

Planning Committee Meeting

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

Thursday, 22 November 2018 at 18:00

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

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

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

Information for Members of the Public

Access to information and meetings

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

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

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

Have Your Say!

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

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

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Access

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 22 November 2018 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

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

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

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

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

1 Welcome and Announcements

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

6 Minutes

There are no minutes for confirmation at this meeting.

7 Planning Applications

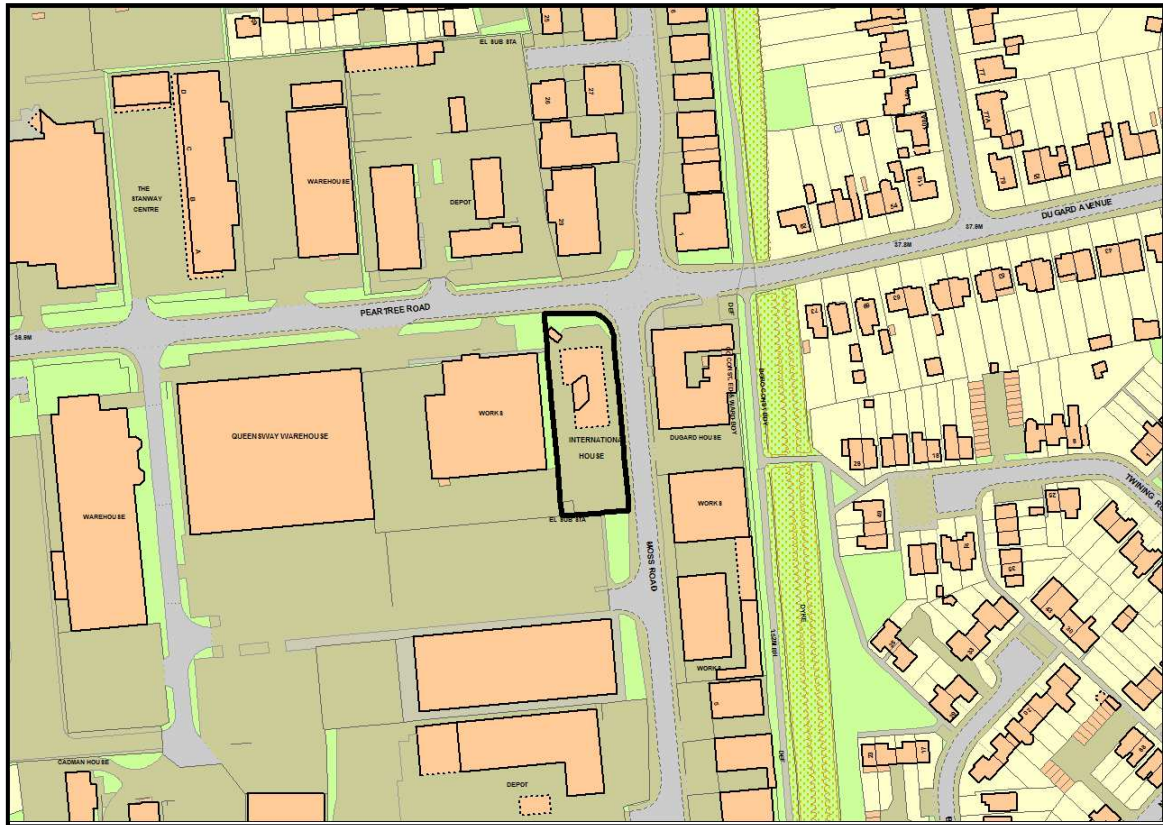
When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

- | | | |
|------------|---|----------------|
| 7.1 | 180886 International House, Moss Road, Stanway, Colchester | 7 - 22 |
| | Residential use of former car park to international house following change of use from B1a (offices) to C3 (dwellings) of international house (resubmission of planning permission 170259). | |
| 7.2 | 180789 Land adjacent to Heath Lodge, 11 Heath Road, Colchester | 23 - 40 |
| | Erection of one dwelling. | |
| 7.3 | 181794 St Augustine Mews, Colchester | 41 - 46 |
| | Replacement of existing dilapidated brick wall along the rear of the car park with a timber fence and steel posts. | |
| 7.4 | 182421 Wood Cottage, Station Road, Wakes Colne, Colchester | 47 - 52 |
| | Proposed single storey front and rear side extension plus cladding to existing building. | |
| | Planning Committee Information Pages v2 | 53 - 64 |

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)



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Item No: 7.1

Application: 180886

Applicant: D G Rose Limited

Agent: Mr Peter Johnson

Proposal: Residential use of former car park to international house following change of use from B1a (offices) to C3 (dwellings) of international house (resubmission of planning permission 170259)

Location: International House, Moss Road, Stanway, Colchester, CO3 0JL

Ward: Stanway

Officer: Eleanor Moss

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Cllr Scott-Boutell has called the application in for the following reasons:

- Impact on the amenity of occupiers of International House
- Concerns about number of parking spaces

2.0 Synopsis

2.1 Following a recent appeal decision for the same proposal, an acceptable noise assessment has been submitted and the proposal is now acceptable with regard to privacy, the provision of external space, the living conditions of the occupiers of International House, parking, the character and appearance of the area and amenity of future occupiers.

2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

3.1 The vicinity of the application site is characterised by fairly large scale buildings formally laid out on a grid of straight roads. The appeal site sits between one such building and a surface car park.

