

Planning Committee Meeting

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

Thursday, 25 June 2015 at 18:00

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

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The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Councillors are permitted to use devices to receive messages and to access papers and information via the internet and viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, 21 Trinity Square, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A water dispenser is available on the first floor and a vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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www.colchester.gov.uk

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

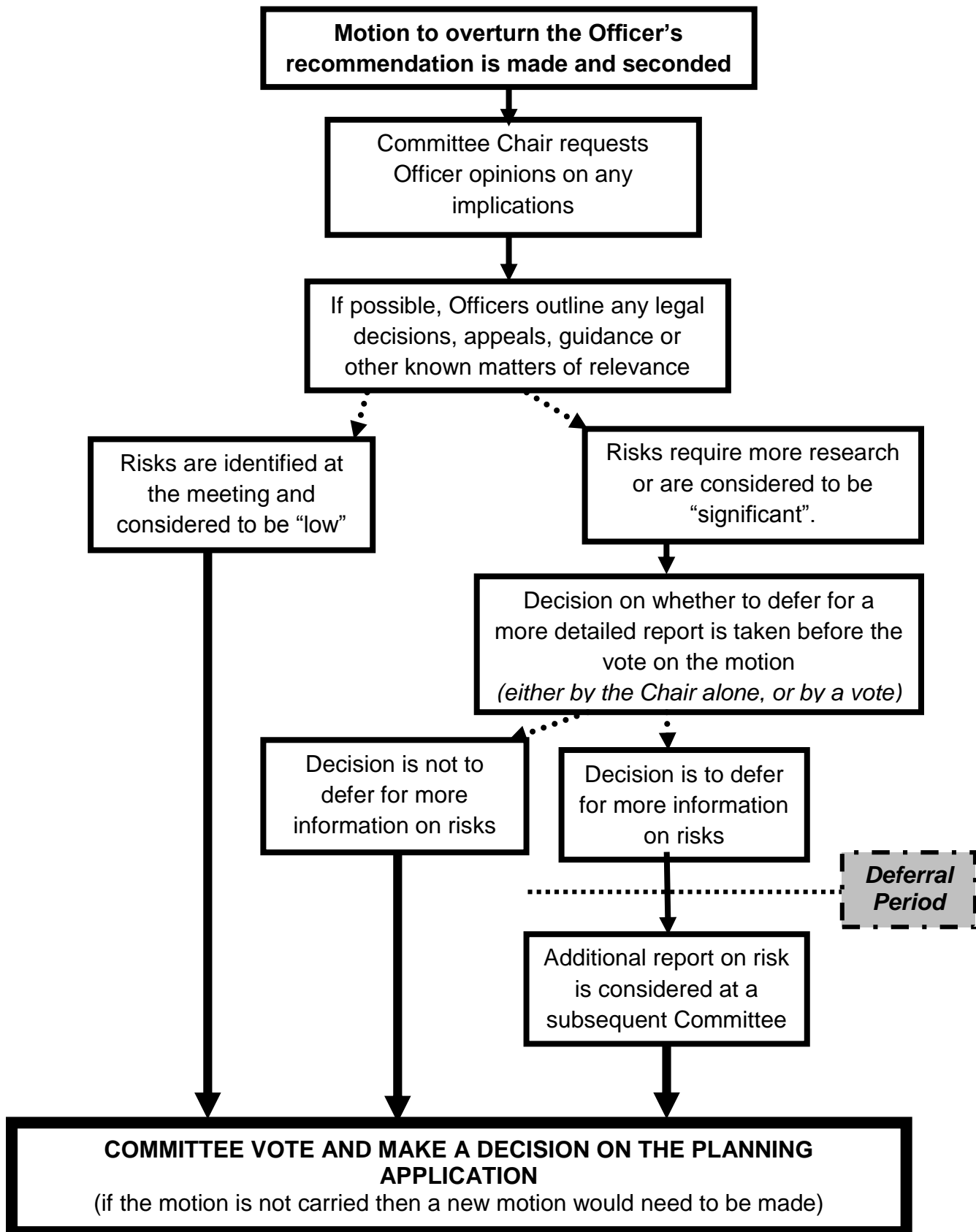
Interpretation of Class C4

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 25 June 2015 at 18:00

Member:

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

Chairman
Deputy Chairman

Substitutes:

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

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

AGENDA - Part A

(open to the public including the press)

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

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

1 Welcome and Announcements

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

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

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

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

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

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

6 Minutes of 11 June 2015 17 - 20

To confirm as a correct record the minutes of the meeting held on 11 June 2015.

7 Planning Applications

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

7.1 150115 Garage Site 1, Monkwick Avenue, Colchester 21 - 26

Variation of conditions 2 (approved plans) and 8 (Landscape) of planning permission 131957.

7.2 150809 St Johns C of E Primary School, Clay Lane Grove, Colchester 27 - 38

Variation of conditions 3 and 4 of planning permission 090126 to allow 30 pupils to use the building and to allow opening of the building from 07:45 hours to 18:00 hours Monday to Friday during term time.

7.3 150746 Stanway Rectory, Church Lane, Stanway 39 - 46

Demolition of outbuildings and construction of single storey and two storey extensions

8 Changes to the Scheme of Delegation 47 - 48

See report by the Head of Professional Services

9 **Exclusion of the Public (not Scrutiny or Executive)**

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

Part B

(not open to the public including the press)

Planning Committee

Thursday, 11 June 2015

Attendees: Councillor Peter Chillingworth (Group Spokesperson), Councillor Jackie Maclean (Member), Councillor Helen Chuah (Member), Councillor Jon Manning (Chairman), Councillor Laura Sykes (Group Spokesperson), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Member), Councillor Jessica Scott-Boutell (Deputy Chairman), Councillor Rosalind Scott (Group Spokesperson), Councillor Jo Hayes (Member)

Substitutes: Councillor Roger Buston (for Councillor Patricia Moore)

168 Site Visits

The following members attended the formal site visit: Councillors Buston, Chillingworth, Chuah, Hazell, Jarvis, Lilley, Manning and Sykes.

169 Minutes of 27 May 2015

The minutes of the meeting held on 27 May 2015 were confirmed as a correct record.

170 Minutes of 28 May 2015

The minutes of the meeting held on 28 May 2015 were confirmed as a correct record subject to the following amendments:

(i) In minute 163 the declaration of interest made by Councillor Hayes to read '(in respect of her potential pre-determination of the matter) she declared an interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.'

(ii) In minute 164 the resolution to refer to 'future services cabling' rather than 'future broadband cabling'.

171 150583 Unit B1, Peartree Road, Stanway, Colchester

Councillor Buston (by reason of a client of his company having a similar operation as the proposed application) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the change of use from existing A1 use to a mixed A1 and D2 use to form a Gymnasium at Unit B1, Peartree Road, Stanway, Colchester. The application had been referred to the Committee because it was classed as a Major application and had attracted objections. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Carl Allen, Planning Officer, presented the report and assisted the Committee in its deliberations.

