

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Councillor Goss due to concerns raised by local residents on impacts to neighbouring properties especially around potential removal of trees.

2.0 Synopsis

- 2.1 The key issues for consideration are the identical scheme for which permission was granted in 2013 under the same local and national policies which is a material consideration that needs to be given considerable weight. It is your Officer's opinion that the scheme is acceptable in terms of its design and impact on the character and appearance of the surrounding area and neighbouring amenities.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site comprises the existing early 19th century end terrace of 39 and 39A Mile End Road, evidently split into two flats. It also comprises a single-storey range of buildings fronting Mile End Road and extending back along the southern boundary of the site with the pub car park, to the right and rear of the site. These buildings include an existing general store and its ancillary buildings. The space in-between the two buildings provides for vehicle access to the yard at the rear of the site that is laid to hardstanding and includes an area likely to have originally been garden to 39 Mile End Road.
- 3.2 The site is within very close proximity to Colchester North train station and is on a principle main road and bus route. The site is approximately 15 minutes' walk from the main shopping streets of Colchester town centre.

4.0 Description of the Proposal

- 4.1 This application seeks permission to provide a two-storey building which would be linked to No. 39 and 39A at first floor level above the existing vehicular/pedestrian access into the site. The aim is to provide student accommodation over two floors, with a ground floor shared kitchen and living room.
- 4.2 The building follows the approximate 'L'-shaped footprint of the existing building, and the roof has been modelled and broken up to reduce its mass and visual impact deeper within the site.
- 4.3 To the rear of the site, shared parking facilities for this development and the two existing flats at 39 and 39A are proposed, together with some private amenity space for all three units as well as secure cycle and bin storage.

5.0 Land Use Allocation

- 5.1 The application site is located in a predominantly residential area.

6.0 Relevant Planning History

- 6.1 The most relevant planning history relates to application reference 131511 which granted permission for the development the subject of this current application. However, this permission expired in 2016.

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
 - PR2 - People-friendly Streets
 - TA1 - Accessibility and Changing Travel Behaviour
 - 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
 - DP4 Community Facilities
 - DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
 - DP7 Local Centres and Individual Shops
 - DP12 Dwelling Standards
 - DP13 Dwelling Alterations, Extensions and Replacement Dwellings
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - DP17 Accessibility and Access
 - DP19 Parking Standards
- 7.4 Some "allocated sites" also have specific policies applicable to them. 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 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.
- 7.6 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

Myland Parish Plan AND Myland Design Statement

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Environmental Protection does not object to the proposed development.
- 8.3 Private Sector Housing raises no objection to the proposal subject to a number of requirements in terms of fire safety. These comments are made in light of the unit being a House in Multiple Occupation.

9.0 Parish Council Response

- 9.1 Myland Community Council has stated that this is an unsuitable infill causing over development within the neighbourhood. Local resident amenity will be affected by overlooking and potential noise from the proposed balcony area. Visitor parking space is inadequate. Construction will be unacceptably problematic due to restrictions in Mile End Road.

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 letters of objection were received. The main reasons for objecting are summarised as follows:
- Loss of privacy;
 - Proposed building is out of keeping with adjacent Victorian properties;
 - Noise associated with student accommodation;
 - Access and parking;
 - Reduced visibility to vehicles entering and leaving the site.

Additional comments, which are not planning-related matters, include:

- There is a large ash tree at the bottom of the site which caused issues when it was cut without our consent;
- Anticipated lack of local community engagement;
- Non-resident landlord, unlike The Bricklayers Pub which doesn't cause any nuisance;
- Maintenance of 'amenity' space and rubbish/recycling facilities;
- Do proposed ground floor bedrooms have adequate natural light and ventilation?

- 10.3 In addition to his call-in request, Councillor Goss had the following comments to make:

- Building height and design needs to be in keeping with the surrounding area and also the adopted Myland neighbourhood plan.
- Ample parking needs to be provided and the access needs to be acceptable to ensure it doesn't add to congestion and parking issues in the area.

11.0 Parking Provision

11.1 The parking provision does not comply with adopted standards. However, the location of the application site is extremely sustainable and local policies allow for a lower provision of parking in high-density urban locations. The proposed parking provision is therefore adequate.