4.0 Description of the Proposal

4.1 This application seeks outline planning permission for residential development of a former car park which used to serve International House but is now surplus to requirements.

5.0 Land Use Allocation

5.1 Mixed

6.0 Relevant Planning History

6.1 162649 - The host building, International House, submitted an application for prior approval to convert the office building into residential properties.

6.2 170259 – Proposed block of flats in former car park of International House. This application was refused due to the impact upon street scene, poor standard of amenity for future occupiers and impact upon the occupiers of International House. The application was dismissed at appeal for the following reason:

Whilst I have found that the proposal would not have harmful effects with regard to privacy, the provision of external space, the living conditions of the occupiers of International House or the character and appearance of the area,

that does not outweigh my concern regarding the impact of noise on future occupiers. For that reason, the appeal should be dismissed.

It should be noted the previous application was dismissed on the grounds of a lack of noise assessment alone. A copy of the appeal decision is included at Appendix 1.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
CE2b - District Centres
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

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

DP1 Design and Amenity
DP7 Local Centres and Individual Shops
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

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

SA CE1 Mixed Use Sites

SA STA1 Appropriate Uses within the Stanway Growth Area

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

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

Sustainable Construction

Planning for Broadband 2016

Managing Archaeology in Development

Stanway Joint Design Statement and Parish Plan

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Highway Authority - From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions.
- 8.3 Environmental Protection - Environmental protection would have no objections should the conditions be applied should permission be granted.
- 8.4 Archaeology – No objection subject to recommended conditions

9.0 Parish Council Response

- 9.1 The Parish Council have stated that Stanway Parish Council OBJECTS to this proposal due to the lack of parking.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council’s website. However, a summary of the material considerations is given below:
- Impact upon parking
 - Impact upon existing commercial and industrial businesses in the area

11.0 Parking Provision

- 11.1 Complies with car parking standards

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

Principle of Development:

15.1 The application site is located in the settlement limits and within a defined Urban District Centre, Core Strategy CE2b confirms that Centres should deliver a more diverse range of uses, including housing. As such the proposal is considered to be acceptable in principle. Furthermore, the Appeal Inspector did not raise a concern in relation to the principle.

Character and Appearance:

15.2 The Appeal Inspector did not raise a concern to the proposed development in terms of character and appearance, the relevant paragraph is provided below:

13. The vicinity of the appeal site is characterised by fairly large scale buildings formally laid out on a grid of straight roads. The appeal site sits between one such building and a surface car park. Taking into account that the proposal does not seek to establish the scale or layout of the building, I see no reason why any proposed building should necessarily be over-dominant, oppressive or disrupt the balance of the street scene. These concerns, along with landscaping and the appearance of the building, could be addressed at the reserved matters stage. Therefore I find that the proposal would not have a detrimental effect on the character and appearance of the area and so would not conflict with DP Policy DP1 or Policy UR2 of the Council's Core Strategy 2008 insofar as they require development to achieve a high standard of design which respects and enhances the character of the site and its surroundings in terms of height, size, scale and massing.”

- 15.3 The appearance and layout is reserved for later reserved matters application(s). In light of the above, the proposal is not considered to have a harmful impact upon the surroundings.

Impact on Neighbouring Properties:

- 15.4 In terms of the appeal decision, the Appeal Inspector did not consider the impact upon neighbouring properties to be materially harmful. The most relevant paragraphs from the appeal decision are provided below:

10. *The southern elevation of International House includes windows at first and second floor levels which face the appeal site at close range. Views from those windows, therefore, have the potential to reduce the privacy of future occupiers of the appeal site. However, the appeal site has a frontage onto Moss Road and an open aspect to the car park to the south. Since the appeal proposal does not seek to establish the scale of layout of the residential development, in my view there would be scope of position and orientate a building on the site so as to avoid overlooking from International House, notwithstanding that flatted development may be more intensively occupied. These considerations could be controlled through the approval of reserved matters. To this extent therefore, the proposal would not conflict with DP Policies DP1 or DP12 in as much as they require development to protect residential amenity with regard to privacy.*
11. *Given the flexibility in the scale and layout of the proposal, it should also be possible to ensure that future occupiers are provided with adequate usable external space. As such, the proposal would not conflict with DP Policy DP16 which requires new residential development to provide a high standard of private amenity space.*

Living conditions of the occupiers of International House

12. *The considerations set out above would also allow for the siting, scale and massing of the new building to be arranged in a way that would avoid it having an overbearing presence close to the windows in the southern elevation of International House, even taking into account the potential intensity of the occupation of the building. Again, these details could be controlled at the reserved matters stage. As such the proposal would not have a harmful effect on the living conditions of the occupiers of International House by reason of loss of outlook. In that regard, the proposal would not conflict with DP Policies DP1 or DP12 to the extent that they seek to protect residential amenity*

- 15.5 The appeal decision, which is an important material planning consideration, did not raise an objection in relation to impact upon amenity. Furthermore an acceptable noise assessment has now been submitted, overcoming the only reason for the appeal dismissal. Environmental Protection have not raised an objection to the scheme, subject to conditions which have been agreed with the Agent. Overall, it considered a refusal on this basis would be unreasonable and unlikely to be defensible at appeal. Specific detail on appearance, landscaping and layout is not required as a part of this application as it is outline in nature and these will be agreed through the reserved matters application(s). Given this, there is no reason to assume that the proposed flats will be of poor design and will result in harm to amenity. Any shortcomings could be addressed at the reserved matters stage.