Russell Valler addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was the owner of Anytime Fitness which was situated in the vicinity of the application site. He questioned the viability of the proposed gymnasium given the current population of Stanway and he was of the view that, if approved it would de-stabilise the other existing gymnasiums in the area. He considered that it might also lead to closure of other businesses. He was also of the view that the proposal was for a budget style gymnasium which would attract younger customers which may lead to problems of relating to the mis-use of the parking area which had been experienced in the area previously. He referred to the numbers of people directly employed at his own gymnasium and was concerned that the proposal would involve the use of freelance workers.

The Planning Officer explained that issues relating to potential viability of a business, methods of trading and contracts of employment were not material considerations in planning terms and, in his view, were not matters which could be taken into account by the Committee.

Certain members of the Committee were of the view that the area was a busy mixed use area which had experienced parking problems in the past and, as such the car parking issue needed to be considered carefully. One member considered that the proposed 24 hour operation may have a detrimental impact on residents. Others Committee members considered the occupation of the unit was to be welcomed, the impact on the surrounding parking area was not likely to be significant as the peak use of the gymnasium would be in the evenings and there would be no detrimental impact on residents as the location was an existing mixed use commercial area with nearest residential dwellings situated some distance away.

In response to specific issues raised the Planning Officer confirmed the extent of the shared parking in the area and that the proposal complied with the Essex County Council parking standards for this type development which had been adopted as a Supplementary Planning Document by the Council. He also confirmed that Anytime Fitness currently operated on a 24 hour basis and that there was no residential development in the vicinity of the application site.

RESOLVED (TEN voted FOR and TWO ABSTAINED) that the planning application be

approved subject to the conditions set out in the report.

172 150807 24 Elmstead Road, Colchester

The Committee considered an application for the demolition of an existing conservatory and small lean-to extension and the construction of a two storey and ground floor extension to the rear of 24 Elmstead Road, Colchester. The application had been referred to the Committee because it had been called in by Councillor T. Young. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Daniel Cameron, Planning Contributions Officer, presented the report and assisted the Committee in its deliberations.

Brian Griffiths addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained the background of his discussions with the applicants and how their consideration of the planning policies within the national framework had helped to bring about the proposed design. He referred to alternative options which had been rejected, including one possibility within permitted development principles which had been rejected as he considered it would be too overbearing for the neighbouring residents. He had sought to deliver a design which would be pleasing to look at as well not impacting significantly on the neighbours.

Councillor T Young attended and, with the consent of the Chairman, addressed the Committee. He referred to the comment in the officer's report about the proposal not being 'unacceptably overbearing' and was of the view that this implied that an element of overbearing did exist and that the use of the term 'unacceptable' indicated that the matter was a subjective one. He therefore considered that a judgement needed to be made in establishing the impact of overbearing on the neighbouring property. He also referred to the diagram in the report which illustrated the trajectory of the sun in relation to the alignment of the site. He asked the Committee to give the proposal careful consideration and to not just accept the officer's recommendation without regarding the impact on the adjacent property. He also asked that any mitigating factors be borne in mind which may make the proposal more acceptable.

The Planning Contributions Officer explained in detail how the tests in the Extend Your House Supplementary Planning Document had been applied in his consideration of the impact on neighbouring properties as well as the principles that had been used to conclude that the proposal could not be deemed to be unacceptably overbearing. He referred to the proposed condition to remove permitted development rights in relation to the later addition of windows to the side elevation and confirmed it would be possible to replace this with a condition providing for the later addition of windows to be only of obscured glazing. However he confirmed that amending the proposed condition would

leave the applicant free to add windows to the side elevation all be it if only for the improvement of lighting.

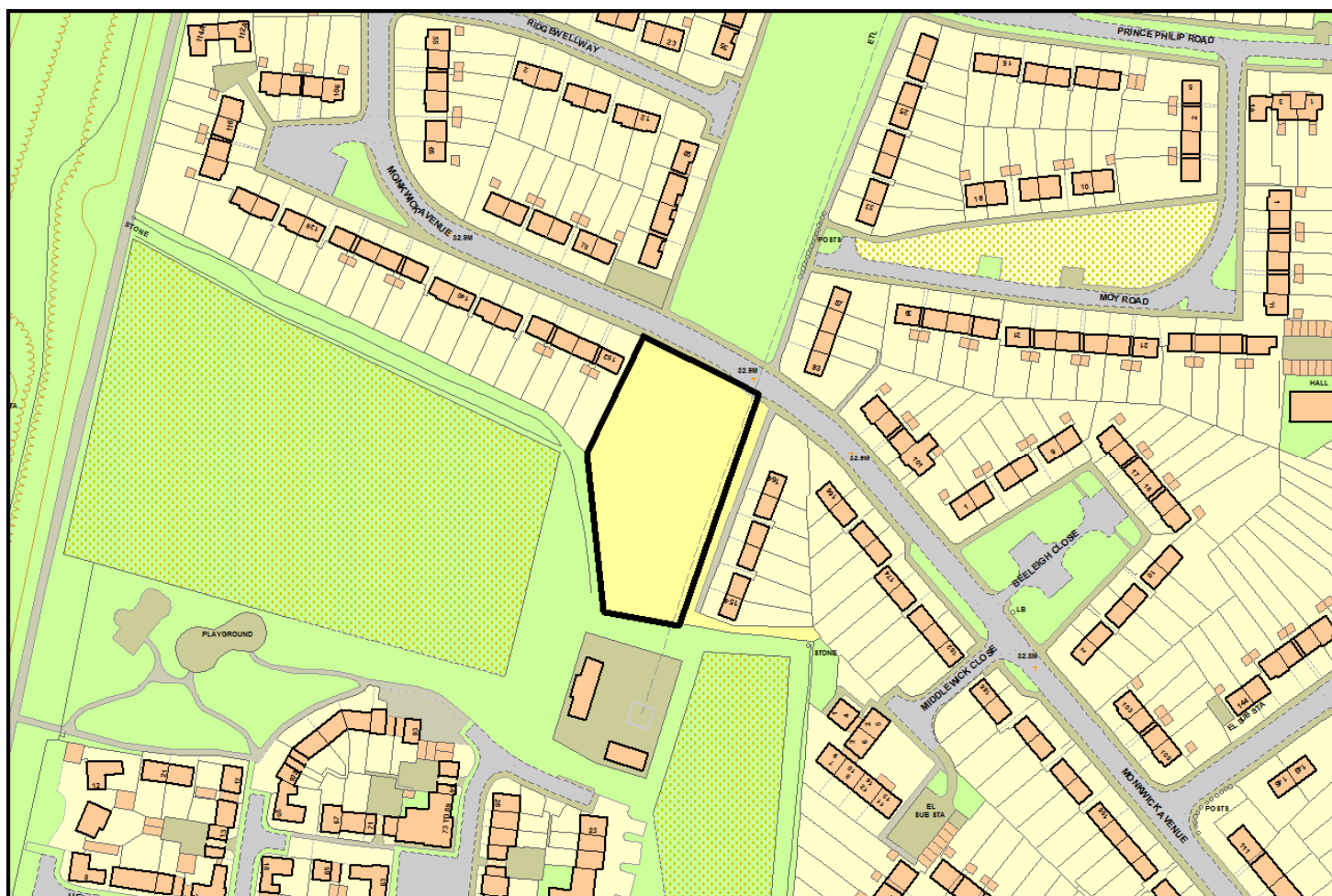
Members of the Committee confirmed that they welcomed the principle of Councillors calling-in applications for their consideration. Generally it was considered that the design of the proposal had been well thought through and included attempts to mitigate the impact on the neighbouring properties and the removal of permitted development rights in relation to the later addition of windows was preferable.

