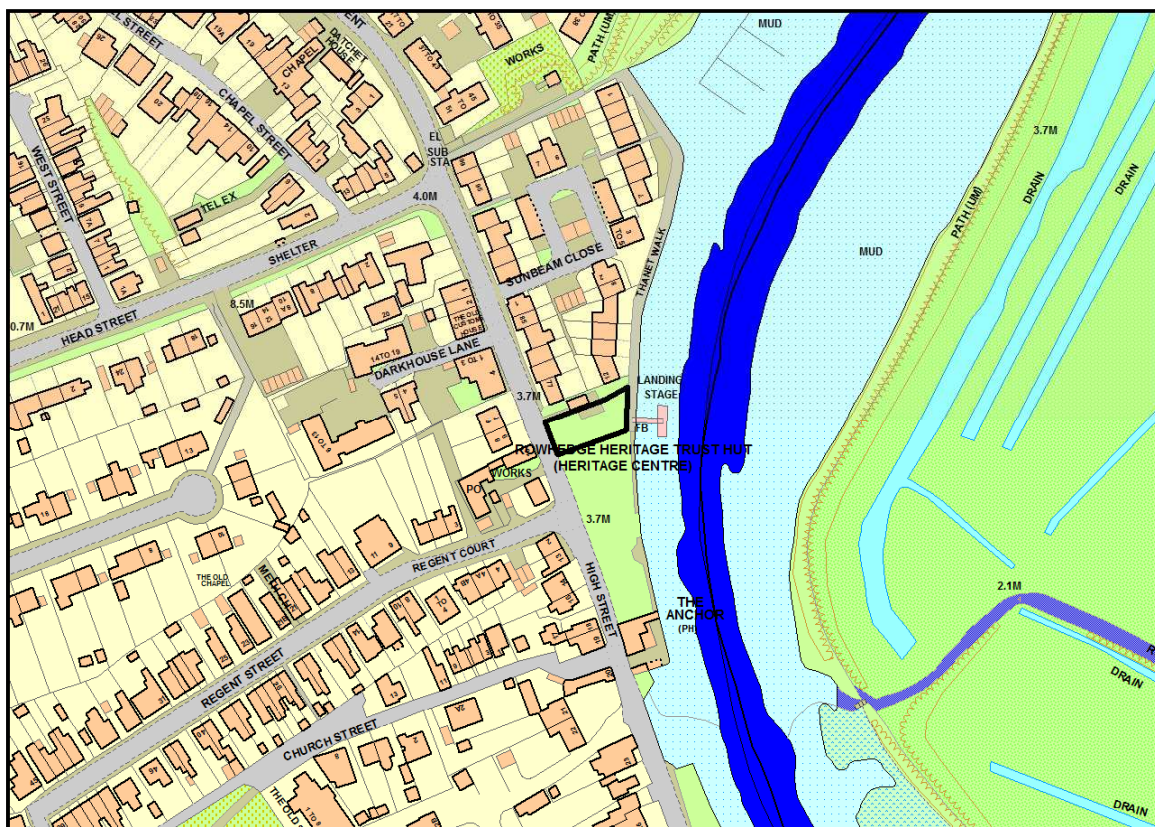
4. With regard to **contaminated land** it has been recommended that a watching brief be established at the site during the proposed works and further risk assessment and verification sampling must be completed and the conceptual site model updated accordingly, if any potential contamination is suspected.

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

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

5 ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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



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Item No: 7.2

Application: 173058

Applicant: Mrs Nina Crouchman

Agent:

Proposal: To remove temporary building 'The Hut' and replace with a permanent building including disabled access toilet and veranda.

Location: Rowhedge Heritage Trust Hut, High Street, Rowhedge, Colchester

Ward: Old Heath & The Hythe

Officer: Sue Jackson

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the land is owned by the Parish Council and its transfer to the parish council was secured by a legal agreement forming part of a planning permission granted in 2000. The application has given rise to representations both in support and against the proposal. In the circumstances officers consider that in the interests of transparency the decision should be made by the Planning Committee.

2.0 Synopsis

- 2.1 The key issues for consideration are whether the use is acceptable, the design and appearance of the building adjacent to the conservation area is appropriate; and whether the impact of the building and use on both the area and amenity of neighbouring properties is satisfactory.
- 2.2 The application is considered acceptable and is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site is located along Rowhedge High Street, it has a frontage to the High Street and a rear boundary which faces the river Colne but is separated from it by a riverside walk and cycleway. The north boundary faces residential properties and the south boundary is next to an area of waterside open space owned by the Parish Council.

4.0 Description of the Proposal

- 4.1 The application proposes the removal of an existing building and its replacement with a slightly larger one. The existing building measures 7.9 metres x 3.9 metres whereas the proposed building has dimensions of 8.5 metres x 3.5 metres together with a verandah of 1.2 metres in width. It has an eaves height of 2.25 metres and measures 3.5 metres to the ridge. The building will be clad externally with weatherboarding with a pitched cedar shingle clad roof. The internal space is shown as a single open area and includes toilet facilities.
- 4.2 The applicant has provided the following explanation of the existing and proposed use;

“The existing hut has been operating on this site since 2005. During which time it has provided refreshments and a meeting place for thousands of villagers and visitors. These arriving via the ferry, the river, the cycle track and as walkers, it more recently has also provided a base for Rowhedge Coastal Rowing Club. Using the building and the surrounding space by the river for the enjoyment of the public, the rowing club are seeking permission to remove the temporary planning permission and replace it with a permanent building on a permanent site.

The club wishes to continue providing a service to the local community with the sale of refreshments from a new building and provide a permanent base for the rowing club which is continuing to grow (and other community groups to hold meetings). The new building would create a space for the rowing club to hold its meetings, provide much

Needed storage for equipment (i.e. rowing machines for members to use when water is limited due to the river being tidal and the dark nights of the winter period so members can still train). The new building would be the clubs main source of fundraising.

It would continue to open at the weekends and bank holidays April- November all day, typically 10-5pm. The new building would display maritime effects to display the past of Rowhedge to its visitors. The rowing club has enjoyed great success on the coastal rowing scene, with assets including 3 gigs & a safety boat. Membership numbers have continued to grow with 70 members on the club books. It provides a healthy outdoor pursuit all year round for all ages and ability, welcoming anyone at any time.

The new building would be in exactly the same place as the old temporary building, set to one side of the land in order to maximise the space. The replacement building would be slightly bigger than the existing hut (60cm longer and 1.2m wider) and have a veranda on one side for shelter from the sun/rain. It would also provide a toilet for visitors of the hut and club members, a much required necessity in the village where the only public conveniences are in the public houses. Tables and chairs would be provided to the building for refreshments to be enjoyed on the existing patio area for when the hut is in use. The existing paving blends in with the grassed quayside area which is maintained by East Donyland Parish Council.

The rowing club hold monthly committee meetings of 12 people 7.30-8.30pm which the hut could be used for this instead of having to book the local pub room which can often be busy. These would of course be held inside.

Training would be held 1 evening a week during the winter from 6-9pm (Jan-March) where people can use a rowing machine inside the hut when it is too cold to train on the river/when there is no water. This would be for very few people probably 3.

Fundraising events would include hosting a rowing event where permission is always obtained in advance from East Donyland Parish Council as the quayside is used by visiting rowing clubs watching the rowing on the river. There are 2 events each year. The hut is used to provide refreshments. To confirm we would continue to sell teas/cakes and food would not be cooked on site. With community groups if another group wished to hold the odd meeting if other spaces in the village were unavailable it was an offer for this. The club is always aware of the neighbours and would continue to keep noise and movement minimal".

5.0 Land Use Allocation

- 5.1 The site is within the settlement boundary for Rowhedge. The frontage is within the conservation area. The site is also within flood risk zone 3.

6.0 Relevant Planning History

- 6.1 O/COL/95/1053 Outline planning permission for residential development approved subject to conditions in July 2000. This application includes a legal agreement which amongst other matters secured the transfer of the application site to the parish council.
- 6.2 F/COL/01/0207 Full planning permission granted for a permanent building to be used as a riverside centre. The approved building was part 2 storey with single storey outshots. An application to renew the planning permission reference 073073 was withdrawn.
- 6.3 F/COL/05/0463 Temporary planning permission granted for single storey building to be the Rowhedge Heritage Trust campaign office and fund raising charity shop. Applications to extend the temporary planning permission have been applied for and granted on a regular basis since 2005.
- 6.4 121313 Full planning permission granted for a permanent riverside centre. The approved building was part 2 storey, part 1.5 storey and part single storey. This planning permission has expired.
- 6.5 160381 Application submitted by the Rowhedge Coastal Rowing Club to extend the temporary planning permission, a further temporary permission was granted until March 2019
- 6.6 161460 Application submitted by the Rowhedge Coastal Rowing Club to authorise the Rowing Club to continue to serve refreshments to the community and to use the building as a base and central point for the Rowing Club.
The temporary planning permissions granted since 2005 included a condition restricting the operation of the building to the Rowhedge Heritage Trust.