Highways and Parking:

- 15.6 The Appeal Inspector did not raise an objection to the scheme in relation to parking and highways safety. Given that proposal will provide for the required visibility splays, the proposed scheme is not considered to have a severe impact on the local highway either in terms of highway safety or capacity and accords with planning policies which seek to improve accessibility and changes in travel behaviour. The Highways Authority does not raise any concerns in relation to the proposal, and as such is considered to be acceptable in terms of highways safety.
- 15.7 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of one parking space should be provided for each dwelling of one bedroom.
- 15.8 The submitted plan details parking in accordance with the aforementioned policy and SPD and as such the proposal is considered to accord with the requirements.

16.0 Conclusion

- 16.1 To summarise, it is considered that an acceptable noise assessment has been submitted and the proposal is now acceptable with regard to privacy, the provision of external space, the living conditions of the occupiers of International House, parking, the character and appearance of the area and amenity of future occupiers, the proposal would not sustain a refusal at appeal. Therefore, on balance, the scheme complies with the Development Plan and the NPPF and an approval is warranted.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAC - *Time Limit for Outline Permissions Part 1 of 3*

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the APPEARANCE, LANDSCAPING and LAYOUT have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

3. ZAD - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. ZAE - Time Limit for Outline Permissions Part 3 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 4039/121A and 4039/122.

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

6. ZBC - Materials To Be Agreed

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

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

7. ZCF - 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.

8. Non Standard Condition – Window details

Prior to installation, the details of the windows being installed shall be submitted in writing to the local Planning Authority for approval. Windows on the West, North and South facades shall have an acoustic performance not less than 39Rw. The windows shall be fixed to prevent opening and retained and maintained in that form thereafter.

Reason: To protect amenity.

9. Non Standard Condition – Mechanical Ventilation

Prior to installation, the details of Mechanical ventilation being installed to ensure adequate ventilation in habitable rooms shall be submitted in writing to the local planning authority for approval. Details shall include the internal noise generated which shall not exceed the internal levels set in the current version of BS8233 "Guidance on Sound Insulation and Noise reduction for Buildings". The ventilation system shall be retained and maintained in that form thereafter.

Reason: To protect amenity.

10. Non Standard Condition – Demolition

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

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 13:00

Sundays and Bank Holidays: None

Reason: To protect amenity.

11. Non Standard Condition - Archaeology

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).

12. Non Standard Condition - Highways

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 10m of the highway boundary.

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

13. Z00 – Highways

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

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

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

14. Non Standard Condition – Highways

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

Reason: To promote the use of sustainable means of transport.

15. Non Standard Condition – Highways

The development shall not be occupied until such time as the car parking spaces have been allocated to each dwelling and turning area is provided in accord with the details shown in Drawing Numbered 4039/121A. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

18.0 Informatives

18.1 The following informatives are also recommended:

1. INS – Highways

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

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org or by post to:

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

2. INS – 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>

3. 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.

DC0901MWeV9.3

4. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

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

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



Appeal Decision

Site visit made on 27 February 2018

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2018

Appeal Ref: APP/A1530/W/17/3184975

International House, Moss Road, Stanway CO3 0JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to outline grant planning permission.
 - The appeal is made by D G Rose Limited against the decision of Colchester Borough Council.
 - The application Ref 170259, dated 30 January 2017, was refused by notice dated 28 March 2017.
 - The development proposed is described as 'Residential use of former car park to International House following change of use from B1a (offices) to C3 (dwellings) of International House, reference 162649, dated 12 December 2016. Existing access to be relocated as discussed with Highway Authority.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for further approval. Application drawing No 120 shows a rectangle labelled 'Residential Uses' within the application site. The appellant's statement confirms that this rectangle is not intended to be indicative of the size or position of any proposed building. Notwithstanding that the appellant's statement describes the proposal as an 'apartment block' no other illustrative material has been submitted and nor do the submissions seek to establish the number of residential units proposed.

Main Issues

3. The main issues in this case are the effects of the proposal on:
 - the living conditions of future occupiers with particular regard to noise, odours, privacy and the provision of external space;
 - the living conditions of the occupiers of International House with particular regard to outlook;
 - the character and appearance of the area.

Reasons

Living Conditions of Future Occupiers

4. The appeal site was formerly part of the car park of the three storey International House. That building was in office use, but has been converted to
-

residential flats. Prior Approval has also been given to convert Duggard House, on the opposite side of Moss Road, from an office to use as dwellings. Nevertheless, the prevailing uses in the area are commercial and industrial.

