

Planning Committee Meeting

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

Thursday, 19 November 2015 at 18:00

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

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

Information for Members of the Public

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Have Your Say!

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Access

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www.colchester.gov.uk

Material Planning Considerations

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

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

- (a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,
- (b) as a crèche, day nursery or day centre,
- (c) for the provision of education,
- (d) for the display of works of art (otherwise than for sale or hire),
- (e) as a museum,
- (f) as a public library or public reading room,
- (g) as a public hall or exhibition hall,
- (h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

- (a) a cinema,
- (b) a concert hall, (c) a bingo hall or casino,
- (d) a dance hall,
- (e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 19 November 2015 at 18:00

Member:

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

Chairman
Deputy Chairman

Substitutes:

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

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

AGENDA - Part A

(open to the public including the press)

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

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

1 Welcome and Announcements

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

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

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

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

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

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

6 Minutes

There are no minutes for approval at this meeting.

7 Planning Applications

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

7.1 151755 St Nicholas House, High Street, Colchester 17 - 34

Formation of new High Street entrance lobby, conversion and change of use of vacant first and second floor ancillary retail accommodation creating 15 residential apartments, construction of new third storey to provide four residential apartments and associated external works to the existing rear parking area.

7.2 151993 3 Highfield Drive, Colchester 35 - 46

Two storey side extension

7.3 151946 44 Blue Road, Tiptree 47 - 54

Proposed rear single storey extension to existing dwelling

7.4 152075 Bear House, 40 Chitts Hill, Colchester 55 - 60

Proposed two storey rear extension

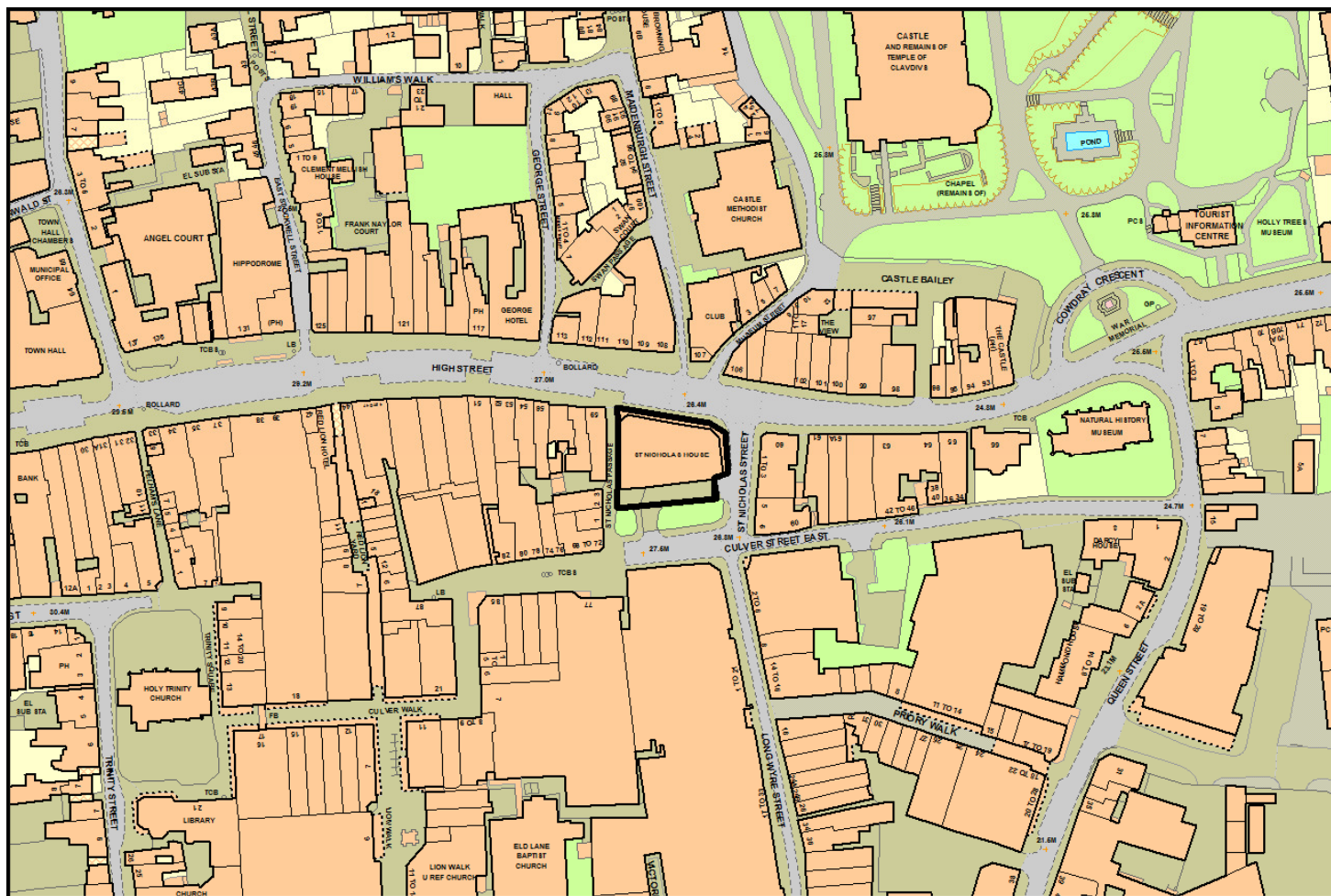
8 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example

confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Part B

(not open to the public including the press)



Application No: 151755

Location: St Nicholas House, High Street, Colchester, Essex, CO1 1DN

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **19th November 2015**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Daniel Cameron Due Date: 19/11/2015

MAJOR

Site: St Nicholas House, High Street, Colchester, Essex, CO1 1DN

Application No: 151755

Date Received: 20 August 2015

Applicant: Mr Nick Younger, Dove Properties

Development: Formation of new High St entrance lobby, conversion and change of use of vacant first and second floor ancillary retail accommodation creating 15 residential apartments, construction of new third storey to provide 4 residential apartments and associated external works to the existing rear parking area.

Ward: Castle

Summary of Recommendation: Conditional Approval subject to the signing of a Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major application and objections have been received. Approval will necessitate the signing of a Section 106 Unilateral Undertaking.

2.0 Synopsis

2.1 The key issues explored below are the contents of the Section 106 Unilateral Undertaking and the objection to the application.

3.0 Site Description and Context

- 3.1 St. Nicholas House is a four storey purpose built detached department store comprising basement, ground, first and second floors. It was constructed in the late 1950's by the Colchester Co-Operative Society after the former church of St. Nicholas was demolished in 1955 by the Church of England.
- 3.2 The building is situated on the south side of High Street towards the eastern end within the outer retail core of the town centre. To the north side of High Street is the Dutch Quarter and Castle Park. The east side of the application site is defined by St Nicholas Street and the west side by a pedestrian lane known as St Nicholas Passage. Immediately to the south of the application site is a small landscaped area (former graveyard) enclosed by low walls and railings which remains in the ownership of the Church of England. The site is located within the Colchester Town Centre Conservation Area.
- 3.3 The ground floor and basement of the building is currently occupied by The Entertainer toy shop and Sweat Shop running store. Both of which are serviced by a rear parking area with access from Culver Street East and St. Nicholas Square. Neither would be affected by this proposal.