7.0 Principal Policies

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

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

ENV1 - Environment

ENV2 - Rural Communities

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
DP3 Planning Obligations and the Community Infrastructure Levy
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP23 Coastal Areas

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

External Materials in New Developments
EPOA Vehicle Parking Standards

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Historic Buildings and Areas Consultant This application is for the replacement of an existing timber hut with a slightly larger one on much the same footprint. The new building would be timber clad and roofed with wooden shingles. It would be acceptable in this location just outside the Conservation Area and not far from listed buildings, and I have no objection to the proposal.
- 8.3 Highway Authority does not object to the proposals as submitted.
- 8.4 Environment Agency We have inspected the application, as submitted, and are raising a holding objection on flood risk grounds. Our maps show the site lies within tidal Flood Zone 3a, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the construction of a permanent building to be used by the rowing club and community, which is classified as a 'less vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG). Therefore, to comply with national policy the application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA). We have not seen evidence that you have applied the Sequential and Exception Tests. This is your responsibility and we recommend you consider them before the applicants review their FRA.

9.0 Parish Council Response

- 9.1 The Parish Council own the site and it would not be appropriate for them to comment on the application.

However the Parish Council has been asked to respond to the objections received, in particular the comments from residents who consider the site should be used to provide a heritage centre and the lack of consultation by the parish. The Parish Council response is set out below

“The Rowhedge Heritage Trust were working on providing a larger building (as they state in their letter) but withdrew this project and stated that they had no further interest in pursuing the project. The Rowhedge Heritage Trust then teamed up the Rowhedge Coastal Rowing Club to provide the current facility and the Rowhedge Coastal Rowing Club have subsequently applied to have a permanent facility on a similar basis to the current facility.

As a parish council we did not have any aspirations to proceed with the riverside centre. Meanwhile the Parish Council commissioned a village plan and one outcome of the survey was that the majority of respondents valued the smaller temporary hut and it's facilities and did not support a larger building. On that basis the Parish Council recently voted to support the submission of an application of a similar sized permanent structure offering similar facilities as the temporary structure.

The applicants have made clear in their business plan that the building could house heritage artefacts and would be made available for community use, where practical. The proposed building makes provision (in the business plan) for hire by community groups and for displaying heritage artefacts. The Council expects the new building to be made available for other interest groups as and when practical and that this will be a condition of the lease agreement. East Donyland Parish Council sought clarification of what constitutes the stated "heritage" criteria from the Borough Council, to date this has not been defined and there are no "explicit heritage functions" as referred to by the Rowhedge Heritage Trust. The Rowhedge Coastal Rowing Club have again agreed that they will continue to exhibit heritage items within the premises and that this is very closely aligned with the group's ethos. East Donyland Parish Council will again be making this a condition of the lease and in this way we believe the heritage issue is addressed.

Should the application be successful the Parish Council would continue to own the land and would lease it to the applicant”.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

10.2 At the time of drafting this report 157 representations in support of the application and 18 representations objecting to the application had been received.

- 10.3 An analysis of the representations shows the majority in support are from addresses outside Rowhedge and just over 20 are from Rowhedge residents. The majority of representations objecting to the application are from residents of Rowhedge with three from addresses outside Rowhedge.

Objections

- 10.4 The Rowhedge Heritage Trust objects to the proposal for the following reasons:

“The proposed building is primarily a clubhouse for the Rowhedge Coastal Rowing Club and goes nowhere near to meeting the criteria of the original 106 Agreement, for which the site was obtained. This was to provide a building that served the village at large, with explicit heritage functions.

We acknowledge the value of the part time teashop to the wider village population. However, this is an intermittent activity which primarily serves the purpose as a fund raiser for the Rowhedge Coastal Rowing Club, and does not respond adequately to the need for heritage, cultural and educational functions. Nor does it make adequate provision for other interest groups.

This is a key site in the village of great value, obtained by the Parish Council for the benefit of the wider village community. The Rowhedge Heritage Trust, a charity formed at the suggestion of the Parish Council, had these charitable objectives clearly stated. Subsequent village consultations have always indicated that the use should not reflect a specialised interest.

The proposed building, as stated by the applicant, is little more than the existing Rowhedge Heritage Trust hut. The design of the building does not reflect the local traditional style nor make a significant architectural contribution to the riverside. It should not have permanent permission to occupy such an important site in the centre of the old part of the village. (The visual style of the building has always been a criterion that had to be met in previous planning applications).

The growth of village population stemming from the wharf development will increase the need for additional community facilities to serve the whole village. Granting permanent planning permission for an inappropriate building would mean that opportunities presently available to realise facilities suited to both present and future village needs would be lost.

We believe that the needs of the Rowhedge Coastal Rowing Club for a meeting place and centre could be met, along with those of other users associated with the river, by a multipurpose building, which would also serve heritage, educational and cultural functions. The Rowhedge Heritage Trust, having successfully managed the Hut between 2006 and 2016, and procured two successful planning applications for buildings which met these criteria, Would be pleased work with the Rowhedge Coastal Rowing Club and any other interest group to produce a satisfactory design. This would lead to a far more efficient and equitable use of this prime site. The existing temporary planning permission does not expire until 2019 and this would give ample time for a more considered approach to the most appropriate building to serve all parties' requirements.

We note that the short consultation period has made it difficult for us to contact all our supporters, which has undoubtedly impacted on their ability to register their own views. The Rowhedge Heritage Trust also draws attention to the fact that, although we are the owners of the building currently used by the Rowhedge Coastal Rowing Club, on a site leased from the Parish Council we received no consultation from the applicant nor the Parish Council and have not been invited to participate in the working party set up by Parish Council to discuss the future of the site. There has also been no public consultation, as there has been in the past when considering this site”.

10.5 The other representations raise similar objections but with the additional comment;

- Object to using public money to create competition with local businesses.

10.6 The owner of the adjacent residential property has raised the following objections

- this building has a direct impact on us as the neighbours, it impacts greatly on our view of the water and also our side access to the garden, when we wanted to make improvements to our home we couldn't get the equipment in the garden because we have a building that is partially attached to our fence.
- if it was bigger and permanent that it would come with other issues including waste, there will be a need for waste bins, which will attract rodents and pests, and be smelly and unsightly.
- If serving food and drink refrigeration etc will be necessary but the building will mostly be unattended, there are concerns about rats but also fire risks with the equipment and power cuts. There will be rotting food right outside my garden.
- the building will only be used by a small club for a select amount of people and not really used by the whole community,
- it will impact on the local café
- it will create noise and that would disturb the peacefulness of the water. It could potentially attract vandalism as it is mostly unattended and an easy target.
- There is no parking nearby for any of the users, so they would be taking away valuable parking spaces from the residents.

10.7 The applicant was asked to respond to these objections and their response is produced below;

- *The current hut was in place before the neighbour bought his property and the new planning application was in place well before he purchased the house.*
- *The current hut is not attached to the boundary fence of the garden.*
- *Rubbish is removed off site every day the hut is in use and has one bin outside the door which is emptied by the volunteers and taken in overnight. This would continue.*

- *Refrigeration is already in place and always has been but even more so since last year when a large cake refrigeration unit was purchased by RCRC to keep all items cool whilst on display. The hut has certified food hygiene representatives and is logged and certified sufficiently with the Colchester environmental health department.*
- *Whilst the hut is not in use the appliances are switched off from the electric supply and the water is turned off too.*
- *I do not see where rotting food outside the garden would come from. As previously said all rubbish is removed from the site daily.*
- *There has never been an act of vandalism in over 8 years and the hours the hut would be occupied would be exactly the same as they have been Sat ,Sun Bank Holidays and occasional evening for training sessions /Meetings. It would be available for other community groups to hold a meeting if they needed a venue with prior warning.*
- *With regards to the other cafe that came along only 18 months ago and it was the hut that had to adapt to competition. Both venues are very different in price ,customers and offerings.*
- *If the neighbour saw how busy the hut can be on a Summers day he would see how the rowing club and hut serve the large amounts of people from community and it is not a small group usage.*
- *The parking is not an issue as the users of the hut are the local community/visitors that come by foot/cycle /water .*
- *There is no documentation to support that this site has to be a museum.*

Support

10.8 The chair of Rowhedge Resident's Association comments:

“The Rowhedge Resident’s Association committee met on 8th January 2018 and in November 2017 to discuss the permanent building.

I am a member of both Rowhedge Coastal Rowing Club and Rowhedge Heritage Trust and I have been involved in discussions regarding the permanent planning previously when the Rowhedge Heritage Trust applied and this time with Rowhedge Coastal Rowing Club applying. Other committee members have been involved in the Village Survey, and the previous planning for the permanent building. As a committee we felt that we did not need to request residents' views on the proposal for the permanent building as residents answered questions about it in the Village survey. The survey results are available for you to read via East Donyland Parish Council.

Residents were clear that they wished to maintain a small building to provide tea and cake but the addition of toilet facilities would enhance the building. At no point had residents asked for the building to be made significantly larger. The Rowhedge Resident's Association committee felt that the Rowhedge Coastal Rowing Club proposal was in line with resident’s requests and included access for people with disabilities thereby making open to more residents.

The committee had very strong feelings that the Rowhedge Heritage Trust committee are opposing the new build due to their own personal views and

the Rowhedge Heritage Trust had not been able to keep the temporary hut operational for the last 2 years that it was in charge of it. Rowhedge Coastal Rowing Club have managed to keep the hut operational with volunteers and the set opening hours throughout 2016 and 2017.