5. No noise assessment has been submitted. The Davenport Kitchens unit is located to the rear of the appeal site and has external plant on its rear elevation. No information has been provided on the hours of operation of this unit. On the site visit I found that the external plant emits a steady noise. The noise is noticeable and intrusive¹ from Moss Road and likely to be more so when experienced from the appeal site. The Anytime Fitness gym is located to the south of the appeal site and the Council advises that it is open 24 hours per day. Whilst it is separated from the appeal site by a car park and service road, noise disturbance in the form of vehicle engines starting and voices could be expected from comings and goings from that car park, particularly late at night.
6. Paragraph 123 of the National Planning Policy Framework (the Framework) advises that planning decisions should avoid noise from giving rise to significant adverse impacts and that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. I consider that the level of noise from the sources described above would be likely to adversely affect the living conditions of future residential occupiers of the appeal site.
7. In the absence of a noise assessment, any indication of the position, orientation or aspect of the proposed building, or any suggested mechanism for securing potential mitigation measures, I consider that it has not been adequately demonstrated that the proposal would provide satisfactory living conditions for future occupiers with regard to noise. As such, the proposal would conflict with Policy DP1 of the Council's Development Policies 2010 (DP) insofar as the policy requires proposals to protect residential amenity with regard to noise. Nor would it accord with the Framework or the PPG in this regard.
8. In reaching this conclusion, I recognise that International House is in residential use. However, by virtue of its siting, that building is less directly exposed to noise from the plant at the rear of Davenport Kitchens than the appeal site and is also further away from Anytime Fitness and the car park.
9. The Council has also referred to potential harm from odours. However no substantive evidence to indicate where such odours come from has been provided and I was not able to detect any particular odours on the site visit. On the basis of the information available, therefore, I am not persuaded that, of itself, this consideration amounts to a robust justification for withholding permission.
10. The southern elevation of International House includes windows at first and second floor levels which face the appeal site at close range. Views from those windows, therefore, have the potential to reduce the privacy of future occupiers of the appeal site. However, the appeal site has a frontage onto Moss Road and an open aspect to the car park to the south. Since the appeal proposal does not seek to establish the scale or layout of the residential development, in my view there would be scope to position and orientate a building on the site

so as to avoid overlooking from International House, notwithstanding that flatted development may be more intensively occupied. These considerations could be controlled through the approval of reserved matters. To this extent therefore, the proposal would not conflict with DP Policies DP1 or DP12 inasmuch as they require development to protect residential amenity with regard to privacy.

11. Given the flexibility in the scale and layout of the proposal, it should also be possible to ensure that future occupiers are provided with adequate useable external space. As such, the proposal would not conflict with DP Policy DP16 which requires new residential development to provide a high standard of private amenity space.

Living Conditions of the Occupiers of International House

12. The considerations set out above would also allow for the siting, scale and massing of the new building to be arranged in a way that would avoid it having an overbearing presence close to the windows in the southern elevation of International House, even taking into account the potential intensity of the occupation of the building. Again, these details could be controlled at the reserved matters stage. As such, the proposal would not have a harmful effect on the living conditions of the occupiers of International House by reason of loss of outlook. In that regard, the proposal would not conflict with DP Policies DP1 or DP12 to the extent that they seek to protect residential amenity.

Character and Appearance

13. The vicinity of the appeal site is characterised by fairly large scale buildings formally laid out on a grid of straight roads. The appeal site sits between one such building and a surface car park. Taking into account that the proposal does not seek to establish the scale or layout of the building, I see no reason why any proposed building should necessarily be over-dominant, oppressive or disrupt the balance of the street scene. These concerns, along with landscaping and the appearance of the building, could be addressed at the reserved matters stage. Therefore, I find that the proposal would not have a detrimental effect on the character and appearance of the area and so would not conflict with DP Policy DP1 or Policy UR2 of the Council's Core Strategy 2008 insofar as they require development to achieve a high standard of design which respects and enhances the character of the site and its surroundings in terms of height, size, scale and massing.

Other Matters

14. The Council's submissions also allege conflict with its Backland and Infill Development Supplementary Planning Document. However, I am not persuaded that the appeal proposal amounts to backland or infill development. The site has a road frontage and is to the side, rather than the back, of International House. Nor is it a small gap in an otherwise built up frontage. The area to the south of the site is a surface car park, beyond which is a service road.
15. The Council considers that the approval of the proposal might jeopardise the validity of the prior notification approval for International House. However that would be a matter for the developers of International House and the Council.

16. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.

Conclusion

17. Whilst I have found that the proposal would not have harmful effects with regard to privacy, the provision of external space, the living conditions of the occupiers of International House or the character and appearance of the area, that does not outweigh my concern regarding the impact of noise on future occupiers. For that reason, the appeal should be dismissed.

Simon Warder

INSPECTOR



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Item No: 7.2

Application: 180789

Applicant: Arbora Homes

Agent: Mr Peter Le Grys

Proposal: Erection of one dwelling.

Location: Land Adjacent To, Heath Lodge, 11 Heath Road, Colchester, CO3 4DH

Ward: Prettygate

Officer: Eleanor Moss

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Buston called the application in for the following reason:
- 1.2 Resident considers that proposed property overlooks own property and that privacy and outlook are compromised.

2.0 Synopsis

- 2.1 Following a recent planning approval for residential development at the rear of the site; the provision of external space, the living conditions of the occupiers of neighbouring properties, parking, the character and appearance of the area, impact upon the locally listed Heath Lodge and amenity of future occupiers are all considered to be acceptable.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site is located on the southern side of Heath Road, close to its junction with Cherry Row. The application site is rectangular in shape and comprises of part of the garden to Heath Lodge. Heath Lodge is a substantial mid Victorian detached house that is designed in the Neo-Gothic style. Heath Lodge is included on the Council's adopted Local List of Building of Special Architectural or Historic Interest and, as such, constitutes a non-designated heritage asset. The site has been subdivided to construct a dwellings to the west and south.
- 3.2 Access into the site is available at both ends of the road frontage. There are numerous trees within the site; with two groups the subject of a tree preservation order.