4.0 Description of the Proposal

- 4.1 The proposed development intends to redevelop the unused first and second floors of St. Nicholas House to provide 15 residential apartments and to add a third floor to provide 4 additional apartments.
- 4.2 The development would be accessed from two new entrances to be created within the front and rear elevations within the rear parking area and the High Street frontages. Refuse storage and 3 parking spaces would be created within the rear parking area for the use of the new residents and 24 secure cycle parking spaces would be created at ground floor level.

5.0 Land Use Allocation

- 5.1 St. Nicholas House is allocated as part of the Town Centre Outer Core.
- 5.2 The following land uses, as defined within Development Policy DP6 – Colchester Town Centre Uses, would be appropriate within the area:
- A1 – Retail;
 - A2 – Financial and Professional Services;
 - A3 – Restaurants;
 - D1 – Non-Residential Institutions;
 - B1 – Offices; and
 - C3 – Residential.
- 5.3 It should be noted that with reference to Office and Residential uses that support is given for these uses within the local plan to help bring the upper floors of buildings back into use rather than take up active street frontage.

6.0 Relevant Planning History

- 6.1 Following the demolition and reconstruction of the building in the mid 1950's the relevant planning history for St. Nicholas House concerns applications for advertising of the various businesses making use of the space. The upper floors have been previously used for commercial uses only.'

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
CE2a - Town Centre
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 – Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA5 - Parking
ENV1 - Environment

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

DP1 Design and Amenity
DP6 Colchester Town Centre Uses
DP11 Flat Conversions
DP12 Dwelling Standards
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 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area

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

The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 Consultations were undertaken with:

- Environmental Protection;
- Arboriculture Officer;
- Landscape Officer;
- Highways Authority;
- Waste Management Service;
- Archaeological Advisor;
- Historic Buildings and Areas Officer; and
- Planning Policy.

- 8.2 Environmental Protection commented that the application was acceptable provided acoustic grade secondary glazing was secured for all windows fronting onto High Street and that details of the management company responsible for the maintenance of communal storage areas be conditioned and agreed with the Local Planning Authority.
- 8.3 The Arboricultural Officer was content with the application provided that details of measures to ensure that the trees to the immediate rear of the building are protected during the construction of the development are secured via condition.
- 8.4 The Landscape Officer has requested that the landscaping of the rear parking area take into account the adopted Landscape Strategy and in particular address issues of design and layout for the rear parking and bin storage areas. These details can be secured by condition.
- 8.5 The Highways Authority did not wish to raise an objection to the application subject to the securing of Travel Information Packs for all residents. This can be secured as part of the Section 106 package for the development.
- 8.6 Waste Management Services were consulted on the application to assess whether they would be able to service the properties. Provided that future access to the rear parking area was secured by condition, there would be no impact upon their ability to service the site and therefore no objections.
- 8.7 With regards to the rear parking area the Council's Archaeological Advisor has requested that a Written Scheme of Investigation be secured by condition. Given the application is located in an area of high archaeological interest; there is high potential for encountering archaeological remains.

- 8.8 The Historic Buildings and Area Officer has requested changes be made to the design of the third floor which the applicant has made and is reflected within the updated drawings. Further, it has been recommended that specific details of the High Street entrance and railings proposed to surround the rear parking area be conditioned to be submitted and agreed with the Council prior to their installation.
- 8.9 Finally, Planning Policy was consulted regarding the principle of the development. Their response is as follows: *The proposal lies within the Outer Core of the Town Centre Uses for that area are covered by Core Strategy Policies CE2a (Town Centre), H1 (Housing Delivery), and UR1 (Regeneration Areas); Site Allocation Policy SA TC1 (Appropriate Uses within the Town Centre and North Station Regeneration Areas); and Development Policy DP6 (Colchester Town Centre Uses). All of these policies encourage a mix of uses to help underpin the vitality of the Town Centre, including residential uses on upper floors. Specifically, Policy DP6 provides that 'within the Town Centre support will also be given to bringing upper floors back into use'. The proposed use of the upper floors for residential purposes is accordingly supported.*

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

9.0 Parish Council Response

- 9.1 N/A. The application site lies within an unparished town centre ward.

10.0 Representations

- 10.1 One representation was received in objection to the application. The objection stated that:
- Conversion of the upper floors of St. Nicholas House to residential, which was purpose built as retail space, should be refused as it runs contrary to Government policies;
 - To allow conversion would be contrary to Colchester Borough Council's aim of promoting the Town Centre; and
 - Any additional increase in height would be out of keeping with most of the other buildings in the High Street.
- Officer comment: Government policy is to support the change of use of former commercial floor area to residential uses to address the national housing shortage.*
- 10.2 General comments were received from Colchester Cycle Campaign regarding the type of cycle parking to be provided on site. They pointed out that hanging storage is not ideal for all users and recommended either double decker cycle storage. The applicant is happy that details of the cycle storage be secured and agreed by condition.

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

11.0 Parking Provision

- 11.1 It is proposed that three parking bays will be created within the existing parking area to service three of the residential units.

- 11.2 It is also proposed to create 24 cycle parking spaces with access from the rear parking area for the benefit of the residents.

12.0 Open Space Provisions

- 12.1 No open space provision is offered as part of this application although the 4 residential units to be provided on the proposed third floor would all benefit from balconies. There is no space within the curtilage of the application site to provide any open space for the residents; however, the application site is located close to Castle Park and would benefit from the public amenity space offered closeby.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:
- 20% Affordable Housing or suitable commuted sum;
 - £31,721 contribution towards the improvement of St. Nicholas Square;
 - £10,000 contribution towards the refurbishment of St. Peters Church Hall; and
 - Travel Information Packs for all residents.
- 14.2 The applicant submitted a viability report which showed that the development was unable to support the required S106 contributions and remain economically viable. A £5,000 contribution towards the improvement of St. Nicholas Square was offered.
- 14.3 This viability report was queried by the Council and subjected to an independent review. It concluded: *We agree that the applicant's appraisal indicates that the scheme is currently unable to deliver a normal market level of profit. The applicant's appraisal indicates that the scheme without affordable housing will deliver a shortfall on normal profit expectations of 17%...Given the potential for the scheme to generate higher sales values than are prevailing within the second hand market we recommend an outturn review of viability be undertaken to establish whether the scheme is capable of delivering an in lieu contribution towards affordable housing and to meet the Council's required S106 contributions.*
- 14.4 This view was put to the applicant who has agreed to enter into a S106 which contained a viability review. This would establish whether higher profit levels were achieved for the development in line with the view of the independent viability review. This profit would then be split between the developer and the Council.