11.2 This level of parking was also allowed during the previous application 131511.

12.0 Open Space Provisions

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

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

15.1 Principle of Development: The principle of development was established through application 131511. This granted permission for exactly the same development as the one that is the subject of this application with the exception of a marginally bigger ground floor window in the rear elevation (serving the kitchen/living area). This difference, however, is so small that it cannot be seen as being materially different. Permission for the development was granted in 2013 and this expired in November 2016. As the permission has not been implemented, a new permission is now sought.

15.2 It is important to note that the previous proposal was considered under the same local and national guidance that are relevant to the current proposal, i.e. the current Local Plan as well as in light of the NPPF. There is one new document that needs to be looked at and that is the Myland and Braiswick Neighbourhood Plan which was adopted in 2016. This however does not make any specific reference to the application site or the proposed development as such. Consequently, Officers would like to remind Members that there has been no substantial change in guidance or policy against which the current proposal needs to be considered and which could lead to a different conclusion.

15.3 On the basis of the above, it is concluded that the proposed development is acceptable and Officers would like to highlight that a different conclusion would lead to unreasonable behaviour on the Council's part which could lead to an award of cost should the applicant appeal the Council's decision and apply for costs.

15.4 Notwithstanding the above, the following paragraphs provide a summary of the assessment undertaken as part of the previous application:

- 15.5 Planning Unit and Proposed Use: The proposed additions have all the facilities one would expect of a five-bedroom house: a shared kitchen, bathrooms (en-suites to all the bedrooms) and an area of shared private amenity space. Nevertheless, the unit would evidently operate in conjunction with the existing flats of 39 and 39A - sharing vehicular access, parking and bin storage areas. It would seem, therefore, that there is a single planning unit comprising of three dwellings (the two flats of 39 and 39A Mile End Road and the 5-bed house).
- 15.6 The applicant describes the five-bedroom house element of the proposal as 'student accommodation'. That would only be the case if conditions in a planning permission made it so. No particular justification is seen for conditioning it as student accommodation and so the house may be occupied by students, non-students or a mix of the two.
- 15.7 Design and Impact on Surrounding Area: The design of the proposal is somewhat bulky and incongruous, especially in its relationship to the pub car park to the south. However, some articulation is given to the southern elevation, breaking up the mass. With this in mind, the proposal is acceptable in its appearance. Whilst individual elements of the scheme, such as undercrofts and first floor amenity areas, are not part of the local character, neither is the existing single-storey shop. Overall, the proposal retains a sympathy with local turn-of-the-century architecture and is not harmful to that prevailing character.
- 15.8 Loss of Employment: Development Policy DP5 seeks to protect employment uses. This proposal would result in the loss of employment due to the loss of an existing (albeit vacant) shop. The policy expects evidence to be provided to demonstrate that there is no viable or suitable employment use and such evidence has not been provided. The applicant argues that the use of the site for a small retail unit is unviable in the context of the close proximity of Asda to the site. This argument does seem to be a strong one. It is hard to see that such a small shop in this location would be especially viable. Neither would it seem to be especially desirable for other employment uses. Furthermore, the building has very limited value in the street scene and its retention visually is not especially desirable. Finally, in view of the small size of the shop, any employment lost would be very small.
- 15.9 Development Policy DP7 similarly protects A1 retail uses. This shop is a small general store, only 200 metres (as the crow flies) from a very large supermarket. There are other similar stores not much further away. Its viability is likely to be borderline at best.
- 15.10 In conclusion, it seems likely that the use of the site for employment purposes is not viable and that any lost employment would be very small. Nevertheless, as no evidence has been provided to this effect, some harm must be assumed and this will need to be weighed up in the overall consideration of the proposal.
- 15.11 It must also be remembered that change of use from A1 to C3 (dwellinghouse) is permitted development via the prior approval process and, thus, could be achieved without a full Planning application.