- 10.9 The Rowhedge Heritage Trust had ideas to make the permanent building larger when they applied and residents in the village were against the idea. The Rowhedge Resident's Association committee felt that for the Rowhedge Heritage Trust to try and make it a larger permanent building again now is going to defeat the proposal as requested by residents in the village, and this could mean that residents lose the option of a permanent building which they wish to have as the hut is a community resource providing sustenance and facilities (in future). The Rowhedge Resident's Association committee felt that as the hut is on the waterfront it should be used for a water based activity and that rowing is a heritage sport. One of the Rowhedge Resident's Association members is the owner of a local cafe and he does not see the Rowhedge Coastal Rowing Club opening to sell tea and cake to be detrimental to local trade.
- 10.10 The Rowhedge Resident's Association committee felt strongly that opposition from a few should not block a proposal for a permanent building and one that enhances the community. Rowhedge Coastal Rowing Club works well with other organisations throughout the village and has worked well to increase its membership and involvement in the local community."
- 10.11 Other representations in support
- The Hut is currently a valued facility in our village community.
 - Having a meeting place for the people of Rowhedge is invaluable in engendering cohesion and pride in our village. It is also a great amenity for local cyclists and walkers who regularly drop in for a snack and a much needed drink.
 - The addition of a toilet is a great way of solving the ongoing issue of lack of this facility in Rowhedge
 - The rowing club would greatly benefit from a meeting place and as a club are an inclusive community organisation which works hard to create opportunities for members to partake in healthy exercise and competition within the wider community. It is a flourishing club which is welcoming and positive in its approach
 - The building needs updating and improving in order to continue the service that the hut provide
 - The hut is run by volunteers from the village rowing club and as such it both supports a valuable community group (by generating funds which enables the club to be self-supporting).
 - The proposal to have a permanent structure in 'The Hut' on the quayside will simply continue to fulfil the wonderful and much enjoyed existing service to both the village residents and visitors to the community as well as providing a much needed base for the Rowing Club in an ideal location near to the river.

- The Hut is used every weekend from April-Oct by locals & visitors of the village
- The Rowhedge Coastal Rowing Club took over the hut when the Rowhedge Heritage Trust gave up wanting to use it. There is no need to build a big building taking up more of the quay but keeping it the same size is perfect.
- When Rowhedge Coastal Rowing Club took over the running of the hut the range of products diversified They extended the opening hours, they seems to try to cater to demand, which is great They kept the hut open for longer in the year
- I live opposite the and have never had any issues with disturbance or noise I noticed the range of folks,
- The Rowhedge Heritage Trust had a number of years to begin proceedings themselves but chose a bigger sized plan which was way too big for the quayside and unwelcome by the residents. Their plan was also for a lot bigger building which village folk have expressed in the village plan they did not want .The application is what the villagers say they want and that the facility the hut provides is much needed. If the Rowhedge Heritage Trust is so strongly against what is being proposed, why then have they not done anything with the granted planning permission in the past? Why knock a local club for making their own attempt at keeping this facility for all
- Over the years the heritage has chiefly been a display of pictures and a few artifacts I am sure the rowing club could equal if not better this to fulfill the heritage aspect of the building.
- I am the chairman of Burnham on Crouch Coastal Rowing club. We visit this location 3-4 times per year to support events put on by Rowhedge Coastal Rowing club. Without a hut to provide teas, coffee, cakes and a base for event registration and briefing- these events could not be held. Coastal Rowing is a fast growing sport but without facilities clubs will struggle to continue proving this low cost sport for the whole community.

11.0 Parking Provision

11.1 There is a single parking space to the front of the site and this will remain.

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 The main issues in this case are:

The Principle of Development

- 15.2 The site contains an existing single storey building which has been in place since 2005 and operated by the Rowhedge Heritage Trust. Since 2016 the building has been managed by the Rowhedge Coastal Rowing Club. The principle of development on this site is therefore established and acceptable.

Planning History

- 15.3 The application site is a small part of land formerly used as a scrap yard and iron works where planning permission was granted in 2000 for residential development. The legal agreement for the development secured amongst other matters the transfer of the current application site to the Parish Council. The then clerk of the parish council had aspirations for a site to provide a heritage maritime centre celebrating the maritime history of Rowhedge; at that time it was hoped a bid for lottery funding would be successful.
- 15.4 Whilst the legal agreement mentions a heritage centre and requires the land to be gifted to the parish council it does not require the land to be used for a “maritime heritage centre” or for that matter any other use. If there is a requirement for the land to be used for a specific purpose it is a private matter between the Parish Council and the original landowner and is not a material planning consideration.
- 15.5 The building currently on the site was first granted a temporary planning permission in 2005 and has since then been subject to a number of temporary planning permissions submitted by the Rowhedge Heritage Trust.
- 15.6 There have been two applications for full planning permission for a larger permanent building. These applications have both expired.
- 15.7 Since 2016 the Rowhedge Coastal Rowing Club have taken over the operation of the building.

- 15.8 Members will note from the representations received that the application has raised strong local feeling both for and against the proposal. However many of the issues raised are not material planning considerations. The question of whether the land should be used for a maritime heritage centre is not a matter for the planning committee to consider. The key material planning considerations are whether the building and use are acceptable in planning terms when assessed against local and national policies.

Design and Layout

- 15.9 Policy DC1 states inter alia “All development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Development proposals must demonstrate that they, and any ancillary activities associated with them, will:
- (i) Respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape and/or landscape setting, and detailed design features..... “
- The application proposes a small timber clad building with a pitched cedar shingle roof with a verandah located towards the rear of the site near the river. This modest timber clad building is considered appropriate in terms of its design and scale for this riverside location.

Impact on the Surrounding Area

- 15.10 Whilst the front part of the site, adjacent to High Street, is within the Conservation Area the proposed building is outside. A conservation area designation imposes a general duty on behalf of the Local planning Authority under The Planning (Listed Buildings and Conservation Areas) Act 1990 to give special regard to the desirability of preserving or enhancing the character or appearance of conservation areas. Local Plan policies support this aim, Core Strategy policy UR2 requires development to be informed by the context of their surroundings and to provide high quality design. This policy along with Core Strategy policy ENV1 highlights the importance of the preservation and safeguarding of the unique historic character of the borough. Development policies DP1 and DP14 respectively require a high standard of design from development proposals that serve to protect and enhance the historic environment. The principle of development is therefore predicated on the ability of the application to at least preserve the character of the surrounding conservation area (to avoid harm). It is considered this modest timber clad building will have a neutral impact on the Conservation Area. It will replace a building of a similar size and appearance and will therefore preserve the existing riverside scene.

Impacts on Neighbouring Properties

- 15.11 There has been a building on the site since 2005 providing refreshments and a meeting place villagers and visitors. Since 2016 the building has also provided a base for Rowhedge Coastal Rowing Club. The building is situated along Rowhedge High Street which contains two public houses and retail uses.
- 15.12 The new building will be used for the same purposes. The Club wish to continue providing to the local community with the sale of refreshments from a new building. The applicant indicates the building would continue to open at the weekends and bank holidays April- November all day, Typically 10-5pm. The new building would display maritime effects to display the past of Rowhedge to its visitors. The rowing club hold monthly committee meetings of 12 people 7.30-8.30pm which the hut could be used for this instead of having to book the local pub room which can often be busy. These would of course be held inside.
Training would be held 1 evening a week during the winter from 6-9pm (Jan-March) where people can use a rowing machine inside the hut when it is too cold to train on the river/when there is no water at low tide. This would be for very few people - probably 3. Fundraising events would include hosting a rowing event where permission is always obtained in advance from East Donyland Parish Council as the quayside is used by visiting rowing clubs watching the rowing on the river. There are 2 events each year.
- 15.13 The building is modest and cannot accommodate a large group. A similar use has operated for at least 12 years. The applicant leases the site from the Parish Council. It is considered the use of this building will not have an unacceptable impact on residential amenity.

Highway Safety and Parking Provisions (including Cycling)

- 15.14 Highway Authority has no objection. The site has parking space for a single vehicle, cycle parking can be provided next to the building. The existing building has operated from the site with a single parking space since 2005 and the Local Planning Authority is not aware of any parking issues that have arisen, the majority of visitors using the building arrive either by bike, on foot or by water.

Flood risk

- 15.15 The site lies within tidal Flood Zone 3a, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the construction of a permanent building to be used by the rowing club and community, which is classified as a 'less vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. The Environment Agency are raising a holding objection on flood risk grounds.

- 15.16 The Environment Agency are considering the Flood Risk Assessment and have indicated their response will be received prior to the Committee meeting.
- 15.17 The Council is required to apply the sequential test to the development proposal. This is essentially to consider whether there are any alternative sites which are sequentially preferable i.e. outside of Flood Zone 3a. A waterside location is an necessary pre-requisite for a rowing club. Land on both sides of the river Colne extending from Wivenhoe to the Hythe is within Flood Zone 3a. Your officers consider that sequentially there are no other sites available for this specific use.