- 14.5 The item was reconsidered by Development Team in light of these recommendations. It was agreed that Planning Obligations should be sought via S106. The obligations would be:
- £5,000 contribution towards hard landscape improvements to St. Nicholas Square;
 - Travel Information Packs for all residents; and
 - A viability review mechanism which, if higher profit levels were to shown to be achieved for the development, would utilise the Council's share towards a commuted sum for Affordable Housing.

15.0 Report

Principle of Development

- 15.1 As previously mentioned the application lies within the Town Centre Outer Core. As such the appropriate land uses classes within this area are outlined within the Site Allocation Policy SA TC1 and Development Policy DP6. Policy SA TC1 designates the Town Centre a mixed use area meaning that a mixture of residential and commercial uses would be appropriate. The proposed use is therefore policy compliant.
- 15.2 Development Policy DP6 states that A1, A2, A3 and D1 uses would be supported provided they contributed to the vitality of the Town Centre and did not result in more the 50% of the active street frontage being used for non-retail purposes. It goes on to state that: *support will also be given to bringing upper floors back into use, particularly for C3 residential purposes and B1 business uses.*
- 15.3 Given that the proposed development accords with both the above policies, which were revised in July 2014 to ensure that they were in compliance with the National Planning Policy Framework's aim of securing the vitality of town centres, policy support for the application is given in principle.
- 15.4 Further, within The Town and Country Planning (General Permitted Development) (England) Order 2015 support is given, within Schedule 2, Part 3, Sections M and O for the conversion of existing retail premises and offices, respectively, to form C3 residential dwellings. Given that these works would not require planning permission it is consequently understood that support is also given from national policy as expressed in this statutory instrument.

Design and Layout

- 15.5 In terms of design context there is a mix of building styles evident along High Street and in the surrounding area mainly dating from the Georgian and Victorian periods interspersed with modern infill and redevelopment, especially at ground floor level. The area forms part of Colchester Conservation Area 1 which covers the Town Centre and in general terms High Street is notable for the commercial robust architectural character of the built frontages within it.
- 15.6 St. Nicholas House is shares the well- composed character typical of the wider conservation area and it is proposed that the majority of the building be left unchanged by the proposed works.

- 15.7 The only item of works which requires consideration regarding design is the addition of the proposed third floor. This has been designed in pent house format to minimise its impact, both upon St. Nicholas House and the wider conservation area when viewed from the existing streetscene as far as possible, being set back from the existing roof parapet and clad in dark grey panelling. It is considered that the proposed design would be visually recessive and subordinate to the existing built form.
- 15.8 In design terms, the third floor is designed in a more contemporary idiom in keeping with the Culver Street retail development to the south of the application site and the penthouse additions to the residential conversions to the north.
- 15.9 Given the attempts to screen the third floor from view it is unlikely to have significant detrimental impacts upon the wider area, either in terms of impact to the amenity enjoyed on the High Street, or on the character of the conservation area. To this end, Historic England were consulted on the proposed development at Preliminary Enquiry stage and did not raise an objection.

Scale, Height and Massing

- 15.10 In terms of scale, height and massing, St. Nicholas house would be increased by one storey in height. The immediate surrounding buildings to the east and west are both four storeys in height and recent development to the north of the site have been developed at a similar scale.

Impact on Surrounding Area

- 15.11 The impact on the surrounding area will be minimal. Conversion of the upper floors of existing premises within the Town Centre to provide residential accommodation has occurred elsewhere within the Town Centre with no negative impacts. The introduction of more residential uses would add vitality and provide surveillance of the public realm after closing hours thereby increasing public safety.

Impact on Neighbouring Properties

- 15.12 The greatest impact of the development will be felt by the businesses currently occupying the ground floor of St. Nicholas House. Given that the developer is also the landlord for these retail/leisure uses it is in their interest to ensure that as little disruption as possible is caused as the result of the proposed works which in any case will cease upon the completion of the building works.

Amenity Provisions

- 15.13 No amenity provision is offered as part of this application and there is insufficient space within the curtilage of the site to provide it onsite. This is inevitable in the context of a town centre development. The four residential units proposed as part of the new third floor would all benefit from balconies. It is considered that given the proximity of Castle Park residents could readily make use of the significant public amenity space available.

Highway Issues

15.14 The Highways Authority has not raised an objection to this application.

16.0 Conclusion

16.1 The proposed development is in conformity with the provisions of the adopted local plan that seeks to promote sustainable development and enhance the vitality of the town centre.

17.0 Recommendation

17.1 APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- *£5,000 contribution towards hard landscape improvements to St. Nicholas Square;*
- *Travel Information Packs for all residents; and*
- *A viability review mechanism which, if higher profit levels were to shown to be achieved for the development, would utilise the Council's share towards a commuted sum for Affordable Housing.*

17.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - Materials to be Agreed

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

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

3 - *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 9241-PL-40, 9241-PL-41, 9241-PL-42, 9241-PL-43 Revision B, 9241-PL-44 Revision B, 9241-PL-45 Revision A, 9241-PL-46 Revision A, 9241-PL-47 Revision B, 9241-PL-48 Revision A, 9241-PL-49 Revision A, 9241-PL-50 and 9241-PL- 51.

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

4 - Refuse and Recycling As Shown

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.

5 - Simple Landscaping Scheme Part 1 of 2

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

6 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

7 -Tree and Hedgerow Protection: General

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

specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998. All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

8 - No Gates to Access

At no point shall gates be provided at the vehicular access and the access shall remain open and free from obstruction for use in perpetuity.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

9 - Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle 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 that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

10 - Parking Space/Hardstanding Sizes (Open)

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

11 - *Cycle Parking TBA

Prior to the first occupation of the development hereby permitted, cycle parking for 24 bicycles shall have been laid out within the site in accordance with details that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority. The agreed cycle parking provisions shall thereafter be maintained and made available for this use at all times.

Reason: There is insufficient detail shown to ensure that there is satisfactory cycle parking available at the site at the time that it becomes occupied.

12 - Ground Floor Doors and Windows Abutting Highway

No doors or windows to ground floor rooms shall be capable of opening outwards over the public highway at any time.

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

13 - *Lighting Affecting the Highway

Prior to the first use of any external lighting within the development site, the light source shall be so positioned, in perpetuity, to ensure that users of the highway are not affected by dazzle or glare, in accordance with details to be submitted to and approved, in writing, by the Local Planning Authority.

Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety.

14 - Railings to be Black

The railings shown on the approved plans shall be painted black within one month of installation and shall be retained as such thereafter.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

15 - 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;
- wheel washing facilities;
- measures to control the emission of 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.

16 - Limits to Hours of Work

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

Weekdays: 6:00 to 22:00

Saturdays: 6:00 to 22:00

Sundays and Bank Holidays: 9:00 to 18:00

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.