RESOLVED (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report.

173 150790 503a Ipswich Road, Colchester

The Committee considered an application for the demolition of an existing single skin porch, erection of deeper porch to accommodate a ground floor wc and the erection of a garden room at 503a Ipswich Road Colchester. The application had been referred to the Committee because the applicant was the parent of an employee in the Planning Team. The Committee had before it a report in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report.



Application No: 150115

Location: Garage Site 1, Monkwick Avenue, Colchester, CO2 8NA

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **25 June 2015**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Andrew Tyrrell

Due Date: 01/07/2015

MAJOR

Site: **Garage Site 1, Monkwick Avenue, Colchester, CO2 8NA**

Application No: **150115**

Date Received: **20 January 2015**

Agent: **Nps Property Consultants Limited**

Applicant: **Colchester Borough Council**

Development: **Variation of conditions 2 (Approved Plans) and 8 (Landscape) of planning permission 131957**

Ward: **Berechurch**

Summary of Recommendation: **Conditional Approval**

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Colchester Borough Council is the applicants. There has also been an objection to the application which is classified as a major application because it relates back to conditions on a major application that provided over 10 new council-built affordable homes.

2.0 Synopsis

- 2.1 The key issue explored below is the difference between the original proposal and the amended proposal in terms of the comparable highway safety issues and landscaping works (which are also affected by the changes). It is considered that the changes are minor and remain acceptable.

3.0 Site Description and Context

- 3.1 This site was a Council owned garage site that has, since the permission was given for the redevelopment, been cleared of the previous garage buildings and is (by the time of this meeting) completed as residential development.
- 3.2 There are 6 dwellinghouse units and 8 flat units being built on site, in the form of terraced buildings. The properties are all affordable homes built by CBC in order to help find ways to alleviate some of the housing needs register pressures on the Borough.

4.0 Description of the Proposal

- 4.1 The proposal under consideration is the variation of condition to allow new drawings to be substituted that show a different entrance junction arrangement, as well as some changes to the rhythm of the parking spaces and related landscape works. All of these changes are minor in nature and in terms of the overall development. They do affect the area of the site nearest to existing neighbouring properties.

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Relevant Planning History

- 6.1 The relevant history is application 131957 which was approved by the Planning Committee and permitted the development of the affordable housing units now under construction as part of a wider Council scheme to provide 34 units across 5 sites. This permission was then previously amended (January 2015) to allow for solar panels to be added to the roofs during construction in order to meet Code 4 of the Code for Sustainable Homes (instead of Code 3) under variation reference 146428 which the Committee approved.

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) encourages renewable energy as part of the general sustainable development ethos of planning.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character
PR2 - People-friendly Streets
TA4 - Roads and Traffic

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP17 Access and Accessibility

8.0 Consultations and Representations

- 8.1 ECC Highways have stated that the Highway Authority does not wish to raise an objection to the above application subject to a condition that no unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary. The plans clearly show this is to be hard surfaced in bound materials, it has already been completed as such, and in any case the original permission to which the conditions relate already controlled this so it would not be to be replicated herein (as this permission simply appends onto the original to change the existing condition 2). They also asked for some informatives which are not relevant for the same reasons.
- 8.2 The Landscape Officer has confirmed that they are satisfied with the landscape content/aspect of the proposals and have no objection.
- 8.3 One neighbour (156 Monkwick Avenue) has objected and then sent in 3 later comments. The first of these three responses was prior to receiving additional plans. At that time the neighbours objections stated that they could not see any mention as to the width of the new road beyond the junction with Monkwick Avenue which left uncertainties over the road width within the site and highlighted that the drawings of the junction showed a different layout of the parking bays. They requested these matters be shown in full to allow neighbours to be fully informed of what they were being consulted upon. That request was put to the agents who supplied additional amended drawings of the whole site to address these concerns.
- 8.4 Having seen the new drawings, the same neighbour then replied to state:

“Overall the new proposal looks very good, and earlier concerns about footpath access and planting have been well addressed. Our only objection now is the siting of the proposed new streetlight outside our property - 156 Monkwick Avenue (the proposed location for the light is shown next to the planting area marked 'K' on drawing 142-P6). This light would be directly outside bedroom & landing windows of our house - this has impact on our privacy, as well as adding to general light pollution. We feel that the light there may not be necessary at all if the existing light is to be kept as shown near planting area 'i', along with the new light by planting location 'n'. If an extra light is really necessary however, could it be sited at planting areas 'f' or 'e' instead? We ask that you consider omitting or relocating this light (currently proposed for siting in front of no.156) in the final development.”

8.5 That was then later added to with an additional comments that:

"...we feel we should point out that no's 154 & 156 already have their own low energy exterior lighting installed on the properties, which we find quite sufficient for illuminating the footpath outside our properties - thus further negating the need for installation, and cost of running the proposed street lighting at said location. We have also examined the plans with our neighbour at no. 158, who has also stated that she would rather not have a new lamp installed so close to the front of her property."

8.6 There was then another comment added later that:

"...in view of historical and, sadly, ongoing problems with motorcyclists using the previous and current temporary footpath as a track for racing around the estate (regardless of pedestrians), we would suggest that a metal (in view of vandalism to nearby wooden ones) kissing gate/ barrier to prevent cycling straight through on the new footpath (between planting areas 'h' & 'i') would be a better use of funds than the streetlight we have mentioned previously."

9.0 Report

9.1 This is a very minor amendment to the layout of the entrance junction into the former garage site. During the course of construction it became apparent that some of the underground cabling by one of the statutory undertakers was actually in a different place to where they had believed and relayed to the Council at the original application stage. This meant that had the proposed access alignment been laid out these cables would have had to be moved at great expense. Instead, a solution has been proposed which keeps the entrance closer to the former garage site layout, with an alignment within the site changed. The consequence of this is that the parking spaces immediately adjacent the entrance have then had to be sequentially moved to facilitate that entrance change, with some resultant changes to landscape works too.

9.2 Overall, these changes have no real impact or difference in planning merits to the original scheme. Either would be acceptable.