16.0 Conclusion

- 16.1 Members will note the application has given rise to strong local feeling both for and against the proposed development. A key issue is the original legal agreement which secures the transfer of the land to the Parish Council but does not require it to be used for a specific purpose. Whether or not the site is used to provide a maritime heritage centre is a parish matter. In particular, as the land is owned by the PC it is not a material planning consideration. The use and proposed building are considered acceptable in planning terms. The Parish Council will manage the operation of the building through their lease agreement with the applicant.
- 16.2 To summarise, the building and use are acceptable and planning permission is recommended.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is:
- A. Subject to the Environment Agency raising no objection, Approval is recommended
- B. APPROVAL of planning permission subject to the following conditions

1. ZAA -Time limit for conditions

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. Non standard condition – External Materials

No external materials shall be used until a schedule of all proposed types and colours/finishes has been submitted to and approved, in writing, by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved schedule.

Reason: This is a prominent site where types and colours of external materials to be used should be polite to their surroundings in order to avoid any detrimental visual impact.

3. Non standard condition – Disposal of litter

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

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

4. Non standard condition – Use of premises

The premises shall be used for purposes specified in the application only and for no other purpose (including any other purpose in Class A1, D1 or D2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification. Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

5. Non standard condition – Hours of opening

The building hereby permitted shall not be used for any purpose after 10.30 pm on any day. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, and for the avoidance of doubt as to the scope of this permission.

6. Non standard condition – Bicycle facilities

No works shall take place until details of bicycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the development and shall thereafter be retained.

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

Together with any further conditions as requested by the Environment Agency.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

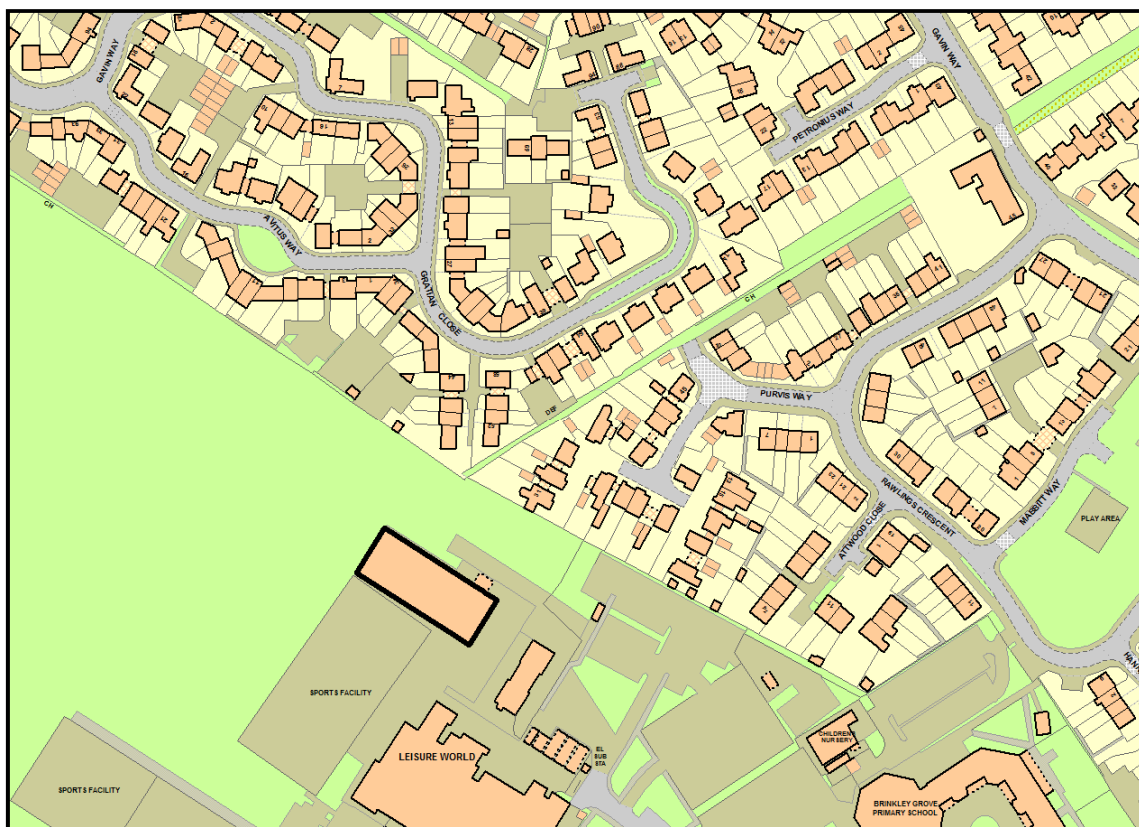
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may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

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

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

4. Non Standard Informative

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1 – Essex Highways Colchester Highways Depot, 653 The Crescent, Colchester. CO4 9YQ.



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Item No: 7.3

Application: 180185

Applicant: Ms Michelle Schweyer

Agent: Miss Lily Green, Ingleton Wood LLP

Proposal: Application to remove condition 10 (requiring the sports centre to be used in connection with the Gilberd School only) of planning permission 170369

Location: Gilberd School, Brinkley Lane, Colchester, CO4 9PU

Ward: Highwoods

Officer: Lucy Mondon

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is for the removal of a condition of a major planning permission where objections have been received.

2.0 Synopsis

- 2.1 The application is made under section 73 of the Town and Country Planning Act 1990 to remove condition 10 of planning permission 170369. The condition requires the sports centre to be used in connection with the Gilbert School only. The key issue for consideration is whether the wider use of the sports hall would have any detrimental impacts in terms of residential amenity and whether there are any traffic implications such as highway safety, highway efficiency, or air quality. The report considers these matters, along with other material planning considerations, as well as representations received. The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The building that is the subject of this application is a modern stand-alone sports hall located to the north-eastern side of the Gilbert School site. To the west and south of the building are the school sports fields and school buildings, with the school car park lying to the east. The existing sports facilities at the school (excluding the sports hall in question) are available to members of the public outside of school hours as part of Leisure World Highwoods.
- 3.2 To the northern boundary of the site is a security fence separating the site from the residential properties beyond. The southern boundary of the site, along Brinkley Grove Road has a hedge.
- 3.3 The site is within the settlement boundary of Colchester and is identified as Predominantly Residential and an area of Private Open Space in the Local Plan.

4.0 Description of the Proposal

- 4.1 The application is made under section 73 of the Town and Country Planning Act 1990 to remove condition 10 of planning permission 170369. The condition requires the sports hall to be used in connection with the Gilbert School only. The condition reads:

The sports hall hereby permitted shall be used in connection with the Gilbert School only.

Reason: As this is the basis on which the application has been submitted to, considered and approved by the Local Planning Authority having had regard to the context of the surrounding area. Any change to this use would need further consideration at such a time as it were to be proposed.

- 4.2 The Agent's covering letter for the application states that 'although there are no current plans for letting out the facility, we wish for condition 10 to be removed to allow for the potential wider use of the sports hall and extend beyond the use of the Gilberd School only. Removing the condition would therefore futureproof the facility, allowing the school to let out the Sports Hall if they wish to do so.'

5.0 Land Use Allocation

- 5.1 The site is within the settlement boundary of Colchester and is identified as Predominantly Residential and an area of Private Open Space in the Local Plan.

6.0 Relevant Planning History

- 6.1 Planning permission was granted for the sports hall on 16th December 2013 following a Planning Committee resolution (ref: 131977). A subsequent application to vary the approved plans (condition 2) in order to amend the design of the sports hall was approved on 21st October 2014 (ref: 145553). An application to vary conditions relating to hours of use and noise levels of the original planning permission (conditions 4 and 6 respectively) was made in 2017 (ref: 170369). This application did not seek to vary the second permission as that permission did not set out the conditions individually (the conditions of 131977 were reapplied but simply numbered in a combined condition thereby making it difficult to vary their wording). The application was subsequently approved on 17th May 2017. The current planning application seeks to remove one of the conditions attached to the 2017 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:

UR2 - Built Design and Character

ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP15 Retention of Open Space and Indoor Sports Facilities
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

- 7.4 Submission Colchester Borough Local Plan 2017-2033

In addition to the above, consideration also needs to be given to the Emerging Local Plan. The following emerging policies are considered to be relevant:

SP1 Presumption in Favour of Sustainable Development
SP6 Place Shaping Principles
SG1 Colchester's Spatial Strategy
ENV1 Environment
DM15 Design and Amenity
DM17 Retention of Open Space and Recreation Facilities
DM20 Promoting Sustainable Transport and Changing Travel Behaviour
DM21 Sustainable Access to Development
DM22 Parking
DM23 Flood Risk and Water Management
DM25 Renewable Energy, Water, Waste and Recycling

Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

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

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

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

- 7.5 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
Sustainable Construction

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Environmental Protection: No objections subject to the retention of the remaining conditions of planning permission 170369. Particular attention is drawn to conditions 12 and 13.
- 8.3 Highway Authority: No objections.

9.0 Parish Council Response

- 9.1 N/A

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 Councillor Gerard Oxford: This unit has been open for a few years and the ward councillors have not had one single complaint. I think this proposal is good for the community and the school. I strongly support this application.
- 10.3 A subsequent email from Councillor Oxford confirmed that he had had assurances from the school that the hall would not be used for parties or music concerts due to cost and damage to the sport hall floor.
- 10.4 Two objections have been received, summarised as follows:
- The planning condition should not be removed as it was made for good reason. Permission was granted on the basis that the hall would only be used for school activities and that times would be restricted for the protection of the peace and quiet of the adjoining residents;
 - The original application was to benefit pupils of Gilbert School in view of the context of the area which is all residential;
 - The justification for the application is that it would 'future proof' the building, but this does not describe the intended future of the building which could bring late night events, especially over the weekends and bank holidays;
 - Increased traffic in a quiet neighbourhood; and

- Issues of light pollution and noise has increased since the sports hall was erected.