17 - *Illuminated Advert Light Pollution

Any illuminated elements of the building frontage (including resultant sky glow, light trespass, source intensity and building luminance) shall have a maximum luminance as specified below:

WITHIN ZONE E4 TOWN/CITY CENTRES WITH HIGH LEVELS OF NIGHT- TIME ACTIVITY;

1. BELOW 10m² SURFACE AREA = MAXIMUM LUMINANCE OF 1000 CD/m²

2. ABOVE 10m² SURFACE AREA = MAXIMUM LUMINANCE OF 600 CD/m²

Reason: In order to safeguard the character and amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution, and in the interests of highway safety from any glaze or dazzle.

18 - Flashing or Intermittent Display

Notwithstanding any details shown on the approved drawings, this permission does not authorise any flashing, intermittent or recurring form of illumination.

Reason: It is considered that these forms of illumination may cause harm.

19 - Non-Standard Condition/Reason

Acoustic grade secondary glazing (6.8mm glass) shall be installed prior to occupation behind every window fronting onto the High Street.

Reason: The site is adjacent to a busy area of the Town Centre and the dwellings need to be adequately protected from noise arising from this area.

20 - Communal Storage Areas

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

21 - Non-Standard Condition/Reason

Prior to the first occupation of the development hereby permitted, details of access arrangements for the adequate servicing of the waste storage areas to the rear of this building shall be submitted to, and agreed in writing by the Local Planning Authority. Such details as shall have been agreed shall thereafter continue.

Reason: To ensure that the waste storage areas can be accessed and the refuse stored there collected and disposed of and any potential adverse impact on public health or the quality of the surrounding environment is avoided.

22 - Non-Standard Condition/Reason

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

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

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

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

23 - Non-Standard Condition/Reason

Prior to commencement of the development hereby permitted, detailed drawings of the new High Street entrance shall be submitted to, and agreed in writing by the Local Planning Authority.

Reason: There is insufficient detail within the planning application to ensure that the new entrance to be created shall be in keeping with the character of the conservation area.

19.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition**

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

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

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

(4) 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.

(5) Informative on Section 106 Agreements

PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

(6) Informative on trees in Conservation Areas

PLEASE NOTE that the site lies within a Conservation Area where the topping, lopping, felling or uprooting of most trees cannot be carried out without first giving the Local Planning Authority six weeks notice. Failure to comply with this statutory requirement may result in prosecution.

(7) Informative on Archaeology

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

(8) Informative on Surface Water Drainage

PLEASE NOTE that it is the responsibility of the developer to ensure proper provision is made for the surface water drainage of the site to ground, watercourse or surface water sewer. To avoid foul sewer flooding, surface water must not be drained to a foul sewer. The use of sustainable drainage systems (known as SUDS) is very much encouraged. SUDS offer an alternative approach to traditional engineered drainage solutions by detaining run-off on site and releasing it slowly into watercourses or to ground (e.g. dry ditches/swales, detention/attenuation ponds, integrated wetlands). Source control techniques are also increasingly popular, e.g. the use of porous (as opposed to impermeable) paving and 'green roofs' which allow rainwater re-use. These techniques reduce the likelihood of flash flooding, result in greatly improved water quality, are often cheaper and easier to maintain than traditional engineered drainage solutions (i.e. involving seal-trapped gullies and petrol interceptors), and can provide wildlife habitats.

(9) INF01 Highway Works

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

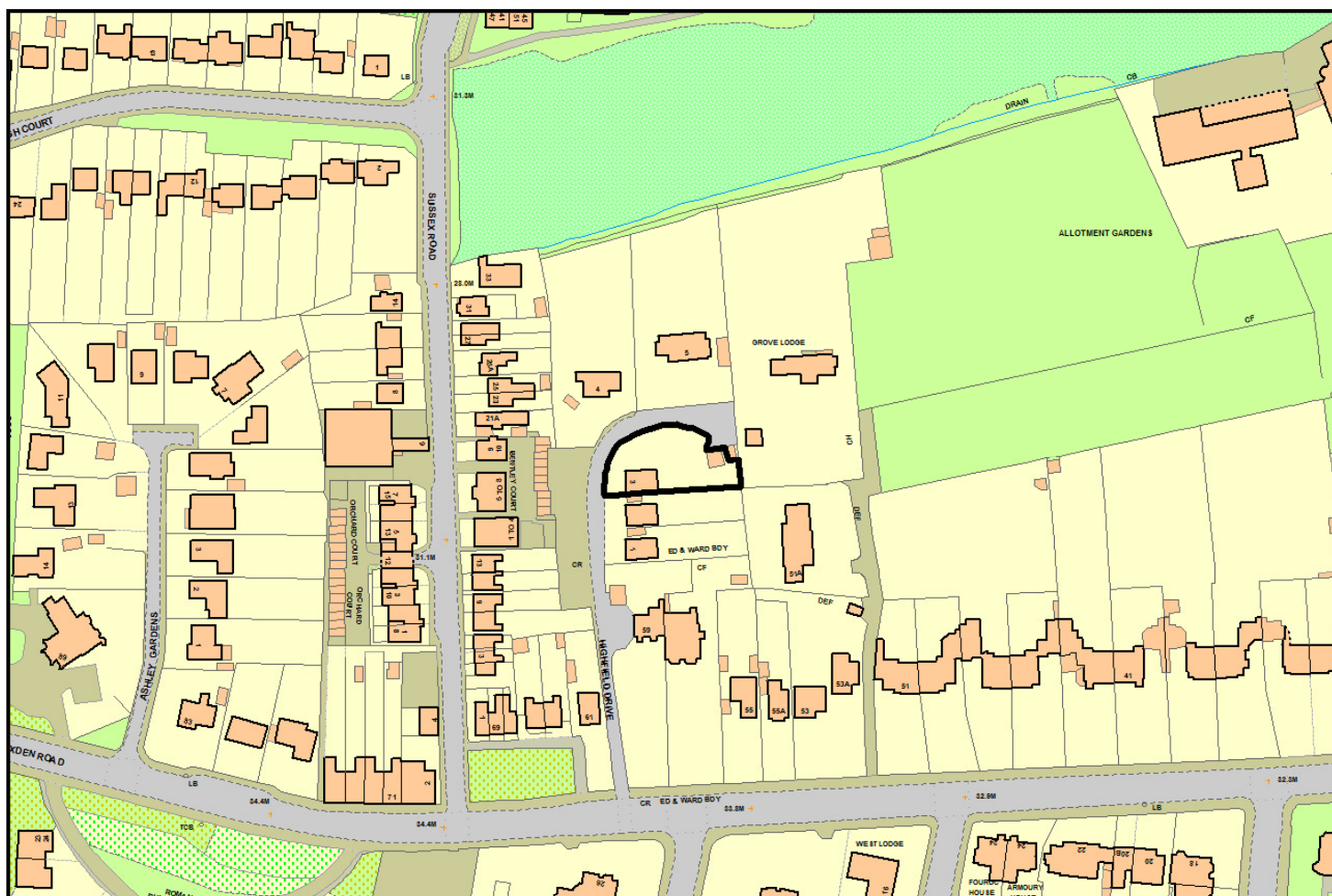
The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

(10) INS - INF02 Cost of Works

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

20.0 Positivity Statement

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



Application No: 151993

Location: 3 Highfield Drive, Colchester, CO3 3QA

Scale (approx): 1:1250

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7.2 Case Officer: James Ryan

Due Date: 01/12/2015

HOUSEHOLDER

Site: 3 Highfield Drive, Colchester, CO3 3QA

Application No: 151993

Date Received: 6 October 2015

Applicant: Mrs Marguerite Haddrell

Development: Two storey side extension.