- 15.12 Amenity Space: Development Policy DP16 requires 100 square metres of private amenity space for the five-bedroom house and 50 square metres for the two (existing) flats. In this case, the flats are provided with 47 square metres of shared private amenity space which is more or less in compliance with the adopted requirement. The five bedroom house however has just 47 square metres including the cycle store area. In terms of deficit, this is the equivalent to the current situation where the two existing flats have no private amenity space and therefore a deficit of 50 square metres exists.
- 15.13 This is a high-density urban area close to the town centre and to parks and in such areas amenity space requirements are more relaxed. This is recognised within Policy DP16 which states "For the most accessible developments where, in accordance with Policy H2 of the Core Strategy, a density of over 75 dwellings per hectare may be appropriate, a minimum of 25 square metres of usable private amenity space shall be provided for each home". Policy H2 states that this density applies to sites within 400 metres of an urban gateway, which in this case is the Train Station. In this context, private amenity space provision exceeds policy requirements. The provision of private amenity space for the two flats of 39 and 39A that currently benefit from none is certainly a material consideration in favour of the application that carries some weight.
- 15.14 Impact on Neighbouring Amenity: To the south, windows and the raised terrace overlook the pub car park without a material loss of privacy. Similarly, the nature of use of the car park means that there would be no material impact on light or outlook.
- 15.15 To the rear (south-west), rear-facing windows and the terrace overlook properties on Bergholt Road, including the Bricklayers Arms pub. However, the rear of the terrace is 12 metres from the rear boundary of the site and a further 21 metres from the primary elements of the rear elevations to the Bergholt Road properties (including the pub). At these distances there will be no materially harmful overlooking or loss of light or outlook.
- 15.16 To the north of the site, the majority of the new-build faces the existing building of 39/39A Mile End Road. Whilst there will be some loss of light to windows in that side elevation, as it is in the ownership/control of the applicant, such harm can be given very little weight in amenity terms. Impacts will not be so great as to degrade the quality of accommodation to a degree that is of planning concern.
- 15.17 Of greatest potential concern is the single-storey element that protrudes beyond the rear of 39/39A Mile End Road and the raised terrace on top of it. It is not so high or close as to result in material harm to light or outlook (especially in view of the intervening garden of No. 39/39A). The submitted plans show a glazed screen along the northern side of the terrace and this will be sufficient to prevent materially harmful overlooking of properties to the north. It will also reduce noise spread. In the context of the busy road, railway line and car park and with this screening, it is not considered that noise levels heard from neighbouring residential properties will be materially greater than were the private amenity space at ground floor level. Whilst neighbours may have concerns about noise issues particular to student occupiers, as has previously been set out, the end user may (or may not) be students and there is no inherent

reason to conclude that student occupiers would be noisier than any other occupier. Finally, it must be noted that the existing use of the site as a shop has the potential to generate significant noise and disturbance through customer comings and goings (including parking) and from delivery vehicles. With all this in mind, it is not considered that the proposal would inherently result in a material increase in noise and disturbance. Should unacceptable levels of noise be generated to the point that a noise nuisance is caused, then the usual means of control via Environmental Protection legislation is available.

15.18 Parking and Highway Safety: The proposal includes three parking spaces. It is not clear how many bedrooms the existing flats of 39 and 39A include, but in view of the small size of the building, it is likely that they are one-bedroom flats. Under adopted parking standards, a five-bedroom house and two one-bedroom flats would generate a requirement for four parking spaces in total. If the flats were larger, that requirement would be six spaces in total. Only three spaces are proposed which, in either scenario, is below adopted standards. However, both the adopted standards and local policies make it clear that a lower provision may be acceptable in high-density urban locations. This location is extremely sustainable. It is very close to the train station and bus stops, a large supermarket and is not far from the hospital and medical centre. It is therefore very well suited to persons without private motor cars. Finally, the existing shop use at the site has the potential to generate significant parking requirements for staff and customers and any new proposal must be seen in that context. With all of this in mind, the proposed three parking spaces is considered to be adequate.

15.19 Although the driveway would be narrowed by this proposal, it would reduce the intensity in use of the access and the size of vehicles that may use it, when compared with the existing shop use. In this context, highway safety is not harmed by the proposal.

16.0 Conclusion

16.1 In conclusion, an identical scheme has previously been approved having been considered against the current local and national policies and this is a material consideration that must be given considerable weight. The adoption of the Myland and Braiswick Neighbourhood Plan has not introduced any new policies that would contradict the assessment that was undertaken as part of the previous application and the application does not, therefore, warrant a different conclusion. On this basis, Officers would like to remind Members of the Planning Committee that refusing permission for the proposal the subject of this application would be unreasonable and could have financial implications for the Council.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. Time Limit for Full Permissions

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

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

2. Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 3279 PA-10.

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

3. Detailing

Prior to the commencement of development, elevation drawings at a scale of 1:20 showing the front arch that forms the undercroft, together with elevation and section drawings at a scale of 1:20 showing a sample window and sample blind window, shall be submitted to and approved in writing by the Local Planning Authority. These features shall be implemented in precise accordance with the approved details, prior to the first occupation of the development.

Reason: To ensure an attractive finish to the development appropriate to its traditional character and context.