10.5 One of the objectors has stated that they are in favour of community space, but believe there are other community halls in the locality that are better suited for this purpose.

10.6 One additional objection relating to the noise experienced during construction of the building and understanding that the building would only be used during school hours was updated with a general comment (following discussion with Councillor Gerard Oxford) that they now understand that the proposal would not include the hall being used for events such as birthdays and parties.

11.0 Parking Provision

11.1 Parking is provided on site. No additional parking is proposed.

12.0 Open Space Provisions

12.1 The site is identified within an area of private open space in the Local Plan.

13.0 Air Quality

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

14.0 Planning Obligations

14.1 This application is classed as a “Major” application by virtue of it seeking to remove a condition of a “Major” planning permission. It does not, however, increase the scale or capacity of the building from that previously considered by the Development Team and was not, therefore, discussed further.

15.0 Report

15.1 The main issues in this case are:

- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Highway Safety and Parking Provisions (including Cycling)

15.2 The application is made under section 73 of the Town and Country Planning Act 1990 to remove condition 10 of planning permission 170369. The condition requires the sports centre to be used in connection with the Gilbert School only.

15.3 The first matter to consider in determining whether it is appropriate for the condition to be removed is the reasoning behind why the condition was imposed. In this case the reason for the condition is set out in the Decision Notice as: 'As this is the basis on which the application has been submitted to, considered and approved by the Local Planning Authority having had regard to the context of the surrounding area. Any change to this use would need further consideration at such a time as it were to be proposed.' The condition was not, therefore put in place to mitigate a particular issue, rather the application was made on the basis of the building being used by the school only and any change to the way the building would be used would require further consideration as to its impacts.

Impact on the Surrounding Area

15.4 The school site as a whole is used as a school during the day, with the sports facilities (excluding the sports hall in question) being open to the public in the evening and at weekends as part of Leisureworld Highwoods. The sports hall currently has permission to be used in the evenings, but for school use only; the removal of condition 10 would allow the building to be used by members of the public, but it would not change the character of the site given the current Leisureworld use.

Impacts to Neighbouring Properties

15.5 Objections have been received from neighbouring residents, the main concerns being noise from late night events (especially at weekends and during Bank Holidays), and light pollution.

15.6 Where an application under section 73 is granted, a new planning permission is issued, with the Decision Notice describing the new permission and setting out all conditions related to it; this includes conditions from the parent permission. Current conditions relating to protecting residential amenity include:

15.7 Condition 4. The sports hall hereby permitted shall not be used outside of the following times: Weekdays: 0800-2200
Saturdays: 0800-2200
Sundays: 0900-1700
Public Holidays: Not at all.

- 15.8 Condition 5. Notwithstanding the submitted details, no external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details. Any approved external lighting shall be turned off when the building is not in use.
- 15.9 Condition 6. Noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises when measured in accordance with the current version of British Standard 4142.
- 15.10 Condition 11. Access and egress to the building shall be via the main entrance only. All other external doors shall be kept closed at all times when the building is in use (except in the case of an emergency).
- 15.11 Condition 12. The building shall be used for sporting activities only and not used for music events or similar activities.
- 15.12 Condition 13. Any background music or amplified sound (announcements) played on the premises shall not exceed 0dB(A) above the background levels determined at all boundaries near to noise-sensitive premises when measured in accordance with the current version of British Standard 4142.
- 15.13 These conditions can be imposed on the new planning permission and are considered appropriate to mitigate noise, disturbance and light intrusion from the sports hall, regardless of whether it is being used by the school or members of the public.
- 15.14 Important conditions to note are conditions 12 and 13. These conditions require that the sports hall is used for sporting activities only and not music events or similar. Should any music or amplified sound be used in connection with the sports use of the building, the noise level is limited so that it is no greater than background levels. The concern of residents regarding the potential for late night parties at the sports hall is currently restricted by condition and will continue to be so.

Highway Matters

- 15.15 The Highway Authority does not object to the proposal. There are not, therefore, considered to be any adverse impacts from the removal of condition 10 in terms of traffic generation, highway efficiency, or highway safety.
- 15.16 In terms of parking (car and cycle), the use of the building by members of the public is not considered to give rise for the need for additional parking, given that it would take place outside school hours when the school use of the car park and cycle parking will have ceased.

Other Matters

- 15.17 Should the application be approved, it is recommended that conditions from the previous permission are applied to the decision as advised by Planning Practice Guidance (Paragraph: 015 Reference ID: 17a-015-20140306). The existing conditions are, in the main, compliance conditions that can be amended to reflect the current situation.
- 15.18 The proposal is not considered to conflict with the aforementioned Local Plan Policies, or Emerging Local Plan Policies.
- 15.19 A Screening Opinion has been undertaken under Part 3, Article 8 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The proposal is considered to be Schedule 2 Development as set out in the Regulations, but does not exceed the thresholds for EIA Development.

16.0 Conclusion

- 16.1 The removal of condition 10 of planning permission 170369 would allow for the sports hall to be used by members of the public. The impact of this wider use (previously being restricted to use by the Gilberd School only) is not considered to have a detrimental impact on the character of the area, residential amenity, highway safety, or air quality subject to the retention of the remaining conditions of planning permission 170369.

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:

Time Limit

1. ~~The development hereby permitted has commenced and there is no time limit for the start of development.~~

~~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.~~

The development has commenced.

Approved Drawings

2. The development shall be in accordance with the details shown on the submitted Drawing Numbers 001 Revision C, 100, received on 15th October 2013, and drawing 200 Revision A, received on 9th February 2017.

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

Replacement Hard Court

3. ~~The replacement hard court shall be provided and made available for use in accordance with planning permission 131098.~~

~~Reason: In order to compensate for the loss of community sports facilities in the siting of the sports hall on existing outdoor hard courts.~~

Replacement hard court provided under planning permission 131098.

Hours of Use

4. The sports hall shall not be used outside of the following times:

Weekdays: 0800-2200

Saturdays: 0800-2200

Sundays: 0900-1700

Public Holidays: Not at all.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

External Lighting

5. No additional external lighting fixtures shall be constructed, installed or illuminated until details have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details. Any approved external lighting shall be turned off when the building is not in use. Reason: To reduce the risks of any undesirable effects of light pollution

Noise from Plant, Equipment, and Machinery

6. Noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises when measured in accordance with the current version of British Standard 4142.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

Planting

7. The planting shown on drawing 102 Rev B ('Proposed Block Plan') shall be fully implemented within the first planting season from the date of planning permission 170369, being 17th May 2017. The planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

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

Retention of Existing Trees and Hedgerows

8. All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All existing trees and hedgerows shall 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.

Ecology

9. The development shall be carried out in accordance with the recommendations set out in the Landscape Planning Ltd Preliminary Ecological Appraisal, dated April 2013, unless the Local Planning Authority agrees in writing to a variation.

Reason: In order to prevent disturbance to protected species and to enhanced bird and bat habitat.

Removed Condition

10. This condition has been removed by virtue of this planning permission.

Access and Egress to the Building

11. Access and egress to the building shall be via the main entrance only. All other external doors shall be kept closed at all times when the building is in use (except in the case of an emergency).

Reason: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

Use of the Building for Sporting Activities Only

12. The building shall be used for sporting activities only and not used for music events or similar activities.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise or disturbance as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

Noise Levels of Background Music or Amplified Sound

13. Any background music or amplified sound (announcements) played on the premises shall not exceed 0dB(A) above the background levels determined at all boundaries near to noise-sensitive premises when measured in accordance with the current version of British Standard 4142.

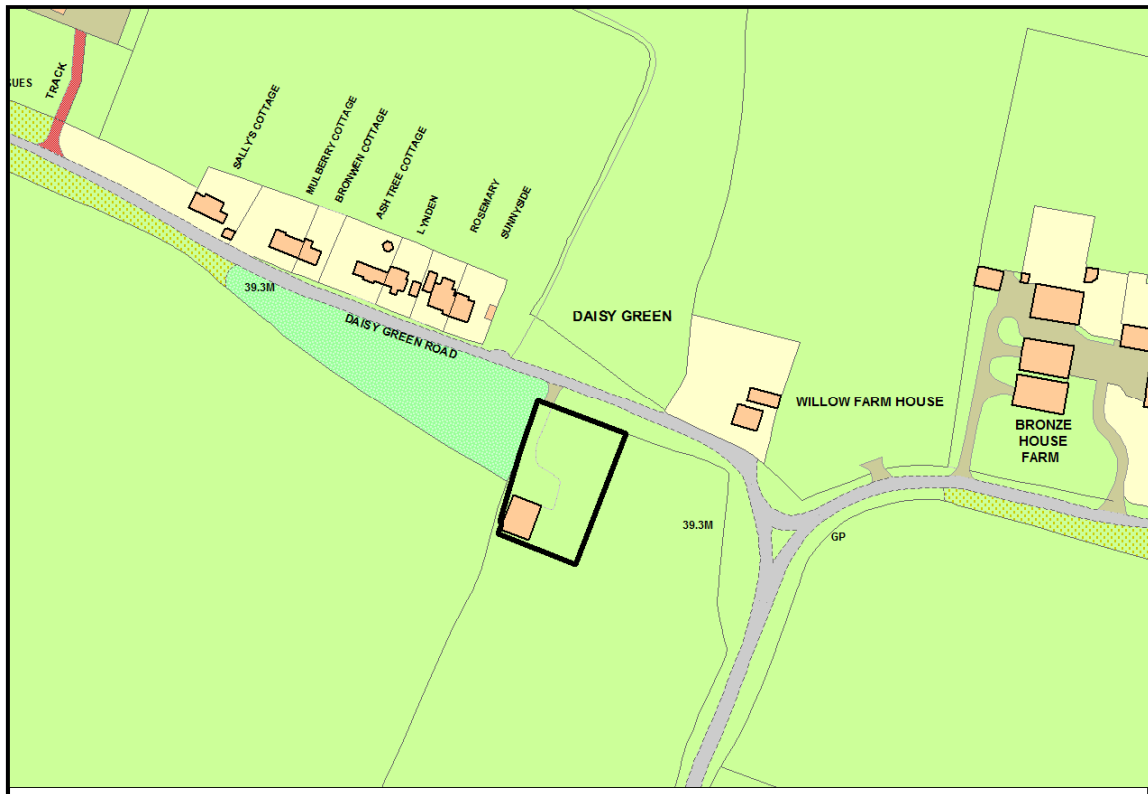
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