Ward: Lexden

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee as a result of a call in by Cllr Buston for the following reasons:

1. The proposal is considered to be an overdevelopment : it has restricted vehicular access, (including over an unadopted unmade cul de sac road), and it is of a nature that would not be in keeping with the present character of either the location or the area.
2. The residents of Highfield Drive believe that this application is not intended to be an extension to the main house but will be turned into a separate dwelling for the reasons noted below:

Six separate applications to build a separate dwelling on this site. Application 145559 being an approved extension where the applicant removed connections to the main house and tried to claim approval for a separate dwelling. This was taken to committee and the applicant refused to resubmit the correct plans.

The applicant wrote to the planning officers on 26.09.14 under application 145559 (Additional Information) and in this letter declared that there was nothing to stop her building an extension and then removing the connection to the main house.

There are no room details for the main house on the submitted plans but a lounge, kitchen and dining area plus a third door on the extension plans. These rooms are already present in the main house so leads to the conclusion that this will be used as a separate dwelling.

The last application 146416 was refused by the planning inspector and her report stated:

“I consider the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area.”

Residents thus fear that, having regard to the protracted Planning Application History of the site: 111460, 145559 (resubmission of 11 1460) , 145426 Dismissed on Appeal APP/A1530/W/15/3005564 , 14 6416 (resubmission of 14 5426): Dismissed on Appeal APP/A1530/W/15/3005569) 24 Jun 15 , the proposed development of an extension to the property would morph into an additional and separate dwelling : which proposal has already been rejected by the Planning Committee and upheld by the Inspector on Appeal.

3. Residents submit that the proposed development would be discordant with its environment and would fail to enhance the character, quality and function of the area contrary to Policy UR 2.
4. Residents request that in the event of Approval being Granted, additional specific Conditions are attached to any Permission to include:
 - a. (Given 2 ante and the Planning History of the site) , An absolute prohibition be imposed to prevent the extension being turned into a separate dwelling as has been attempted in the past and to ensure that the Planning Inspectors earlier ruling is upheldand
 - b . Permitted Development Rights (PD) be formally withdrawn from the site.

2.0 Synopsis

- 2.1 This application is, in effect, an amended version of the withdrawn scheme that was deferred by Members at the meeting of 11th September 2014. That was deferred for further discussions with the applicant in order to secure defined connections to the host dwelling, including the inclusion of internal doorways in the submitted plans. The revised drawings were to be referred back to the Committee for determination but the applicant withdrew the scheme instead. The changes have now been made and on that basis this scheme is acceptable.

3.0 Site Description and Context

- 3.1 3 Highfield Drive is a detached dwelling occupying a corner plot served off a narrow private road in an arcadian part of Lexden, a short distance north of Colchester Conservation Area 2. External finishes are red brick/ tile hanging with a plain tiled roof. The property stands on land sloping sharply from north to south.
- 3.2 The garden has a well-screened rear garden which is bounded by fencing alongside the Drive and includes a detached garage to the rear. There are substantial detached houses on the opposite side of the Drive.

4.0 Description of the Proposal

- 4.1 This is a householder application for a two storey side extension providing additional ground floor rooms and two bedrooms and a bathroom on the first floor, to be constructed in matching materials with a small conservatory to the rear to be used as a breakfast room. The roof form is hipped and double-piled which reduces its mass and bulk and emphasises the subordinate character of the extension.

5.0 Land Use Allocation

- 5.1 Residential; Area of High Archaeological Potential.

6.0 Relevant Planning History

- 6.1 101564 - One detached four bedroom house and replacement of existing detached Garage – Refused November 2011.
- 6.2 102315 – Detached 3 bedroom house and replacement garages (resubmission of 101564) - Refused Dec 2010; appeal dismissed July 2011.
- 6.3 111460 - Two-storey side extension – approved Sept 2011. NB a minor amendment was subsequently agreed in Feb 2013 for increased width of side extension with associated alterations to roof-line and elevations, including insertion of a door in place of a window and enlarged bathroom window (as shown on drawing numbers 204/1 and 2)
- 6.4 145426 – Erection of 3 bedroom detached house - refused.
- 6.5 145559 – Resubmission of 111460 – application deferred at committee but then withdrawn by applicant.
- 6.6 146416 – Erection of detached bungalow – refused January 2015, appeal dismissed March 2015.

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

Extending Your House?
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

8.1 Archeology -

The proposed development is within the area of archaeological interest recorded in the Urban Archaeological Database. The site is within the area of a Roman cemetery and a Roman inhumation burial is recorded 60m to the west of this property (UAD No. MCC2504). Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

The following archaeological condition is recommended:

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

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

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

analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Borough Council's Core Strategy (2008).

I will, on request of the applicant, provide a brief for the archaeological investigation. In this case, continuous archaeological recording and monitoring (an archaeological watching brief) will be required during all groundworks.

Informative on Archaeology:

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information:

<http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planningprocess>

9.0 Parish Council comments

9.1 N/A

10.0 Representations

10.1 Nine Representations have been received from five residents of the area. The following is a summary of their objections:

- This is an attempt to build a second house on the site while disguising the fact that it is a separate dwelling. There may now be a connection to the main house, but there is still a side facing front door and therefore this is not an extension at all. In application 145426 (a visually very similar application) it is quoted as being a self-contained annex.
- Highfield Drive is served by a narrow, privately maintained road. Vehicle access is already difficult at times as it is too narrow for two cars to pass each other. Any extra car parking and traffic would be detrimental to the area.
- The tranquil atmosphere in the drive is in a large part due to the gardens and trees and open spaces. Residents would be very unhappy to have this environment spoiled by additional development and consider the scheme to be unacceptable in design terms.
- The applicant's letter of justification is disingenuous and does nothing to allay the fears of the neighbours.
- No floor plans have been provided.
- The rooms proposed already exist in the main dwelling therefore this must be an application for a new dwelling.
- The side door indicates a new dwelling and should be removed.
- The applicant has two garages to the rear.
- The size and massing of the proposal is too great and should be reduced.
- If the Council is minded to approve it should be strictly conditioned.
- The side garden which used to be part of the man garden is full of weeds and looks unattractive.

- Clarification of the applicant's intentions is needed prior to determination.
- The other extensions in the area are far more in-keeping with the local area.