4. Simple Landscaping Scheme Part 1 of 2

The development hereby permitted shall not be occupied until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

5. Simple Landscaping Scheme Part 2 of 2

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

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

6. Boundary Treatment

The development hereby approved shall not be occupied until a scheme of new and retained boundary treatment (including any gates) has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include sample elevations annotated with precise details of finishing materials and colours of each boundary treatment to be used and a plan showing the precise

positioning of each boundary treatment. The submitted scheme shall include a brick wall to mark the boundary with the shared amenity space area behind 39 and 39A Mile End Road. It shall show the gate positioned as per the site plan on drawing 3279 PA-10. All boundary treatment shall be implemented in precise accordance with the approved scheme and shall be retained thereafter in its approved form.

Reason: To ensure an attractive finish to the development.

7. Materials

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction, shall 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority. The finishing material for the roof shall be of natural slate. The finishing material for the window lintels and for the coping atop the parapet wall of the terrace shall be stone or reconstituted stone and these shall be four courses deep. The finishing material for the window cills shall also be stone or natural stone.

Reason: In order to ensure that suitable materials are used on the development, appropriate to its traditional style and in keeping with the character of the terrace that the development adjoins, as there are insufficient details within the submitted planning application.

8. General Removal of Residential PD Under Schedule 2 Part 1

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A to E of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: The site is already heavily constrained and developed and any further development on the site would need to be considered at such a time as it were to be proposed.

9. Windows

All windows on the east and south elevations shall be sliding sash in their design.

Reason: To ensure an attractive finish to the development appropriate to its traditional style and context.

10. Pedestrian Visibility Splays

Prior to the first occupation of the development hereby permitted, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway.

11. Details of the cycle parking area

Prior to the first occupation of the development hereby permitted, precise details of the area annotated 'amenity and covered cycle area' on the approved plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include elevations and a roof plan. It shall include covered cycle parking for 5 bicycles. The cycle parking and the agreed arrangement for the rest of this area shall be implemented in precise accordance with the approved details prior to the first occupation of the development and shall be retained thereafter in its approved form for its approved purpose.

Reason: The shortage of vehicular parking necessitates cycle parking for each resident, as there is a realistic potential for the new development to be occupied by 5 cyclists. The remainder of the area shown is unlikely to be used as private amenity space as is suggested on approved drawings and would therefore better serve as improved external soft landscaping to visually soften the development and additional covered storage.

12. Bin Storage Area

Prior to the first occupation of the development hereby permitted, details of a small sign to be attached to the building to identify the bin storage area, together with a different paving type/colour in the area to be used for bin storage shall be submitted to and approved in writing by the

Local Planning Authority. The sign and the paving shall be implemented in precise accordance with the approved details prior to the first occupation of the development and shall be retained thereafter in their approved form, for the sole purpose of bin storage of the occupiers of the development and the occupiers of 39 and 39A.

Reason: To ensure that there is adequate bin storage and that this is confined to areas that are accessible for collection and do not cause clutter in the street or in parts of the external areas within the development that serve other purposes.

13. Implementation of parking / manoeuvring areas

Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plan (or as modified by any landscaping scheme approved by an application to approve matters reserved by conditions 3 and 4 of this permission), shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear, in the interest of highway safety.

14. Rainwater Goods

All new rainwater goods or other external pipework shall be metal and coloured black.

Reason: To ensure a finish to the development that is appropriate to the traditional style of architecture proposed and the local context.

15. Screen for Terrace

There shall be no occupation of the development hereby approved until such times as the Opaque glazing screens shown on approved drawing as partially enclosing the terrace have been implemented in precise accordance with the approved plans on the north side of the terrace. The screens shall be retained thereafter in precise accordance with the approved plan.

Reason: To prevent materially harmful levels of overlooking to the garden and rear elevation of residential properties to the north of the site, and to reduce noise dispersal

generated by this terrace, in the interests the amenities of the occupiers of residential properties north of the site.

16. Private Amenity Space

The shared amenity space area to the rear of 39 and 39A Mile End Road and the drying facilities indicated on approved plan, shall be implemented and made available as such prior to the first occupation of the development and shall be retained thereafter for the joint use of the occupiers of the new development as well as the occupiers of 39 and 39A Mile End Road.

Reason: To ensure that all the occupiers of all properties at the site have adequate amenity areas for drying washing etc.

18.0 Informatives

18.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

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.

19.0 Positivity Statement

19.1 WA1 – Application Approved Without Amendment

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