18.0 Informatives

18.1 The following informatives are also recommended:

ZTB - Informative on Any Application With a Site Notice

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



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Item No: 7.4

Application: 180152

Applicant: Mrs Janet Fowler

Agent: Mr Robert Pomery

Proposal: Erection of single dwelling.

Location: Friars Farm, Daisy Green, Eight Ash Green, Colchester

Ward: Lexden & Braiswick

Officer: Benjy Firth

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee by an elected member on the following basis:

“The request for the application to be called in is based on the presumption of no development in the countryside in CBC’s planning policy.”

2.0 Synopsis

- 2.1 The key issue is whether or not a replacement dwelling can be constructed in lieu of a previously approved barn conversion. If this is considered acceptable then the design and layout of the new dwelling are the only considerations.
- 2.2 It is explained that the barn at Friars Farm already benefits from a consent for conversion to residential use under Class Q of the General Permitted Development Order and that the principle of a house has, therefore, been accepted.
- 2.3 It is further explained that your Officers have negotiated with the applicant to achieve a satisfactory design and layout.
- 2.4 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site sits on the south side Daisy Green Road and comprises of an area of agricultural land containing an agricultural barn. The site sits beyond any settlement boundary and as such is classed as being in the open countryside.

4.0 Description of the Proposal

- 4.1 The proposal seeks the demolition of the existing barn and the construction of a single dwelling.

5.0 Land Use Allocation

- 5.1 The site is agricultural land beyond the defined settlement boundary and has no other relevant allocation.

6.0 Relevant Planning History

- 6.1 Prior approval application 150456 approved the change of use of barn to residential under Class Q of the permitted development regulations.

- 6.2 Planning application 160588 sought full planning permission for the change of Use of barn to residential use and construction of basement. This application included substantial excavation under and around the barn and was refused by the Council. This decision was upheld by the Planning Inspectorate at appeal as the substantial excavations required would harm the character and appearance of the area. It should be noted that the Inspector also stated there is “no reason to doubt that the approval would be implemented should this appeal fail. I am satisfied in this regard that that consent is a material consideration”.
- 6.3 Planning application 171060 sought full planning permission for the change of use of barn to residential use and construction of basement. This application included less substantial excavations that are primarily limited to under the barn. This application is yet to be determined and discussions during the application have led to the submission of the application the subject of this report.

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
UR2 - Built Design and Character
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
DP8 Agricultural Development and Diversification
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

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

The Essex Design Guide
EPOA Vehicle Parking Standards
Eight Ash Green Village Design Statement

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.

9.0 Parish Council Response

- 9.1 The Parish Council made the following comments:

The Parish Council has noted the previous application history for this site. This application is for a completely new dwelling on the site and consider that the thoughtful, sympathetic style of the proposed dwelling is very commendable.

However, the proposal is to build this new house closer to the road and in front of the existing barn. Therefore if planning permission were to be granted, the Permitted Development rights could still be exercised to convert the existing barn to a dwelling, leading to two residences on this site in the countryside. A precedent could then be set for further development in this area as this proposal only covers a small area of a much larger field.

The application is for a proposed new build, outside the village settlement boundary, and contrary to The Parish Councils Approved Village Design Policy DG2. Whereas the existing barn is located towards the rear of the site, the house proposed in this planning application is much closer to the road. It would be very dominant in the street scene because of its height and bulk, particularly with large attached cart lodge. It would be very noticeable from Daisy Green Rd and Turkey Cock Lane, and will have a detrimental impact on the open countryside.

For this reason the Parish Council would object to this application.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 The Highway Authority confirmed that the proposal is acceptable subject to their recommended conditions.

- 10.3 Two members of the public commented supporting the application based on the improvements to the appearance of the site that the proposal would achieve.
- 10.4 One member of the public made a general observation that the proposal falls within the countryside, is visible from highways surrounding the site and the proposed dwelling shows an increase in height and foot print compared to the existing barn.
- 10.5 One member of the public objected to the proposal on the grounds that the site sits outside the village envelope, any approval would set a precedent that may prompt residential development on the surrounding agricultural land and the impact of the development on the surrounding highway network.

11.0 Parking Provision

- 11.1 The proposal provides adequate parking provision to the front of the property to comply with policy.

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 Class Q of the General Permitted Development Order 2015 (as amended) allows for the conversion of agricultural buildings in to dwellinghouses without the need for Planning permission. All an owner needs to do is apply for “Prior Approval” and the Local Planning Authority can only consider issues of highways, contamination and flooding.
- 15.2 The owner of Friars Barn exercised this right in 2015, the Council was not permitted to consider matters such as sustainability and Prior Approval was duly granted. The fact that there is a “live” Approval on the site and that this conversion could now take place is a very serious material consideration which cannot be ignored.

- 15.3 Rather than simply converting the barn, the applicant looked at ways of providing more space and this included a possible cellar extensions. Your Officers refused this application in 2016 and the appeal against this refusal was comprehensively dismissed on the grounds of its appearance.
- 15.4 A resubmitted scheme involving a basement is still under discussion, meanwhile the application at hand has evolved and shows that your Officers have negotiated with the applicant in order to achieve a more desirable outcome at the site. The outcome of these negotiations is the application subject of this report.
- 15.5 It is undeniable that a new dwelling beyond the settlement boundary does not comply with adopted policy. However, planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In accordance with the previous appeal decision at the site the prior approval previously granted to convert the existing barn into a dwelling is a material consideration. In light of the above, it is considered that this proposal could be viewed as a replacement dwelling. On this basis the development proposed is considered acceptable in principle.
- 15.6 It is acknowledged that the size and shape of the application site varies between this application and the previous approval. Within this application the site area has been increased from 1155m² to 1530m² and plot has been shortened and widened. This, combined with the fact that the proposed dwelling sits closer to the sites entrance, ensures that the majority of amenity space is accommodated to the rear of the site. It is considered that the increase in plot size is minimal, whilst the change in plot shape and position of the dwelling will allow the site to have a more traditional residential appearance.
- 15.7 It is also acknowledged that the size of the proposed dwelling subject of this application is larger than the barn conversion previously approved. The existing barn is 7.2 metres in height, whilst the new dwelling's height would be 10 metres. The existing barn has a footprint of 140m², whilst the proposed dwelling has a footprint of 249m². Despite these increases the floor space within the proposed dwelling (385m²) is not significantly larger than the barn conversion approved under Class Q or the scheme with the proposed basement (378m²). On balance it is considered that the increase in the scale of development at the site is justified by the improvements in the functionality, design and living standards provided by this proposal.
- 15.8 The increased functionality of the site has already been referred to and is primarily facilitated by the repositioning of the building at the site. This will ensure that the majority of residential activity at the site occurs behind the dwelling and will reduce the impact that the residential use of the site has on the rural character of the area.

- 15.9 The design improvements afforded by this proposal are the most significant benefit of this application. The design of the existing barn at the site is not noteworthy and does not lend itself well to residential conversion. The existing materials at the site are also of poor quality. The proposed dwelling has adopted the design approach of a traditional vernacular barn building and utilised high quality materials. The proposed dwelling is well proportioned and utilises traditional architectural features to ensure the integrity of its appearance as a traditional barn conversion. It is considered that the standard of design of the proposed dwelling would make a better contribution to the rural character of the area.
- 15.10 The isolated location of the site and the proposed dwelling ensure that the proposal would not have any significant impact upon neighbouring amenity.
- 15.11 The proposal would have no significant impact in terms of Highway or arboricultural matters and would provide adequate parking provision and private amenity space.
- 15.12 Concerns were raised by the Parish Council that this proposal may lead to two dwellings at the site. This would not be the case and conditions would be applied to any approval insuring this does not occur.
- 15.13 Concerns have also been raised that this development will set a precedent for residential development in the local vicinity. This is not considered to be an issue as any future proposal would be assessed on its individual merits, as this application will be assessed on its merits.