9.3 The comments received from the neighbour have been taken into account as far as they can be. Some of them report views from third parties who have not written into us and as these are unconfirmed they have been given less weight in the writing of this report. Some are also non-planning matters. The objectors states that *"Our only objection now is the siting of the proposed new streetlight outside our property"* but the impact on their amenities has been considered to be acceptable by your officer. Various other comments on neighbours existing lighting and the motorcyclists is noted, however these do not affect the application before us and it is that application that is under consideration. The later matter is a police matter.

10.0 Conclusion

10.1 The variation of the conditions to allow the changes to the entrance is acceptable in planning terms and no material planning consideration has been raised that would warrant a refusal of permission herein..

11.0 Recommendation

- 11.1 APPROVE subject to the variation of Condition 2 and Condition 8 to reflect the new drawings numbers submitted as set out below.

12.0 Positivity Statement

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.

13.0 Conditions

1 - *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 set out on the Drawing Register & Issue Sheet submitted.

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

2 - Non-Standard Condition/Reason

With the exception of the changes related to Condition 1 above, the development shall otherwise take place in accordance with the requirements of the conditions of planning permission 131957.

Reason: For the avoidance of doubt as to the scope of this permission and to ensure an appropriate quality of development.



Application No: 150809

Location: St Johns C of E Primary School, Clay Lane Grove, Colchester, CO4 0HH

Scale (approx): 1:1250

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7.2 Case Officer: Nadine Calder **Due Date: 25/06/2015**

MINOR

Site: **Clay Lane Grove, Colchester, CO4 0HH**

Application No: **150809**

Date Received: 30 April 2015

Applicant: St Johns C Of E Primary School

Development: Variation of conditions 3 and 4 of planning permission 090126 to allow 30 pupils to use the building and to allow opening of the building from 0745 hours to 1800 hours Monday to Friday during term time.

Ward: St Johns

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Councillor Paul Smith and for the following reason:

“The reason for the call in follows the concerns of Mr Wright, namely that the school only gained permission for an extension in December 2014, yet within 6 months this proposal has changed to introduce an increase in child numbers and opening times. Before the build has even been started, the school are now asking for a 50% increase in numbers and an earlier 7.45am start. There is concern that this will result in loss of privacy and that there will be parking congestion for longer times, along with increased noise levels to adjacent property. However, I have not yet heard the school’s argument for the development and there may well be counter arguments around the community benefits, which would then need to be balanced against these concerns. The Planning Committee are therefore asked to consider this balance in detail.”

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the proposed increase in the number of children allowed and the earlier opening hours of the building, the subject of this application on the amenities of neighbouring occupiers, in particular No. 7 Clay Lane Grove directly to the north of the building. Also under consideration are the potential impacts the proposal may have on highway safety and/or efficiency. A careful assessment has been made on site and having had regard to representations received from local residents as well as comments from statutory consultees, it is considered that the proposal would not cause any material harm to neighbouring amenities and would not have any detrimental impact on highway safety and/or efficiency. Nevertheless, in order to critically monitor the situation, it is proposed to grant temporary consent for one year and impose further conditions on the use of the building to ensure that the amenities of neighbouring occupiers are safeguarded at all times.

3.0 Site Description and Context

- 3.1 The school sits in a backland position between St John's Road, St John's Close and Ipswich Road. It is accessed via Clay Lane Grove off St John's Close or via a pedestrian access from St John's Road.
- 3.2 The nursery building is located in the north eastern corner of the site, immediately on the left of the Clay Lane Grove entrance of the site. It is a small flat roofed building and sits close to the boundary of the site with the neighbour at 7 Clay Lane Grove. The entrance is located on the side of the building nearest to this common boundary. The nursery play area is set to the rear and runs alongside the neighbour's private amenity area and tapers to a point.
- 3.3 The school is fenced off from the public domain and has automated gates at the Clay Lane Grove entrance. The nursery is fenced off again inside this area.

4.0 Description of the Proposal

- 4.1 The school has run a before and after school club known as 'Playzone' since 2009 when planning permission was granted for the conversion of the caretaker's bungalow to a nursery. The use of this building was restricted to a maximum of 20 children at any one time (condition 3) and between the hours of 08:00 and 18:00 on any one day and is restricted to use when St John's C of E Primary School is also open to children for schooling (condition 4).
- 4.2 The current application seeks to vary these conditions to allow an additional 10 children to use this building for the before and after school clubs (resulting in a maximum of 30 children at any one time) and to extend the hours of use by 15 minutes in the morning, resulting in the building opening at 07:45 instead of 08:00.
- 4.3 There are no physical works proposed as part of this application nor is it proposed to increase the total number of children visiting St John's C of E Primary School.

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 following planning history is relevant to the current proposal:

C/COL/03/1841	Change of use of caretakers bungalow to pre-school nursery	Approved 2004
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090126	Use of caretakers bungalow for child day nursery and other child education purposes	Approved 2009 Condition 2 limited use solely to child day care/nursery and other child education purposes Condition 3 limited the use to a maximum of 20 children at any one time Condition 4 limited use to 0800 to 1800 hours on school days only
100610	Extensions and new security gates and fencing	Approved 2010
110027	Application to change the hours of use to 2200 on weekdays and 0830 to 1800 at weekends	Refused 2011 due to the lack of information regarding the proposed use and the possibility it could be demonstrably harmful to neighbouring amenity
146392	Erection of a single-storey extension and provision of a canopy over parents waiting area and buggy/scooter park to 'Abacus Kindergarten' building.	Approved 2015

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations

SD3 - Community Facilities

UR2 - Built Design and Character

TA1 - Accessibility and Changing Travel Behaviour

TA5 - Parking

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

DP1 Design and Amenity
DP4 Community Facilities
DP17 Accessibility and Access
DP19 Parking Standards

8.0 Consultations

8.1 The Highway Authority raised concerns regarding the parking difficulties associated with this proposal, following which the Applicant submitted a supporting statement outlining the proposed development in greater detail. Having regard to the fact that this is not going to be an additional influx of students; i.e. the students are already in attendance at the school, and that allowing more students to arrive earlier will ease the problem at normal school drop off times, the Highway Authority is now content that there will not be a huge detrimental impact on the highway and as such has removed its objection to the proposal.

8.2 Environmental Protection does not object to the proposal subject to conditions. These are discussed in the Report section below.

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

9.0 Parish Council Response

9.1 This area is non-parished.

10.0 Representations

10.1 Five letters of objection on behalf of two households were received. The main objections can be summarised as follows:

- Overdevelopment of the site
- Increase in traffic movements
- There are existing parking problems at these times / lack of adequate parking
- Loss of privacy / overlooking
- Increase in noise and disturbance
- The school is in an unsustainable location

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

11.0 Parking Provision

11.1 The proposed development would not have an impact on the provision of parking. The impacts of the proposal on highway safety and efficiency are assessed in the sections below.