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

11.0 Parking Provision

- 11.1 The proposal maintains the status quo as regards available garaging and parking space and satisfies the adopted car parking requirements. Therefore a refusal on traffic or parking grounds would not be reasonable.

12.0 Open Space Provisions

- 12.1 The submitted scheme maintains a rear/side garden area well in excess of your minimum requirements and consistent with other gardens in the area, particularly those to the south.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 In relation to the erection of a new dwelling on this site, the Inspector concluded as follows:

I consider the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area.

- 15.2 It is noted that this application is not for a new dwelling but a domestic extension. Nothing in the recent appeal decision states that an extension is unacceptable in principle and in that regard there has been no material change in circumstance since the appeal refusal. In fact the Inspector noted:

Planning permission has previously been granted for a two storey extension to No 3 and the proposal was subsequently amended. This consent has not been implemented and has now lapsed. In any event this permission did not authorise a new dwelling and it differs significantly from the current appeal proposals as the extension was subservient to the existing house and, as it was not freestanding, it would not intrude to any great degree into the open space.

- 15.3 The extension approved in 2011 was considered to be consistent with relevant design and amenity policies with substantially less intrusion onto the undeveloped part of the site and maintaining a greater open aspect for existing residents. The detailing of the extension and matching materials would complement the site and its surroundings. The scheme before Members now is the same and is therefore considered to be acceptable in design terms. The proposal does not amount to overdevelopment.
- 15.4 It will have been noted that Cllr Buston and local residents make the point that the application is still an attempt to gain a new dwelling. Unlike previous applications there is now a link between the extension and the existing building at both ground floor and first floor levels – this was something that Members requested when deferring application 145559 which was then withdrawn. Concerns have been raised about the porch over the side door and officers consider it to be an unnecessary element further encroaching visually into the green area. It has been agreed by the applicant that this can be removed by condition.
- 15.5 Following the publication of the neighbour representations the applicant has provided an indicative ground floor layout. This shows the kitchen and TV lounge in the new section and the existing rooms are used for a dining room, a family room and a music room/study. This is considered to be entirely reasonable. It also shows the removal of the porch canopy.
- 15.6 Therefore the scheme is effectively what Members requested to see following the deferral of application 145559. On that basis the scheme is acceptable.
- 15.7 A condition is recommended to prevent the extension becoming a separate dwelling for the avoidance of doubt as to the scope of the permission. The removal of permitted development rights is not considered to be necessary or reasonable in this instance.

16.0 Conclusion

- 16.1 The proposed extension is considered to be of a scale and external treatment that is appropriate to the site and its setting. The application does not raise the same issues of detriment to the character of the area as previous refused applications for a dwelling on the site have. The scheme is compatible with adopted policies which seek to protect the light, outlook, privacy and amenity of adjoining residents. Ground and first floor links between the extension and the main house have been provided and to ensure these are not blocked up a bespoke condition is suggested below.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 204/1A and 204/2.

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

3 - Non-Standard Condition/Reason

Notwithstanding the details shown on plan 204/1A no consent is hereby granted for the porch canopy over the door in the side elevation.

Reason: This element is considered to be an unnecessary intrusion into this corner plot and therefore does not constitute an enhancement to the area. It is noted that its removal has been agreed by the applicant.

4 - Non-Standard Condition/Reason

The proposed window serving the first floor bathroom window shall be obscured at all times to a minimum of Pilkington Level 3.

Reason: In the interests of residential privacy.

5 - Non-Standard Condition/Reason

As set out on the floor layout plans shown on drawing 204/1A the accommodation approved herewith shall only be occupied in conjunction with the dwelling at 3 Highfield Drive and shall at no time be occupied as a separate residential unit. The door openings between the extension hereby approved and the existing dwelling as shown on 204/1A shall be provided prior to the extension first being brought into use and shall then be retained as openings permanently.

Reason: For the avoidance of doubt as to the scope of the permission the application is submitted as a householder proposal and 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.

6 - Materials to Match

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

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

7 -Non-Standard Condition/Reason

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

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Borough Council's Core Strategy (2008).

19.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition**

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

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

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

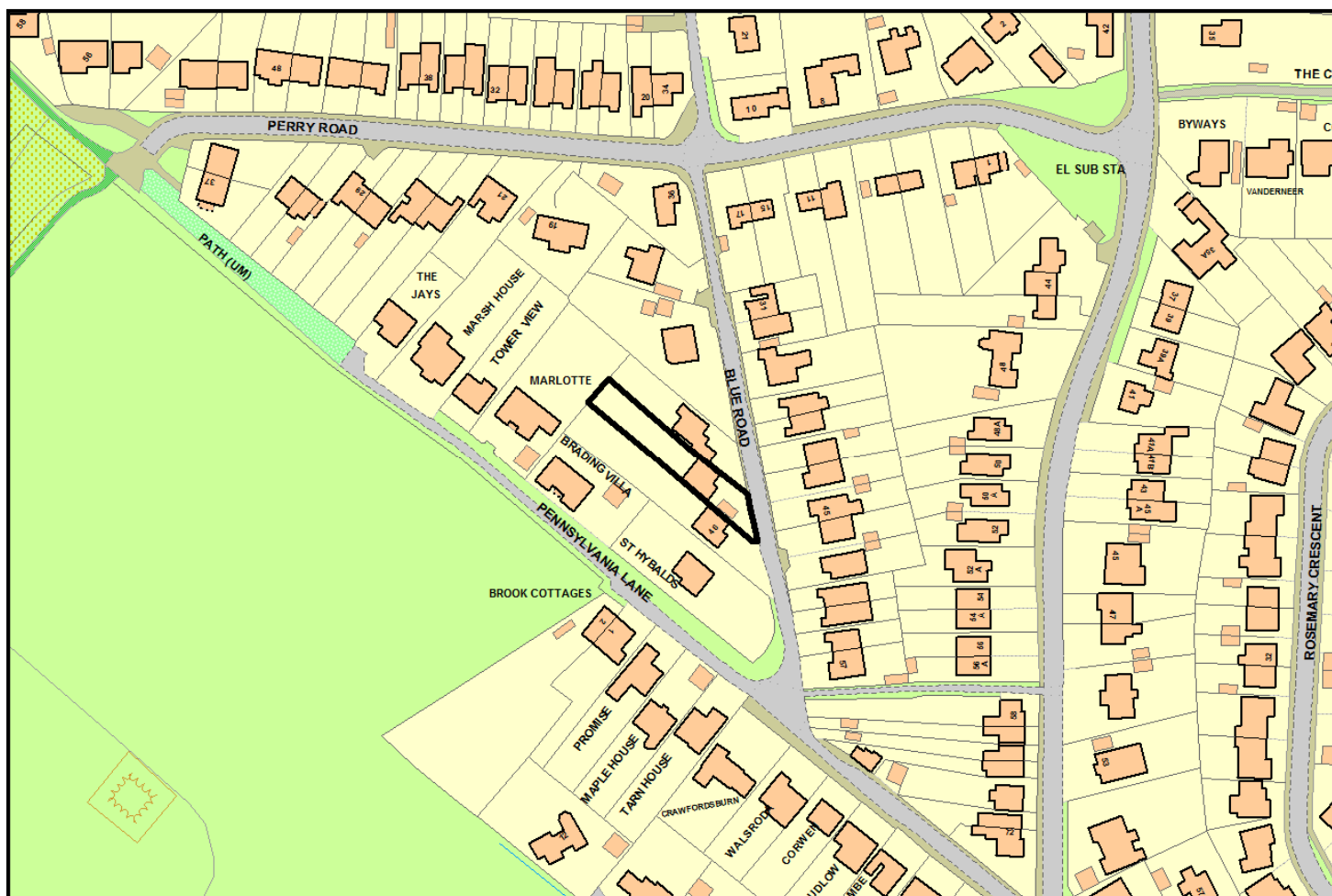
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