4.0 Description of the Proposal

- 4.1 Erection of one detached dwelling

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 161453 - Conversion of existing house into two dwellings and erection of three detached houses within grounds. Refused on 13 December 2016 on the following grounds: (i) harm to setting of locally listed building; (ii) inadequate parking & (iii) inadequate waste & recycling provision

- 6.2 171325 - Conversion of existing house into two dwellings and erection of two houses within the grounds. This is a revision to the previous submission (161453) which comprised conversion of existing house into two units and erection of three houses within grounds. Approved on 22 December 2017.

7.0 Principal Policies

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

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

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

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

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

SA CE1 Mixed Use Sites

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Sustainable Construction
Cycling Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Arboricultural Officer –
1. The method that they will install the access - this will need to be a site specific Arboricultural Method Statement
 2. That if large roots are uncovered that the trees will be retained not felled to accommodate the access.
- Conditions recommended
- 8.3 Highway Authority – No objection subject to conditions
- 8.4 Landscape Planning Officer – no objection subject to a condition
- 8.5 Archaeological Officer – no objection subject to a condition
- 8.6 Colchester Civic Society – objects to the scheme on design, overdevelopment and highways grounds. They do not consider the design, whilst improved from original submission, to be good enough to mitigate the harm that it causes.

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:
- Parking and highway concerns
 - Overlooking
 - Proposed dwelling is too high/tall
 - Close proximity to neighbouring properties
 - Inaccurate Arboricultural Impact Assessment (AIA)

- Inaccurate site plan
- Harmful impact upon locally listed Heath Lodge
- Loss of garden space to Heath Lodge
- Harmful impact upon protected trees
- Inappropriate development
- Noise and pollution
- Loss of trees
- Amount of building in Colchester is too much
- Revised drawings are not exceptional

11.0 Parking Provision

11.1 Complies with car parking standards.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

Principle of Development:

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

Heritage and Design:

- 15.2 Core Strategy (CS) policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment. Core Strategy policy UR2 seeks to promote and secure high quality design. Development Policies Document (DPD) DP1 and DP12 set out design criteria that new development must meet. These require new development to be of a high quality and respect the character of the site and its context.
- 15.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. The relevant adopted Local Plan policies are CS ENV1 and DPD 14. Paragraph 197 of the NPPF (2018) states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 15.4 The main heritage issue raised by this application is the effect that the proposed development would have on the setting of Heath Lodge, a non-designated heritage asset.
- 15.5 Heath Lodge originally stood in a rural setting. It is located to the south of what is now called Heath Road. A row of Victorian cottages (Cherry Row) were originally located to the east of Heath Lodge with sporadic development on Straight Road. During the interwar years urban Colchester expanded towards and around Heath Lodge. By the mid C20 built development surrounded Heath Lodge and the building was effectively set within suburban Colchester. The original setting of the Heath Lodge has therefore substantially changed, albeit until very recently the building retained its substantial grounds.
- 15.6 In 2017 planning permission was granted for the erection of two houses in the rear garden of Heath Lodge; the current application proposes the erection of a further house within the original garden of Heath Lodge (to the west of the newly formed access drive). Given that the context (setting) of Heath Lodge has fundamentally changed, there is not an objection in principle to the erection of a new dwelling to the west of the access drive. Whilst this is the case, it is still considered important that the proposed dwelling is seen as being subordinate to Heath Lodge. Taking on the advice of the Council's Historic Buildings and Areas Team, the application has been revised in order to ensure the proposed dwelling stands as a subordinate dwelling, appearing as a gatehouse.

- 15.7 The main house of Heath Lodge would retain an adequate curtilage and would still reflect the curtilage proportions of a Victorian dwelling. The proposed development would be sited to the west of the main dwelling and is designed in a style that is sympathetic to the main dwelling. The scale and form is intentionally of an ancillary gatehouse which is considered to be acceptable. It is considered the revised proposal would result a marginal impact upon the locally listed building and the public benefits of one unit of housing in a sustainable location outweighs this harm.

Impact upon Neighbouring Amenity:

- 15.8 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.
- 15.9 In this instance, the revised scheme confirms that there is only one side facing first floor window (facing Heath Lodge) however this serves a bathroom which can be conditioned as obscure glazed, preserving the amenity of Heath Lodge. A first floor bedroom window is proposed at the rear of the proposed property (facing towards the frontage of the two new dwellings at the rear of the site). It is not considered this window would harmfully overlook the neighbouring properties. Furthermore, taking into consideration the orientation, it is not considered that the proposal would result in significant overshadowing of the neighbouring properties. The proposal also maintains an acceptable relationship to the host dwelling.
- 15.10 Concerns have been raised by neighbouring residents about noise and pollution issues from parking of vehicles. However, it is not considered that the movement of vehicles for the proposed development would result in such significant issues of noise and pollution that a refusal on this basis could be sustained on appeal.

Trees:

- 15.11 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.
- 15.12 In this instance, an Arboricultural Impact Assessment (AIA) has been submitted in support of the proposal which confirms the "successful retention of trees depends on the quality of protective measures and the administrative procedures to ensure those protective measures remain in place throughout development. An effective way of achieving this is by way

of an Arboricultural Method Statement (AMS) which can be specifically referred to in a planning condition.”