16.0 Conclusion

- 16.1 To summarise, it is considered that the construction of a dwelling at the site is acceptable in principle, based on the fact that the new dwelling can be considered a replacement for the barn conversion previously approved. This notion is given extra weight within this application due to the design improvements incorporated within this proposal and the resulting enhancements to the future appearance of the site.

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 6316/1105, 6316/1203 and 6316/1004.

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

3. ZBC - Materials To Be Agreed

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

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

4. Z00 - *Demolition

Construction of the dwelling hereby approved shall not be commenced until such a time as the existing barn at the site has been demolished and all resulting waste materials have been removed from the site.

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

5. ZFB - *Full Landscape Proposals TBA*

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

- ☐ PROPOSED FINISHED LEVELS OR CONTOURS;
- ☐ MEANS OF ENCLOSURE;
- ☐ OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- ☐ HARD SURFACING MATERIALS;
- ☐ MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- ☐ PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- ☐ RETAINED HISTORIC LANDSCAPE FEATURES;
- ☐ PLANTING PLANS;
- ☐ WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);

- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

6. Z00 - *Vehicle Parking*

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 6316/1105. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety

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. *ZDE - Removal of PD for Open Plan Fences/Walls*

Notwithstanding the provisions of Class A of Part 2 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 fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected at the site unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

9. ZDO - Removal of PD for Gardens Extended into the Countryside

Notwithstanding the provisions of Classes E and F of Part 1 and Class A of Part 2 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 buildings, enclosures, swimming pools, structures, hard surfaces, oil or gas storage containers, fences, walls, gates or other means of enclosure (other than those shown on the approved drawings) shall be erected on the extended garden area hereby permitted unless otherwise subsequently approved, in writing, by the Local Planning Authority.

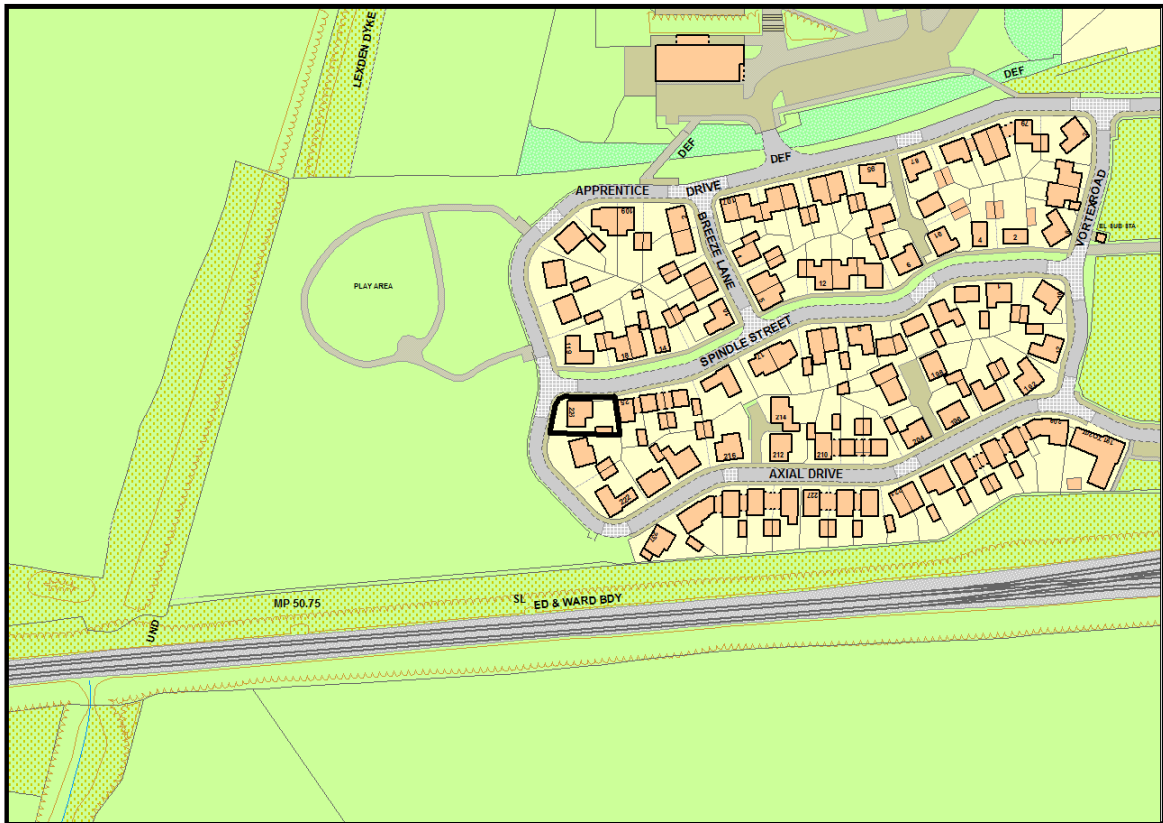
Reason: In the interest of visual amenity and to avoid the site acquiring a cluttered appearance in this rural area.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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



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Item No: 7.5

Application: 180020

Applicant: Mr Martin Goss

Agent: Mr Steven Higgon, HGN Design Ltd

Proposal: Proposed alteration of windows at first floor level to French Doors and Balcony over bay windows.

Location: 226 Axial Drive, Colchester, CO4 5YJ

Ward: Mile End

Officer: Ishita Sheth

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is a Councillor.

2.0 Synopsis

- 2.1 The key issues for consideration are the design, impact on the character of the area and residential amenity.
- 2.2 The application is subsequently recommended for APPROVAL.

3.0 Site Description and Context

- 3.1 The site is a corner plot on the eastern side of Axial Drive at its junction with Spindle Street. A detached house with bay windows at ground floor level occupies the site.
- 3.2 To the west of the application dwelling is an open space inclusive of a children's park.

4.0 Description of the Proposal

- 4.1 The proposal seeks alterations to the first floor windows in the front elevation to provide French doors and to provide balconies with associated railings above the existing bay windows.

5.0 Land Use Allocation

- 5.1 Residential

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 be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

- 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.

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

The Essex Design Guide
External Materials in New Developments
Myland Parish Plan AND Myland Design Statement

8.0 Consultations

- 8.1 None.

9.0 Parish Council Response

- 9.1 The Parish Council has stated that it has no objections.

10.0 Representations from Notified Parties

- 10.1 None received

11.0 Parking Provision

- 11.1 There are no implications in respect of car parking provision.

12.0 Open Space Provisions

- 12.1 There are no implications in respect of Open Space provisions

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:

- Design and Layout
- Impact on the Surrounding Area
- Residential Amenity

15.2 The proposed replacement of the windows with French Doors and the provision of balconies above the existing bay windows is acceptable in design terms taking into consideration the mixed character of the area.

15.2 The outlook from the proposed balconies would be that of the public open space to the west and similar to the views from the existing windows in this location. It is not considered that the proposed balconies would result in a loss of residential amenity to any neighbours.

16.0 Conclusion

16.1 To summarise, the proposed development fully accords with the Council's Policies 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. 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*

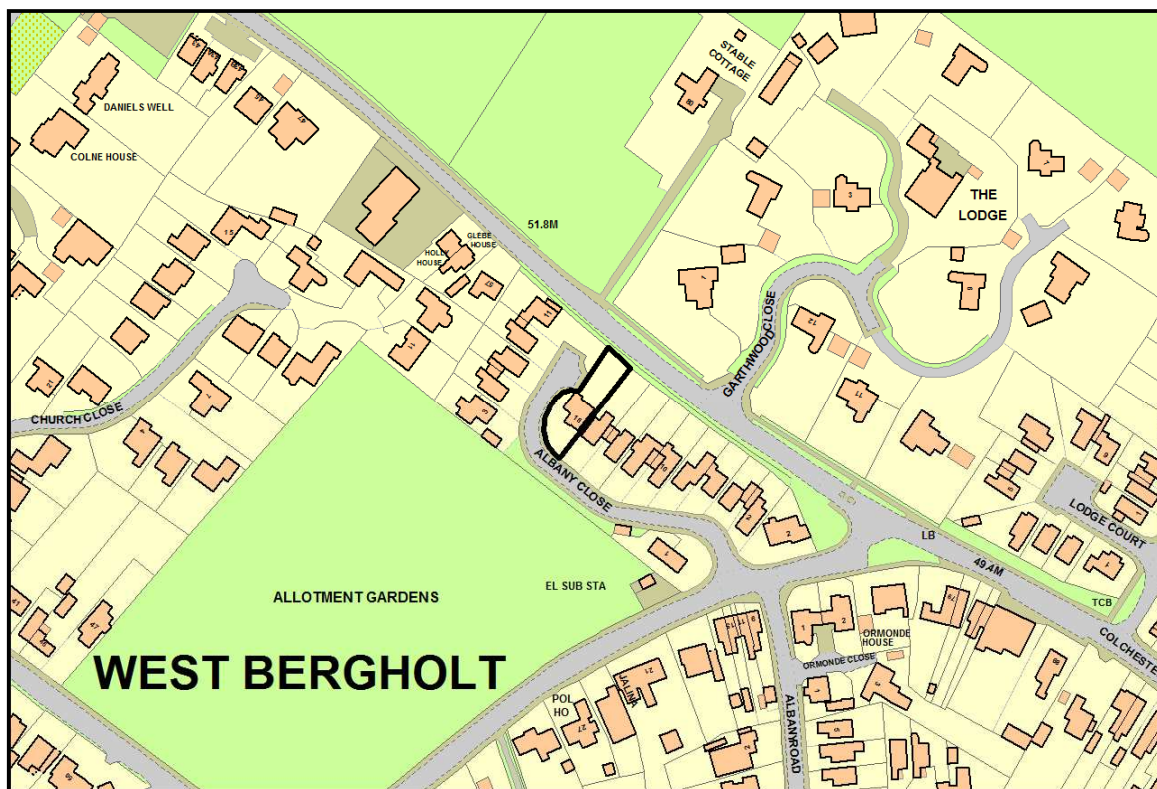
The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 9095 02.