(4) Non Standard Informative on Archaeology:

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planningprocess>

20.0 Positivity Statement

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



Application No: 151946

Location: 44 Blue Road, Tiptree, Colchester, CO5 0TX

Scale (approx): 1:1250

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7.3 Case Officer: Eleanor Moss Due Date: 20/11/2015

HOUSEHOLDER

Site: **44 Blue Road, Tiptree, Colchester, CO5 0TX**

Application No: **151946**

Date Received: 7 September 2015

Agent: Roderick Lee Design Associates

Applicant: Mr Robert Hill

Development: Proposed rear single storey extension to existing dwelling.

Ward: Tiptree

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the proposed extension upon the surrounding area and neighboring amenity.

3.0 Site Description and Context

- 3.1 The application site is a detached property accessed via the unadopted road of Blue Road. To the rear of the site is a long rear garden. The site is bordered by the gardens of Brading Villa and 42 Blue Road. There is a boundary fence (approximately two metres high) and a number of conifer trees to the north west of the site. To the rear of the garden is a recently erected shed.

4.0 Description of the Proposal

- 4.1 This application seeks planning permission for the erection of an annexe and a rear extension in order to provide care accommodation for an elderly relative, with an extended kitchen and family room on the ground floor.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 F/COL/99/0923 – detached garage and conversion of existing garage into dining room. Approved 20th July 1999.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

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

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

N/A

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

Extending Your House?
The Essex Design Guide

8.0 Consultations

8.1 None received at the time of writing

9.0 Parish Council Response

9.1 The Parish Council has stated that the proposal creates overdevelopment of the site and a loss of amenity to neighbouring properties

10.0 Representations

10.1 Four letters of objection have been received in relation to the proposal. The main issues raised are summarised as:

- Loss of light to 46 Blue Road
- Tunnel effect to 46 Blue Road
- Overdevelopment and oversized

- Impact upon neighbouring privacy and residential amenity
- Concerns regarding drainage system
- Disruption and noise
- Closed-in affect to 46 Blue Road
- Amounts to a new dwelling
- Effect upon neighbouring outlook
- Concerns regarding impact upon un-adopted access road

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

11.0 Parking Provision

- 11.1 The proposal does not affect parking provisions on site which are within the parking standards.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Principle of development

- 15.1 The application site is located within a well-established residential area of Blue Road. For annexes within residential areas, the proposed annexe must retain some form of dependence upon the main dwelling, must not incorporate facilities which could make the annexe capable of performing as a separate dwelling and be physically attached to the main dwelling.
- 15.2 Following amendments to the scheme, the proposed floor plans indicate that the annexe, the subject of this application, would not represent a self-contained unit given that there are no kitchen facilities within the structure. It is noted that in addition to a bedroom and bathroom facilities, there is a generous sitting room and therefore, in the event consent for the proposed development is granted, a condition should be imposed which prohibits the installation of kitchen facilities within the proposed development. This is to ensure that there remains some reliance upon and interconnectivity with the main house given that the Council seeks to resist annexes within rear gardens that amount to new dwellings.

- 15.3 The proposed annexe demonstrates connectivity to the main dwelling, having removed the independent access and kitchen, thus the future occupier will have to depend upon the main dwelling to gain access to the annexe and to carry out functions such as creating a meal. While it is considered unlikely that the proposed annexe could become a dwelling within its own right due to this interconnectivity, it would still be reasonable to condition the use as ancillary to the main dwelling.

Height, scale and massing

- 15.4 This application has been amended from its original submission, in that the kitchen facility has been removed, therefore allowing the structure to be reduced in depth and height (from 16.1 metres to 11 metres in depth and 3.1 metres to 3 metres in height).
- 15.5 The proposed rear garden is substantial enough to support an annexe of this size and therefore is considered to be a reasonable size in relation to the site. It has been noted that the proposed annexe is intended to care for an elderly relative and has been designed so as to comply with wheelchair turning standards and as such it would be unreasonable to reduce the size of the proposed annexe. On the basis that the proposed development can easily be supported by the existing rear garden and still retain enough garden amenity space for the enjoyment of the dwelling, the proposal is not considered to be an overdevelopment of the site.

Impact upon neighbouring amenity

- 15.6 The proposed annexe contains windows and doors which face towards the neighbouring property of 42 Blue Road. The proposal is single storey in nature and therefore would not offer any windows at first floor level which could overlook the protected sitting out areas of number 42. The neighbouring property contains one first floor window upon the closest side elevation to the application site, however this serves a hall and is obscure glazed and therefore would not be impacted upon.
- 15.7 The neighbouring property of number 46 Blue Road is staggered to the west of the application site, although this neighbour would be able to partially view the proposed annexe, there are no proposed windows (at ground floor or first floor) so there would not be an unsuitable level of overlooking to number 46.
- 15.8 The proposed annexe is sited along the western boundary, adjacent to the garden area for Brading Villa. This property is a large detached dwelling with a generous amount of garden plot. The proposed annexe offers no views to Brading Villa and is well-screened, thus offering protection of residential amenity to this dwelling.
- 15.9 Concerns have been raised regarding disruption and noise, while it is accepted that the proposal would result in an additional structure within the rear garden which will be used and occupied on a regular basis, the level of movements between the proposed annexe and the main dwelling would not be of an increased frequency or of a high enough frequency to impose any detrimental impacts in terms of noise and disturbance. Furthermore, given the single-storey height of the proposal, there are no windows which could directly overlook the neighbouring properties. In summary, no material harm to the neighbouring properties can be identified with regards to overlooking or loss of residential amenity.

16.0 Conclusion

- 16.1 Overall, it is concluded that the proposed development would not have a detrimental impact on the character and appearance of the area and would result in limited impacts upon residential amenities of the neighbouring occupiers. There would be demonstrable dependence of the proposed annexe on the main house and on this basis, the proposed development is considered acceptable.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number 465/01B.

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

3 - Materials as Stated in Application

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

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

4 - Non-Standard Condition/Reason

The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 44 Blue Road.