- 15.13 The Arboricultural Officer has been closely consulted with in the relation to this application and raised concerns in relation to the visibility splays. These visibility splays have been found acceptable under a previous planning application (171325) and therefore would be difficult to justify a refusal on tree grounds in this instance. The Arboricultural Officer has recommended specific conditions in order to ensure that the protected trees are safeguarded from future requests to fell on visibility splay grounds. The Agent has been made aware of this. On balance, provided recommended tree conditions are imposed on any planning approval the proposal is considered to be acceptable in this regard in order to protect critical aspects.

Ecology:

- 15.14 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.
- 15.15 In this instance, the proposal has not been submitted with an ecology assessment, nor have the historic planning applications. Given the site has recently been cleared it is not considered the application site would be a suitable habitat for protected species and has not been subject to ecology conditions in the most recent planning approval (171325). In this regard, the proposal is considered to be acceptable.

Parking and Highways Safety:

- 15.16 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access.
- 15.17 Given that proposal will provide for the required visibility splays, the proposed scheme is not considered to have a severe impact on the local highway either in terms of highway safety or capacity and accords with planning policies which seek to improve accessibility and changes in travel behaviour. The Highway Authority does not raise any concerns in relation to the proposal, and as such is considered to be acceptable in terms of highways safety.

- 15.18 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of two parking spaces should be provided for each dwelling of two or more bedrooms.
- 15.19 The submitted plan details parking in accordance with the aforementioned policy and SPD and as such the proposal is considered to accord with the requirements.

Flood risk

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

16.0 Conclusion

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

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAX - *Development to Accord With Approved Plans (qualified)*

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers AH/001/PA010 C, AH/001/PA011, BHWA10078.01_TPP and submitted Arboricultural Impact Assessment referenced HWA10078.01_APIII.

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

3. Non standard condition – Materials

Prior to any bricks being laid, a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: In order to ensure that the brickwork can be satisfactorily considered on site with regard to preserving the character of the locally listed building.

4. Non Standard Condition – Materials

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

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

5. Non Standard Condition – Detailing

Prior to the installation of any of the following elements, additional drawings that show large scale details, by section and elevation, at 1:20 or 1:5 as appropriate for any proposed dormers, eaves, verges, parapet and coping/kneelers, sill and lintel details, windows/screens and associated reveals, all external doors, chimneys and extract/flue terminals to be used, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the locally listed building.

6. Non Standard Condition – Trees

No works or development shall be carried out until a site specific Arboricultural Method Statement primarily focusing on the installation of the site access, has been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

7. Non Standard Condition – Trees

During the production of the site specific Arboricultural Method Statement and the following construction works the trees shown for retention, particularly those protected by tree preservation orders will be treated as sacrosanct. In the event that the proposed access and site splays are not possible to install without causing harm to the trees to be retained or requiring the felling of said trees then the trees will take precedent and an alternative scheme for the access will be undertaken.

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

8. ZFS - Tree and Hedgerow Protection: General

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

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

9. ZFT - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

10. Non Standard Condition – Highways

Prior to the first occupation of the proposed dwellings, the proposed vehicular access shall be constructed to a width of 5.5m for at least the first 6.0m within the site then tapering down to any lesser width and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

11. Non Standard Condition – Highways

No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the highway boundary.

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

12. Non Standard Condition – Highways

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered AH/001/PA010 B. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

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

13. Non Standard Condition – Construction Method Statement

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

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

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

14. Non Standard Condition – Archaeological

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).

15. Non Standard Condition – Landscaping

No works shall take place until a scheme of hard and soft landscape 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 trees, shrubs and hedgerows on the site, proposed planting, details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development 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.

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.

16. Non Standard Condition – Landscaping

The landscaping scheme pursuant to Condition 15 shall be permanently retained.

Reason: To maintain the visual amenity/character of the area as proposed.

17. ZCE - Refuse and Recycling Facilities

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

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

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

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

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

19. Non Standard Condition – Removal of PD for enclosure

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015

(or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings or approved under the Landscaping Scheme, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

20. Non Standard Condition – Obscure glazing and limited opening

Prior to first occupation of the development hereby approved the window serving the first floor bathroom shall be glazed in obscure glass to a minimum of level four on the Pilkington scale and shall be restricted in opening to no more than 200mm. The window shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Reason: To protect residential amenity.

21. ZPD - Limits to Hours of Work

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

Weekdays: 09:00 – 18:00

Saturdays: 10:00 – 13:00

Sundays and Bank Holidays: None

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

22. Non Standard Condition – No further windows

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no further openings shall be inserted to any of the dwellings except in accordance with details which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

18.0 Informatives

18.1 The following informatives are also recommended:

1. Non Standard Informative – Materials

Please note, the submission of materials details reserved via condition shall include Diaper Brickwork in order to replicate the architectural qualities of Heath Lodge.

2. Non Standard Informative – Chimney

Please note, the submission of the chimney details reserved via condition shall reflect the size and quality of the of the existing chimney on Heath Lodge, in order to replicate the architectural qualities of Heath Lodge.

3. 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.

4. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

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requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

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

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

6. Non Standard Informative – Highway

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

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

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

7. Non Standard Informative - Landscape

Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B @ <http://www.colchester.gov.uk/article/13592/Landscape-Guidance-for-Developers>.