12.0 Open Space Provisions

12.1 There is no requirement for the provision of open space in connection with this application.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Background

- 15.1 There has been some confusion as to the scope of the current application given the limited information that was submitted it. The Applicant has therefore been requested to provide a supporting statement outlining the details of the proposal. The Applicant’s statement was made available to members of the public on the Council’s website, however, no further neighbour consultations were carried out as the nature of the proposal the subject of this application did not change. The additional information simply provided clarification with regards to the scope of and the motivation behind the proposal. It also assisted in addressing some of the concerns that were raised by statutory consultees.
- 15.2 It is important to note that the current application solely seeks permission to allow an additional 10 children to use the existing nursery building which is currently restricted to a maximum of 20 children at any one time and to allow the building to open 15 minutes earlier in the morning (i.e. 07:45 instead of 08:00).
- 15.3 Therefore, this application does not seek to increase the number of children visiting St John’s C of E Primary School. In the spring term 2014 the school was asked by Essex County Council to accept a ‘bulge’ year group of pupils totalling 30 children to start at the school in September 2014. This was due to a lack of primary school places for children in the North Colchester Area. As a result, at the beginning of the current academic year, the school roll increased from 211 to 241 children.
- 15.4 Within the supporting statement, the Applicant explains that the before and after school club, known as ‘Playzone’, supports the parents of children in the school by enabling them to drop their children at school early and to pick them up late. Playzone has only ever been accessible for children who are on roll at the school. However, as a result of the increase in the total number of pupils in September 2014, there is now an increased need for places in Playzone. Playzone’s operational hours are 07:45 to 08:45 and 15:15 to 18:00. Currently, the school accepts children into the main building at 07:45 and then transfers them to the Playzone building at 08:00 given the restrictions for the hours of use for the building.

- 15.5 The building the subject of this application is located to the north east of the main school building, directly adjacent to the entrance to the site off Clay Lane Grove and to the south of the neighbouring residential property No. 7 Clay Lane Grove. Given its location in a predominantly residential area, the application site is surrounded by residential dwellings to the north, east and south with Ipswich Road running along the west of the site. Having established the site specific circumstances of the application building and the scope of the proposal, the key issue with regards to this current application relates to the impact the increase in the number of children using the nursery building and the additional 15 minutes in the morning may have on the amenities of neighbouring occupiers in terms of noise and disturbance. Particular consideration has to be given to the amenities of the occupiers of No. 7 Clay Lane Grove given their proximity to the building.

Noise Generation and Impact on Neighbouring Amenity

- 15.6 Given that this application only relates to the before and after school club, any argument raised on noise grounds can only relate to the increase of up to 10 children using this club during the proposed hours of use and not to the current use of the nursery or the school itself.
- 15.7 The occupiers of No. 7 Clay Lane Grove are concerned that the increase in the number of children using the before and after school club would result in increased noise levels by up to 50 per cent, impact on their quiet enjoyment and negatively affect their privacy. It is acknowledged that the application building is located in close proximity to their dwelling and private rear garden, however, the proposed increase in hours of use and the number of children is not considered to have any materially harmful impact on the privacy of the neighbouring occupiers. During a site visit to the school, it was noted that any overlooking from the nursery building to the neighbour and their side facing windows would be very oblique. On the ground floor, there are two small windows, one of which is obscure glazed. On the first floor, there are two further windows, however, one of them serves a bathroom and is therefore obscure glazed while the other serves the landing, i.e. a non-habitable room. There is also a second floor window high up into the gable.
- 15.8 With regards to the two first floor windows, it is not considered that the proposed development would result in any overlooking that would harm the privacy of the neighbouring occupier, despite increasing the number of children using the building by up to 50 per cent, given that these two windows serve rooms that one does not generally spend a great deal of time in. Furthermore, the bathroom window is obscure glazed, thereby safeguarding the privacy of the neighbouring occupiers. Reference is also made to the possibility of looking into the bedroom windows from the playground at the rear of the building and into the living room from the area to the front of the building. Contrary to their objection comments, this area to the front of the building is not proposed to be an additional play area. Notwithstanding this, there is a mature hedge along the boundary of the application site and the neighbouring property and, therefore, there are no direct views into any ground floor windows on the neighbouring property from within the application site.

- 15.9 The outside space to the rear of the building, i.e. the area adjacent to the neighbouring rear garden, which the objectors state provides children with direct views into their bedrooms, is an existing play area and there are no restrictions in place that prevent the school from using this space as such for the 20 children that are allowed to be in the building at present. The objectors argue that an increase in the number of children being allowed within this building at any one time would increase the number of children that could look into their rear facing windows. It has to be noted that the size of the outside play space is fairly small and it is not considered that 30 children would be able to play in this area at any one time, however, it is understood that this nevertheless has to be accepted as a possibility. Therefore, the consideration has to be whether the increase in the number of children using this space would affect the privacy of the neighbouring occupiers to such a degree that would be materially harmful. During a site visit, it was noted that the rear facing window is set back a good 2.5 to 3 metres from the flank wall of the property and as such, it is considered unlikely that the privacy of the occupiers of No. 7 Clay Lane Grove would be materially affected even if the outside space were to be used by up to 30 children. The position of the window simply makes the angle of potential overlooking too oblique to cause any material harm to the amenities of neighbouring occupiers to justify a refusal on that basis.
- 15.10 Whilst it is not considered that the increase in the number of children using the building and its outside space would result in a materially harmful impact on the privacy of the neighbouring occupiers, it could have an impact in terms of noise and disturbance. This matter has been discussed at length with the Council's Environmental Protection Service which has previously received complaints regarding noise from the nursery. However, whilst consideration has to be given to the fact that the neighbouring residents are impacted on by the use of this building in such close proximity to their home, it has to be reiterated that this application does not relate to the nursery itself but solely to the use of the building for the before and after school club.
- 15.11 Notwithstanding this, detailed discussions were held with the Environmental Protection Officer to seek mitigation measures that would allow for the school to be able to meet the demand for their Playzone club while simultaneously seeking to reduce the impact this may have on the neighbouring occupiers to a minimum. Whilst it is considered unlikely that all 30 children would play within the outside space to the rear of the building at any one time, given its limited size, it is proposed to restrict the number of children that can use this space to a maximum of 20 which would be in line with its current permitted use. This would ensure that the outside activities directly adjacent to the neighbouring rear garden would be kept at their current level and would therefore not result in any increased noise and disturbance. Similarly, it is suggested that a condition shall be imposed requiring all windows and doors within the northern elevation of the building, i.e. those openings facing the neighbouring property, to be shut at all times except for access and egress to and from the building. These conditions have been discussed with the Applicant who has confirmed that they would be happy to comply with these requirements. It should be noted that whenever possible, the after school club uses the school's playing field for their outside activities while during bad weather the children would stay inside. As such, there are alternatives to the relatively small outside playing space directly adjacent to the rear garden of No. 7 Clay Lane Grove.