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.



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Item No: 7.6

Application: 180016

Applicant: Mrs Alison Turner

Agent:

Proposal: Erection of a two storey above an existing single side extension.

Location: 18 Albany Close, West Bergholt, Colchester, CO6 3LE

Ward: Lexden & Braiswick

Officer: Mark Russell

Recommendation: Approval

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 staff.

2.0 Synopsis

- 2.1 The key issues for consideration are the design and effect on residential amenity.
- 2.2 It is concluded that there are no issues of concern and the application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 18 Albany Close is a detached, 1960s house on a cul-de-sac within the village of West Bergholt. It is the last of a row of nine, with allotments opposite.

4.0 Description of the Proposal

- 4.1 The proposal is to build over an existing ground floor (side) extension to make it a two-storey element.

5.0 Land Use Allocation

- 5.1 Predominantly Residential

6.0 Relevant Planning History

- 6.1 88/1389 - Outline application for residential development. Refused 31st August 1988. Appeal Upheld 28th July 1989.
- 6.2 F/COL/00/0956 - First floor extension/single storey side and rear extensions. Approved 14th September 2000.
- 6.3 F/COL/02/0663 - Single storey side extension and alterations. Approved 18th June 2002.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP19 Parking Standards

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

n/a

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

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

Affordable Housing

West Bergholt Parish Plan & West Bergholt Village Design Statement

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.

9.0 Parish Council Response

- 9.1 At the time of writing, West Bergholt Parish Council had not provided any comments. Any which are made will be reported on the amendment sheet.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No representations were received within the allocated consultation period.

11.0 Parking Provision

11.1 This is not affected by the proposal.

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

Design and Layout:

15.1 The proposal is to build over an existing single-storey element to the side (north) towards, but recessed back from, the front.

15.2 There is an existing two-storey element with a dual-pitched roof just behind this. The proposed extension would lead to a double-piled effect. This is a typical solution to ensure that roofs do not appear overly-bulky and this is visually acceptable.

15.3 Matching materials will complete the visual acceptability of the scheme.

Impacts on Neighbouring Properties:

15.4 Due to the positioning of the house (it is at the end of the row and next to a turning head) the physical form of the building will have no impact on any neighbouring houses.

15.5 The aspect of the proposed new window is towards a group of houses to the north. However, these are at least twenty metres away and it is only their fronts which would be overlooked. In any event, the proposed window is to be obscured so there are no issues of lost privacy or lost amenity of any sort.

16.0 Conclusion

16.1 To summarise, the proposal is acceptable in terms of visual and residential amenity and 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 condition:

Conditions/Reasons

1. ZAA – Time Limit for Full Permission

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. ZAX – 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 'Proposed Front (West) Elevation, Proposed Side (North) Elevation, Site Location Plan, Amended Proposed GF and Proposed FF.'

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

3 - ZBB – Material as Stated in application

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

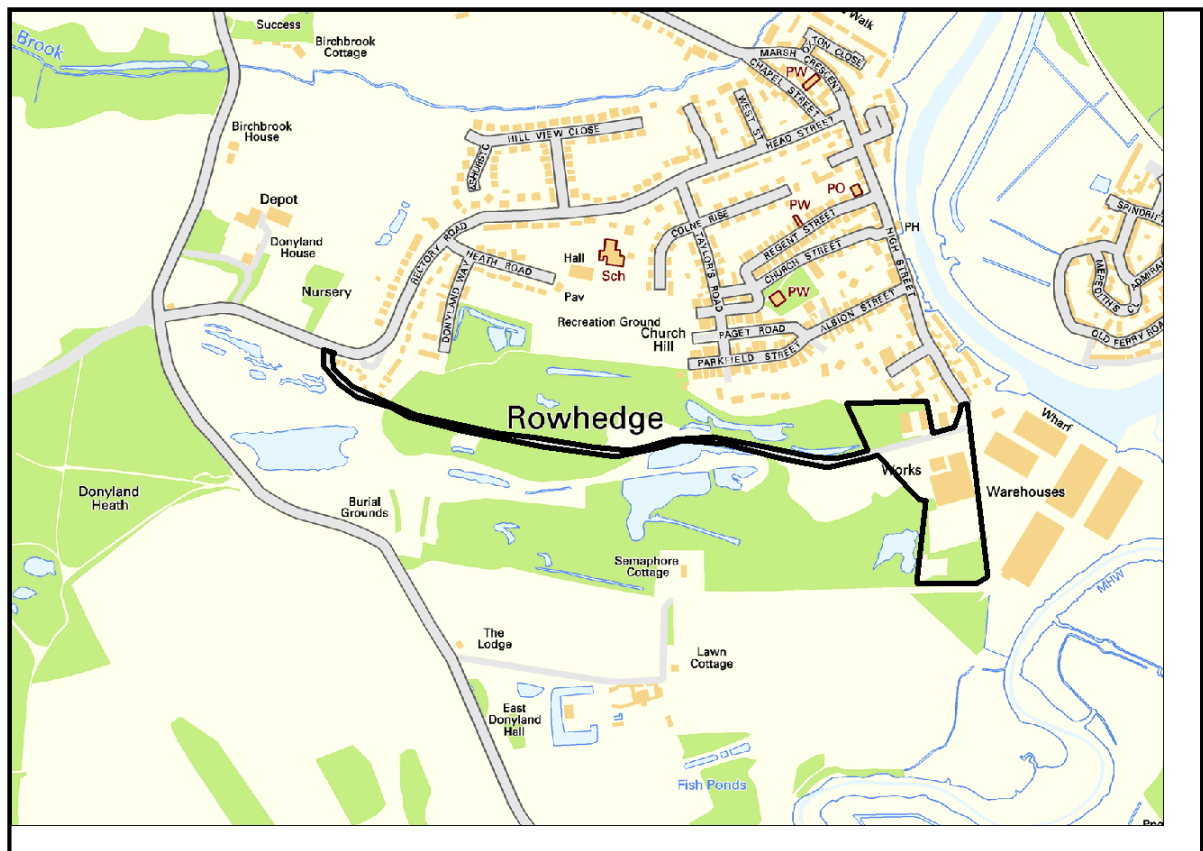
Reason: To ensure that materials are of an acceptable quality appropriate to the area.

18.0 Informatives

18.1 The following informatives are also recommended:

ZT0 Advisory Note on Construction & Demolition

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



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Planning Committee

Item
8

Date: 8th March 2018

Report of	Assistant Director Policy and Corporate	Author	Sue Jackson 01206 282450
Title	Change to the Affordable Housing plots at Rowhedge Wharf		
Wards affected	Old Heath and the Hythe		

This report concerns a change to the affordable housing plots at the Hills Development at Rowhedge Wharf

1.0 Decision(s) Required

- 1.1 Members are requested to endorse the proposal from developer Hills to change the housing plots allocated as affordable homes on their site at Rowhedge Wharf from plots 77/78 to plots 61/62.

2.0 Reasons for Decision(s)

- 2.1 The legal agreement with application reference 160551 secures plots 77/78 as Affordable Housing. The agreement also requires that "No more than 50% of the Market Dwellings are occupied until the Affordable Units have been constructed and are available for occupation and are transferred to the Affordable Housing Provider". Hills have indicated that due to their build programme plots 77/78 would not be delivered until after more than 50% of the Market Dwellings were occupied. Hills have suggested the Affordable plots are changed plots to plots 61/62 so the Affordable Units can be delivered in accordance with the provisions of the legal requirement.
- 2.3 Plots 77/78 and 61/62 are all 3 bedroomed units of similar size and layout.

3.0 Alternative Options

- 3.1 The alternative is not to agree the change to the plots to be provided as Affordable Housing, plots 77/78 would still be provided as Affordable Housing.

4.0 Strategic Plan References

- 4.1 The Strategic Plan seeks to provide opportunities to increase the number of homes available including those that are affordable for local people. The amendment to the legal agreement will ensure the Affordable Units are delivered in accordance with the agreed time scale.

5.0 Consultation

- 5.1 The Affordable Housing Development Officer has no objection to the change.

6.0 Publicity Considerations

6.1 None directly arising from this report.

7.0 Financial Implications

7.1 None directly arising from this report.

8.0 Equality, Diversity and Human Rights Implications

8.1 None directly arising from this report.

9.0 Community Safety Implications

9.1 None directly arising from this report.

10.0 Health and Safety Implications

10.1 None directly arising from this report.

11.0 Risk Management Implications

11.1 None directly arising from this report.

12.0 Background Papers

12.1 Planning Application Reference 160551 Rowhedge Wharf

12.2 Planning committee report Agenda 10.06.2016

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.