8. Non Standard Condition - Archaeological

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. ZT1 – Informative on Street Naming & Numbering

For the safety of residents, it is the developer's obligation to ensure that

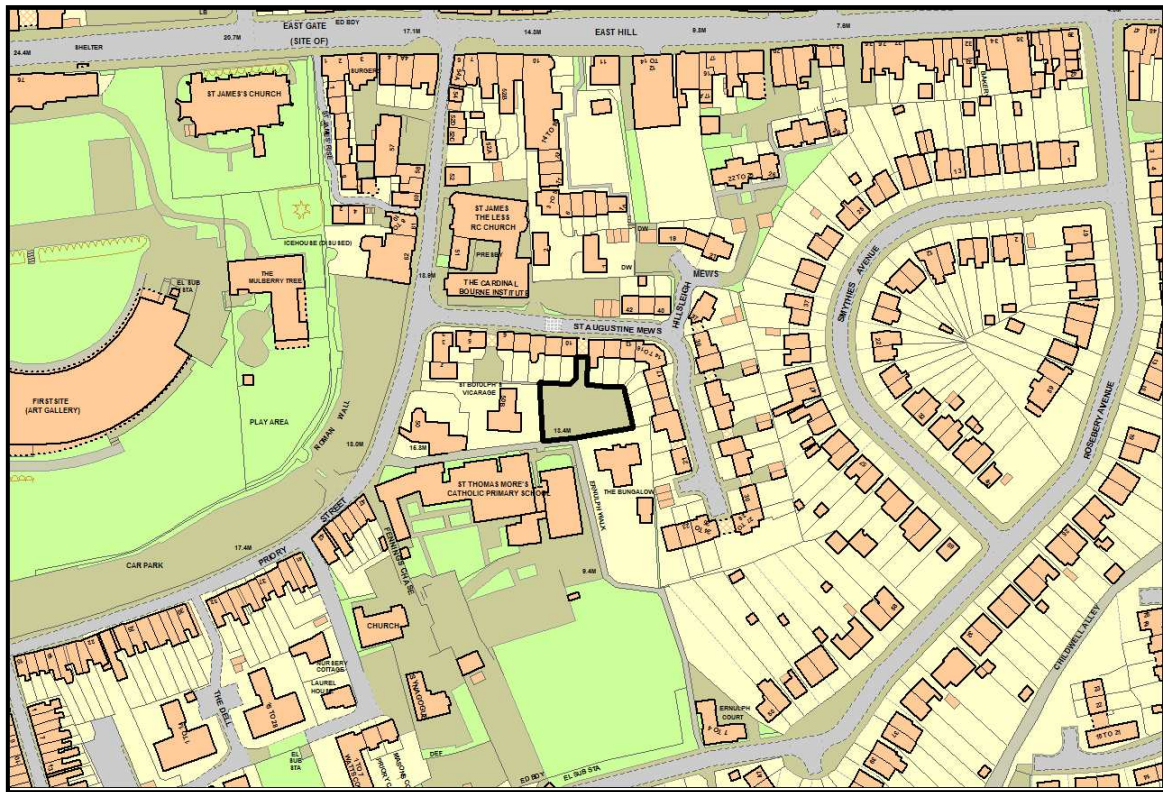
1. street name signs are in place before the first property is occupied on any new street, and
2. each property is marked with a house number visible from the highway before occupation.

10. ZTY - Informative on Tree Preservation Orders

PLEASE NOTE: This site is the subject of a Tree Preservation Order.

11. ZUP - 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.



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Item No: 7.3

Application: 181794

Applicant: Warwick Estates

Agent: Mr Domenico Padalino, DPA (London) Ltd

Proposal: Replacement of existing dilapidated brick wall along the rear of the car park with a timber fence and steel posts

Location: St Augustine Mews, Colchester

Ward: Castle

Officer: Eleanor Moss

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is contrary to the Communal Parking Courts section in the Essex Design Guide.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the rear parking courtyard fence upon highway safety, the character of the area and neighbouring amenity. The Agent has provided details in relation to a proposed boundary wall instead however this option has been supported by viability concerns and therefore is not a cost which can be reasonably be imposed on residents to pay. Furthermore, contractors will not guarantee that the same collapse will not occur again, in the near future, should a masonry boundary wall be built. The Agent confirms the proposed fence is far lighter, with the loading spread.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site relates to a car park located in Colchester Town Centre and is therefore located in the Conservation Area. The previous masonry wall is constructed of facing bricks located at the very edge of the car park area, at a point where there is substantial change in ground levels. The previous masonry wall has collapsed due to subsidence as a result of adjacent tree roots, or due to the wall being close to the edge of a steep slope.

4.0 Description of the Proposal

- 4.1 The proposal seeks planning permission for a rear fence surrounding a car park.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 None relevant to this application.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
TA5 - Parking
ENV1 - Environment

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

DP1 Design and Amenity
DP14 Historic Environment Assets
DP19 Parking Standards

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards

8.0 Consultations

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

- 8.2 Highways Authority – No objection.

- 8.3 The Ramblers - Public Right of Way footpath 132 Colchester runs along the south side of the wall. Users should not be endangered during any works.

9.0 Parish Council Response

- 9.1 Non Parished

10.0 Representations from Notified Parties

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

- Health and safety concerns

11.0 Parking Provision

- 11.1 No loss of parking

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

Impact upon character of area:

15.1 In the exercise of Planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The objectives of Development Policy DP14 are consistent with this test. The revised National Planning Policy Framework (NPPF) advises, amongst other matters, that the conservation of the historic environment can bring wide social, cultural, economic and environmental benefits. The height of the rear boundary fence and location at the back of a parking court means that it is not readily prominent within the street-scene. Given that the proposal is located towards the end of the car park, the proposal boundary fence is not viewed centrally within the street-scene but at a pre-existing visual terminus. The proposal is not widely visible from many public vantage points and therefore it is considered the impact upon the Conservation Area will be minimal. As such, it is considered that any impact upon the street-scene will be marginal.