- 15.12 Having regard to the above, Officers are satisfied that the proposal to increase the number of children using the building would not give rise to any materially harmful impact on the amenities of neighbouring occupiers given that the outside play space would not be subjected to an increased number of children using it at any one time. However, in an attempt to allow neighbouring occupiers, in particular the occupiers of No. 7 Clay Lane Grove, to monitor the potential impacts of the increased activity within the nursery building, it is suggested that a temporary consent for one year should be granted. This would allow for the Applicant and neighbouring occupiers as well as the local authority to closely monitor the activities on site and to revisit the proposal in a year's time when a full assessment of the increased activity associated with the proposal based on the previous year can be made.

Traffic and Parking

- 15.13 As stated above, the proposal the subject of this application does not relate to an increase in children visiting St Johns C of E Primary School, it simply allows for up to 10 children making use of the school's existing before and after school club. Whilst initially raising concerns regarding the parking difficulties associated with the school, the Highway Authority has been provided with the Applicant's supporting statement which addresses those concerns. Having regard to the fact that this is not going to be an additional influx of students the Highway Authority does not consider there to be a huge detrimental impact on the highway raises no objection to the proposal.
- 15.14 Given that the children using the before and after school club already attend the school, the proposal would not result in an increase in the total number of car movements, it would simply allow for some parents to drop their children off earlier as well as picking them up later (which they do already). This would ease the problem at normal school drop off times.
- 15.15 The Applicant has confirmed that, at present, parents drop their children off on or around 07:45 for the breakfast club which runs from 07:45 to 08:45. At 07:45 children are allowed inside the main school building before they are transferred to the nursery building at 08:00. In the afternoon, the club runs from 15:15 to 18:00 with children usually being picked up between 16:30 and 18:00. Standard planning condition controls with regards to construction noise relate to the hours between 08:00 and 18:00 with vehicles being allowed to arrive after 07:30 and leave no later than 19:00. It is acknowledged that construction noise is only temporary while the use of the school on this site is more permanent, nevertheless, it is considered that a maximum of up to 10 vehicle movements around 07:45 and between the hours of 16:30 and 18:00 is not unreasonable. Similarly, given the fact that many children are already dropped off before 07:45, it is not considered that the proposal to open the nursery building 15 minutes earlier than what is currently allowed would materially change the vehicle movements and/or noise levels that currently exist on site. The main difference between the proposal and the current situation is that children could access the nursery building from 07:45 after having been dropped off by their parents rather than the school having to move the children from the main building into the nursery building at 08:00.

- 15.16 Having regard to the above, it is your Officer's opinion that the proposal would not have any negative impact in terms of highway safety and/or efficiency, nor would the additional vehicle movements in the morning and afternoon/early evening create any materially harmful impacts on the amenities of surrounding residents in terms of noise and disturbance.

Other Matters

- 15.17 Objections were received on the basis that the school is not in a sustainable location and is not close to public transport links, thereby failing to comply with policy DP17. This is a matter that has already been addressed as part of the most recent application for the extension of the nursery building and the provision of a canopy (146392). It was established that the application site is located well within the settlement limits of Colchester, surrounded by existing residential properties and is located within walking distance of bus stops. It has to be noted that this is not a proposal for a new building or use, but an alteration to the maximum number of children using it and an increase in the hours of use. As set out in the above paragraphs, the children already visit the school and there will therefore not be an increase in the total number of children on this site or additional car movements, simply a slight variation of up to 10 families dropping their children off at an earlier time and picking them up slightly later in the day. There is, therefore, no conflict with the afore-mentioned policy or the Government's requirement for sustainable transport modes as set out in paragraph 35 of the NPPF.
- 15.18 The objectors also state that condition 4 (hours of use of the nursery building) of planning permission 090126 has been and is being breached by the Applicant. The Planning Enforcement Team has investigated this matter and the Applicant has confirmed that the building was, in fact, used in excess of the allowed opening hours earlier in the year (i.e. from 07:45 instead of 08:00), however, following discussions with, and a site visit from, the Planning Enforcement Officer, alternative arrangements have been made ensuring that the building is only used within the permitted hours. This means that, currently, children are allowed to enter the main school building at 07:45 and are then transferred into the nursery building at 08:00. With this arrangement, there is no longer a breach of condition 4 of the afore-mentioned permission. As there is no need to take further action, the enforcement matter has been closed.
- 15.19 Further enquiries were made as to when the Applicant will provide the two replacement trees they are required to plant in place of those that were removed in favour of the extension to the nursery building (reference 146392). This requirement is embedded into the landscape conditions (5 and 6) which state that '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'. The Applicant has confirmed that they have identified the location for the two replacement trees and that the requirements of the afore-mentioned conditions for the planting of these trees will be complied with, i.e. that the two trees will be planted within the first planting season following the first occupation of the permitted development.

16.0 Conclusion

- 16.1 To conclude, whilst the views of local residents are understood, Officers are of the opinion that the proposal would not have any materially harmful impacts with regards to neighbouring amenities or highway safety and/or efficiency. A careful assessment of the proposal has been made on site and all objections raised have been discussed at length with statutory consultees as well as the Applicant. It is your Officer's opinion that there is no justification to refuse permission to vary conditions 3 and 4 of planning permission 090126 to allow an additional 10 children in the existing building and to open this building 15 minutes earlier in the morning subject to the conditions set out in the paragraphs above. Notwithstanding this, the Applicant agrees that the proposal needs to be carefully assessed in terms of its potential impact on neighbouring amenity and has agreed to a temporary consent for one year which will allow for the proposal to be revisited next year and will provide the Applicant with an opportunity to justify the acceptability of the proposal in the long term.

17.0 Recommendation

- 17.1 APPROVE subject to conditions.

18.0 Positivity Statement

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

19.0 Conditions

1 - Non-Standard Condition/Reason

With the exception of conditions 3 and 4 of Planning Permission 090126 which are hereby varied, the requirements of all other conditions imposed upon planning permission 090126 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

2 - Non-Standard Condition/Reason

The period of this permission to vary conditions 3 and 4 of 090126 shall expire at the end of the 2015/16 academic year, after which the requirements of conditions 3 and 4 imposed upon planning permission 090126 shall again apply in full. Reason: To enable the precise impacts of the proposal on the amenities of local residents to be assessed and reviewed.

3 - Non-Standard Condition/Reason

For the purpose of the before and after school club, referred to as Playzone club in the supporting statement, all windows and doors within the northern elevation of the building the subject of this application shall be closed at all times except for allowing access and egress to and from the premises.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of nearby residents by reason of undue noise during the hours of use associated with those clubs.

4 - Non-Standard Condition/Reason

The use hereby permitted shall be limited to a maximum of 30 children at any one time.

Reason: For the avoidance of doubt as to the scope of the permission, as this was the basis on which the application has been considered.