Reason: For the avoidance of doubt as to the scope of the permission, as this is the basis upon which the application has been submitted and subsequently considered and any subdivision of the site into independent units would require the careful consideration against the current policies of the Local Planning Authority at such a time as any proposal were to come forward as the annexe is constrained by the site characteristics and may not be satisfactory as a stand-alone dwelling.

5 - Non-Standard Condition/Reason

The annex hereby permitted shall not contain a kitchen or cooking facilities.

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.

19.0 Informatives

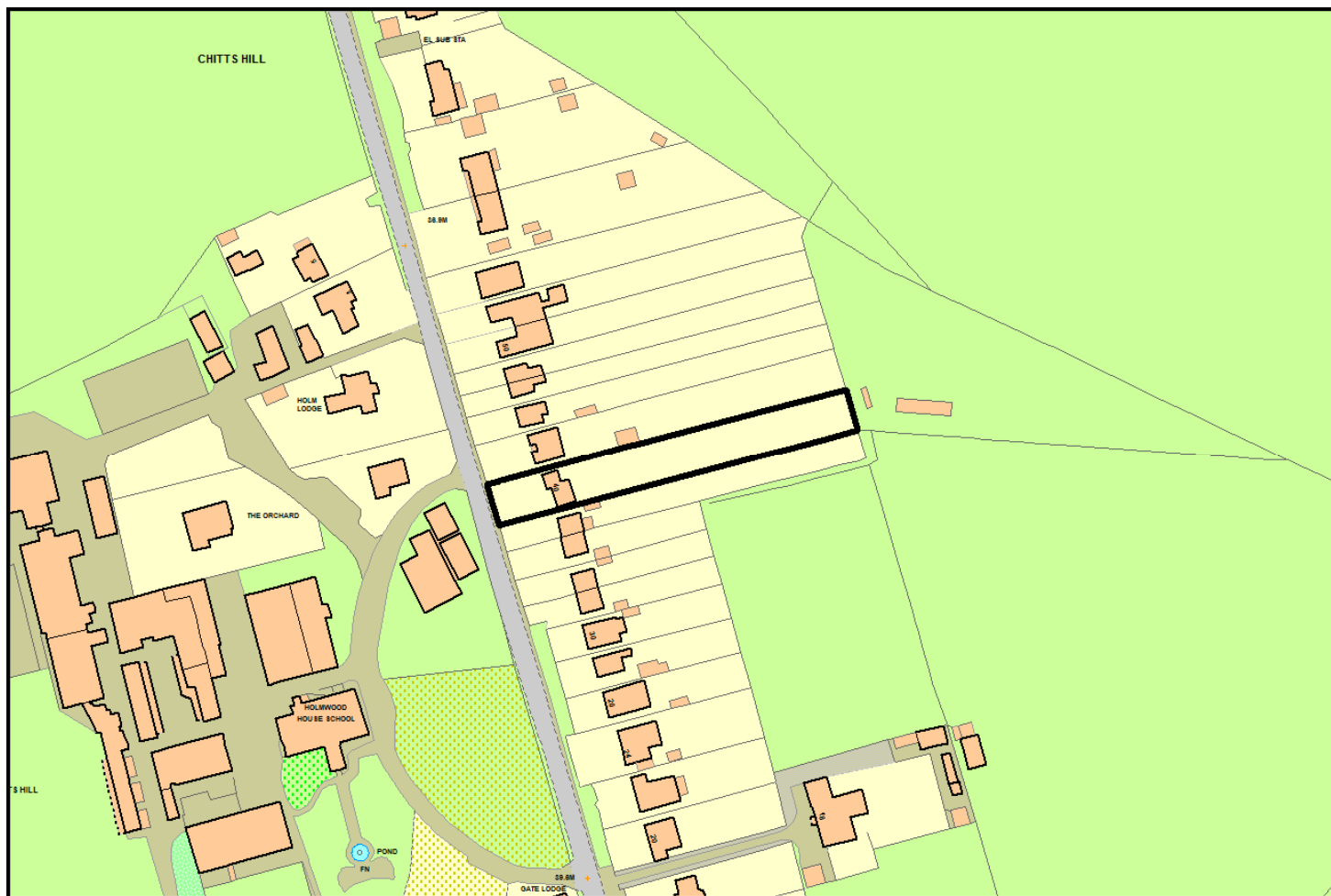
(1) ZT0 – Advisory Note on Construction & Demolition

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

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

20.0 Positivity Statement

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



Application No: 152075

Location: Bear House, 40 Chitts Hill, Colchester, CO3 9ST

Scale (approx): 1:1250

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7.4 Case Officer: Richard Collins

HOUSEHOLDER

Site: Bear House, 40 Chitts Hill, Colchester, CO3 9ST

Application No: 152075

Date Received: 22 September 2015

Agent: Mr Peter Tyler

Applicant: Mr Christopher Glanville

Development: Proposed two storey rear extension.

Ward: Lexden

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

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

3.0 Site Description and Context

- 3.1 The site is located within the predominantly residential area of Lexden. The site faces Chitts Hill, set back with a large frontage. The property enjoys a large area garden, and has been previously extended.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for a part two-storey/part single-storey rear extension.

5.0 Land Use Allocation

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

6.0 Relevant Planning History

6.1 The application site has been subject to previous planning applications:

- 090854 - Proposed two storey rear extension – Approved 25/8/09
- 98/0238 - 2 storey front extension, conversion of garage to kitchen and new attached single garage – Approved 30/4/98
- 97/1074 - Two storey front extension, conversion of garage to kitchen and new double garage – Refused 29/9/97
- 87/0118 - First floor side extension for bedroom – Approved 6/3/87

7.0 Principal Policies

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

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

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

N/A

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

Extending Your House?

The Essex Design Guide

8.0 Consultations

8.1 None received.

9.0 Parish Council Response

9.1 The area is non-parished.

10.0 Representations

10.1 None received.

11.0 Parking Provision

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

12.0 Open Space Provisions

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

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Design and Layout

15.1 The design of the proposal is entirely in keeping with the design of the existing dwelling. The roof form and use of materials is appropriate to the existing dwelling, and being a rear extension it has very limited public visibility. It is therefore acceptable.

Scale, Height and Massing

15.2 The rear extension is acceptable in this regard.

Impact on the Surrounding Area

15.3 The scheme will have a neutral impact on the street scene, given the very limited public visibility between dwellings, and is therefore acceptable in that regard.

Impacts on Neighbouring Properties

15.4 The rear extension is not considered to be overbearing on the outlook of neighbours.

- 15.5 Similarly, there are no concerns regarding loss of light. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD.
- 15.6 The proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD.

Amenity Provisions

- 15.7 This scheme allows the retention of ample useable amenity space. The scheme is therefore acceptable in that regard.

Highway Issues

- 15.8 This scheme raises no highway issues.

Other Matters

- 15.9 This scheme does not raise any other issues.

16.0 Conclusion

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

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 584-1, 584-5, 584-6 and 584-7.

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

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

20.0 Positivity Statement

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