Highway safety:

15.2 The proposed rear boundary fence replaces a boundary wall which has now collapsed. The Highway Authority has not raised any objection to the scheme and therefore it is not considered that the proposal has a harmful impact upon highway safety.

Impact upon amenity:

15.3 The proposed rear boundary fence replaces a brick wall of the same height. It is not considered the replacement fence will result in a materially different impact upon neighbouring properties.

16.0 Conclusion

- 16.1 To summarise, the design of the proposed wall is appropriate and would not result in a harmful impact upon visual amenity, highways safety or residential amenity. The proposal would not appear out of character in the street-scene or as an overly-prominent addition. Your Officer therefore recommends approval.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings Numbered 1368_303 and 1368_305.

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

3. Non Standard Condition – Highways

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

1. The means or method of protecting the travelling public within the highway whilst working from height above and adjacent to the highway (Ernulph Walk and Public Footpath No 132 (Colchester)).

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way.

18.1 Informatives

- 18.1 The following informatives are also recommended:

- (1) The public's rights and ease of passage over Public Footpath No.132 (Colchester) shall be maintained free and unobstructed at all times.

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

(3) 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.

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

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

(5) ZTB - Informative on Any Application With a Site Notice

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



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Item No: 7.4

Application: 182421

Applicant: Mr Luke Crosby

Agent: Mr Peter Tyler

Proposal: Proposed single storey front and rear side extension plus cladding to existing building

Location: Wood Cottage, Station Road, Wakes Colne, Colchester, CO6 2DS

Ward: Rural North

Officer: Kelsie Oliver

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

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

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 application site sits to the west of Station Road in a rural area to the north of Wakes Colne. The site is located outside of the defined settlement boundary. The site contains a semi-detached residential property that forms part of a cluster of dwellings to the north of the village and train station.

4.0 Description of the Proposal

- 4.1 The proposal seeks to construct a single storey front and side extension plus cladding to existing building.

5.0 Land Use Allocation

- 5.1 The site is situated in a rural area within which the residential use is established and as such the principle of development such as this is acceptable.

6.0 Relevant Planning History

- 6.1 Planning permission 163101 granted permission for a double garage. Planning permission 140019 granted permission for the new highway access.

7.0 Principal Policies

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

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

UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP19 Parking Standards

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

N/A

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

The Essex Design Guide

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Council’s Archaeological Officer has stated that the proposal raises no concerns in this regard.
- 8.3 The Council’s Arboricultural Officer has stated that the proposal raises no concerns in this regard.

9.0 Parish Council Response

- 9.1 The Parish Council have also raised concerns regarding the private right of way. This is a civil matter and as such is not a material planning consideration.

10.0 Representations from Notified Parties

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

10.2 Two objections have been received for this application relating to the private right of way that exists across the application site. This is a civil matter and as such is not a material planning consideration.

11.0 Parking Provision

11.1 The proposal does not affect the current parking provisions on the site.

12.0 Open Space Provisions

12.1 This proposal retains adequate amenity space within the application site.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

Design and Layout:

15.1 It is considered that the application site and the dwelling subject of this application are capable of accommodating the proposed development. The proposed additions to the property are well proportioned in relation to the host dwelling and adopt a traditional design approach. The materials palette adopted is consistent with the rural setting and its residential use. The variance in materials to be used, along with the subservience of different elements of the building, contribute to the articulation of the structure and break down its massing. As a result, the proposed extensions to the property, and the proposed cladding make a positive contribution to the appearance of the dwelling. The design of the proposal is therefore considerate of its setting and the existing built form in and surrounding the site.

- 15.2 It is noted that the property is semi-detached and that the property resulting from this proposal may appear to contrast with the adjoining property. It is considered that this is not uncommon in residential settings such as this and will result in minimal harm.

Impacts on Neighbouring Properties:

- 15.3 The proposed development would not appear overbearing on the outlook of neighbour. 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. There are no impacts on the light enjoyed by neighbouring dwelling. Lastly, the proposal raises no concerns regarding the privacy enjoyed by neighbouring residents.

15.4 Parking and Private Amenity Provisions:

The proposal retains adequate parking and private amenity space at the property.

Landscape and Trees:

- 15.5 The proposal requires the removal of existing conifers however this will have no significant impact on public amenity and the Arboricultural Officer has confirmed the proposal is considered to be acceptable.

Highway Safety:

- 15.6 The scheme raises no Highway issues.

Other Matters:

- 15.7 Two objections have been received regarding a private right of way across the application site to a neighbouring property. This is not a material planning consideration and is a civil matter between both parties. This has been confirmed by Legal Services. As a civil matter and the parties will be required to independent seek legal advice.

16.0 Conclusion

- 16.1 This modest scheme is only before Members as the applicant is related to a Council employee. The scheme is acceptable in design terms and raises no issues in terms of its impact on amenity.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

18.0 Conditions

1 - ZAA - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1187-5, 1187-6A and 1187-7a unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3. ZBB - Materials As Stated in Application

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

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

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.

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Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