5 - Non-Standard Condition/Reason

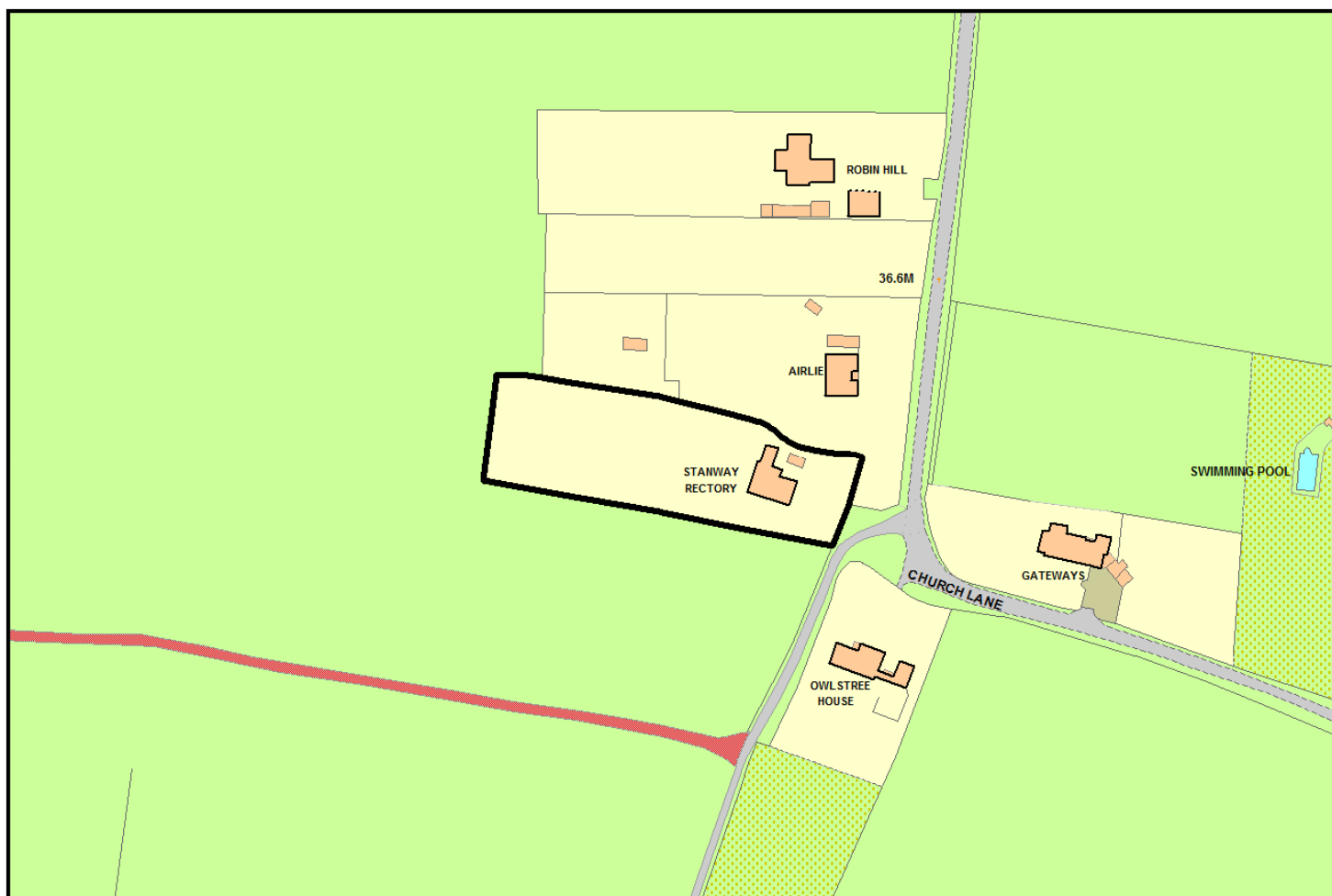
The use shall only take place between the hours of 07:45 and 18:00 on any one day that St John's C of E Primary School is also open to children for schooling and at no other time whatsoever, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of the permission, as this was the basis on which the application has been submitted and subsequently considered.

6 - Non-Standard Condition/Reason

Notwithstanding the details hereby approved, the use of the outside playing space to the east of the building the subject of this application and directly adjacent the private amenity space of No. 7 Clay Lane Grove shall be limited to a maximum of 20 children at any one time.

Reason: To safeguard the amenities of nearby residential properties.



Application No: 150746

Location: Stanway Rectory, Church Lane, Stanway, Colchester, CO3 8LR

Scale (approx): 1:1250

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Site: Stanway Rectory, Church Lane, Stanway, Colchester, CO3 8LR

Application No: 150746

Date Received: 11 May 2015

Agent: Tim Moll Architecture Ltd

Applicant: Mr Mclean

Development: Demolition of outbuildings and construction of single storey and two storey extensions.

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is related to a Member of the Council.

2.0 Synopsis

- 2.1 The key issues explored below are that of design and amenity. The proposal is considered to have an acceptable design that would not result in any amenity issues – such as overlooking or overshadowing. Approval is recommended.

3.0 Site Description and Context

- 3.1 The application property is a red brick and plain tile detached two-storey dwelling with attached single-storey addition and detached single garage set in spacious grounds. The property is setback approx. 40 metres from the highway, with an intervening coppice of trees located between the application property and the highway. The application site is bounded by agricultural land to the north and west, with the nearest residential properties located to the east (Airlie) and south-west (Owlstree House), both of which are two-storey properties.

4.0 Description of the Proposal

- 4.1 The proposal is for the demolition of the existing detached single garage, and attached single-storey utility room, and erection of single-storey and two-storey extensions.
- 4.2 The single-storey elements include the provision of a dining room, utility, w/c, workshop and triple garage to the front and side of the dwelling. The single-storey extensions would be a maximum of 4.7 metres in height, and protrude approx. 11.5 metres forward of the existing dwellinghouse. The dining room, utility and workshop would be finished in a cream render, with roof tiles to match the existing plain tiles.

The triple garage would be finished in back hardiplank cement boarding, and matching plain tiles to the roof. Three roof-lights are proposed in the roof slope of the workshop and garage extensions, all facing into the site.

- 4.3 The two-storey element to the side of the dwelling includes the provision of an extended family kitchen at ground floor, with an additional bedroom at first floor. The extension would be a maximum of 8.8 metres in height, and 7.1 metres in width. The extension would be finished in cream painted render, and plain tiles to match existing.
- 4.4 The application drawings also include a rear facing dormer window in the roof slope of the existing dwelling. This dormer window would be classed as permitted development and therefore does not form part of the proposal.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 None

7.0 Principal Policies

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

UR2 - Built Design and Character

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

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

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

N/A

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

Vehicle Parking Standards
Extending Your House?
The Essex Design Guide

8.0 Consultations

- 8.1 CBC Environmental Protection – Suggest advisory note and condition regarding the Control of Pollution during Construction & Demolition Works, and hours of working.
- 8.2 Natural England – No comments to make regarding this application.

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

9.0 Parish Council Response

- 9.1 No comments have been received from the Parish Council.

10.0 Representations

- 10.1 None received.

11.0 Parking Provision

- 11.1 No change.

12.0 Open Space Provisions

- 12.1 No change.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 The application site is located outside of the defined settlement boundary of Stanway. Policy DP13 of the adopted Colchester Borough Development Policies (adopted 2010, amended 2014), states development of this nature outside of the settlement boundaries will be supported only where all the following relevant criteria can be met:

- (i) Respects and enhances the character of the original dwelling and does not significantly alter its size;
- (ii) Respects and enhances the landscape character and setting of the site and the wider rural area; and
- (iii) Avoids a cramped form of development and retains an appropriate level of private amenity space for the occupants of the dwelling.

The principle of development is therefore acceptable, subject to the detailed criteria above.

Design and Layout

15.2 The proposed two-storey extension would be recessed from the existing dwelling by an appropriate amount and would be 0.5 metres lower than the existing dwelling. Both of these factors would mean that the proposal would be read as a subservient addition that would not overwhelm the original dwelling.

15.3 The single-storey extensions whilst projecting forward of the existing dwelling would not harm the setting of the site, given its spacious setting and setback from the highway, and given the break in roof levels between the workshop extension and triple garage, the garage would read as a separate addition. This is accentuated by a change in materials between the workshop and garage.

15.4 Whilst the roof materials are to match the existing plain tiles found on the dwellinghouse, the proposed facing materials differ from that on the existing dwelling, being soft red bricks. Given the age of the property, likely to be circa 1930, finding a suitable brick match may be difficult. The proposal therefore includes a cream painted render and black hardiplank cement boarding to the triple garage. These materials are considered to be acceptable, and assist in reading the extension as a subservient extension and a later addition to the historic evolution of the property.

Impact on the Surrounding Area

15.5 Church Lane is a rural lane punctuated by large residential properties set within spacious grounds. The application site itself is large and can accommodate the proposed development comfortably.

15.6 Neighbouring properties are two-storey in form, with single-storey attached and detached additions. The pallet of materials on surrounding properties are also mixed, with in particular Robin Hill to the north of the site which has a mixture of red brick, cream painted render and black boarding.

- 15.7 The site is fronted by a small coppice of trees (which is outside of the red line of the application) which helps to screen the property from views from the public highway. It is considered the proposed development will not have any adverse impact on landscape character, the setting of the site and the wider area.

Impact on Neighbouring Properties

- 15.8 Regarding amenity the nearest neighbour to the proposal is the property known as Airlie to the north of the application site. The proposed extension would be a minimum of 3.2 metres from the boundary, and approx. 21 metres from the side elevation of Airlie. Whilst the boundary line is formed by metre high chestnut pale fencing, there are a number of mature trees within the ownership of the neighbouring property which would help to screen the development. In any event given the distance of the extension to Airlie, and that no first floor side windows are proposed in the two-storey extension, the proposal is not considered to have any adverse impact on the amenities of neighbouring properties by way of overlooking or overshadowing.

Other Matters

- 15.9 The proposal will retain an appropriate level of private amenity space for the occupants of the dwelling, and would not appear cramped or overdeveloped.
- 15.10 It is noted that the parking spaces within the triple garage are under-sized when assessed against the adopted Parking Standards, however the property is afforded significant parking, turning and manoeuvring facilities within its frontage, which would still be retained following the implementation of this development. As a result, the under-sized parking spaces are not considered to be a reason to refuse planning permission.

16.0 Conclusion

- 16.1 The design is considered acceptable and there would be no detrimental amenity impacts. The proposal is therefore considered acceptable and would comply with Policies DP1, DP13 and UR2.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 03B and 02F.

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

3 - Materials as Stated in Application

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

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

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

25 June 2015

Report of	Head of Professional Services	Author	Andrew Tyrrell
Title	Changes to the Scheme of Delegation		
Wards affected	All Wards		

This report concerns a change to the Scheme of Delegation to divide one category of delegated powers into two separate categories. Currently the discharge of conditions, non-material amendment, minor material amendment and reserved matters applications are all grouped under one power delegated to Officers. However, it is proposed to split these so that the level to which they are then delegated down can be differentiated.

1. Decision(s) Required

- 1.1 To split delegated power 2 in the existing Scheme of Delegation for Planning to both Professional Services and Commercial Services (see proposals in Section 5).

2. Reasons for Decision(s)

- 2.1 This change to the Scheme of Delegation is required to divide one category of delegated powers into two separate categories. Currently the discharge of conditions, non-material amendment, minor material amendment and reserved matters applications are all grouped under one power delegated to Officers. However, it is proposed to split these so that the level to which they are then delegated down can be differentiated.
- 2.2 Non-Material Amendments and the Discharge of Conditions are types of application that come after an initial planning permission is granted, and upon which the later decision then appends. They do not grant a new permission in its own rights and only deal with matters that have previously been agreed in principle within the original application. These matters have always been dealt with at Planning Officer level.
- 2.3 However, the Minor Material Amendment application does grant a new planning permission and is subject to consultation. The matters within a material amendment are “material” and this means that they may affect other parties (neighbours, statutory consultee bodies). The same is true of Reserved Matters applications, where these grant detailed planning permission after an Outline application has earlier agreed the principle of development.

- 2.4 Because these later two types of application grant a new permission in its own right it is considered that they should be distinguished from the earlier Conditions and Non-Material Amendments (which don't grant a new permission). The Heads of Service would then be able to limit the delegation of Minor Material Amendment and Reserved matters application to Principal Planning Officer (and not down to Planning Officer where the Discharge of Conditions and Non-Material Amendments are already delegated to. In other words, Planning Officers would not be able to authorise Minor material Amendments or Reserved matters applications without the authorisation of a Principal Planning Officer, Manager or Head of Service.

3. Alternative Options

- 3.1 The alternative option is to retain the Scheme of Delegation as it stands now, with these 4 different types of application combined into one delegated power that is delegated down to Planning Officer level.

4. Supporting Information

- 4.1 Members of the Committee will be familiar with the Scheme of Delegation already, however copies of this can be found on the Councils website.

5. Proposals

- 5.1 To change the current wording within the Scheme of Delegation as below:

"2. The determination of applications for the approval of reserved matters, details required by a condition on a planning permission and non-material or minor material amendments, unless the Planning Committee at the granting of the outline / original planning permission indicates that it requires to determine the aforementioned matter itself."

To read as two separate parts, and as follows:

"The determination of applications for the approval of reserved matters or minor material amendments, unless the Planning Committee at the granting of the outline / original planning permission indicates that it requires to determine the aforementioned matter itself."

The determination of details required by a condition on a planning permission and applications for a non-material amendment, unless the Planning Committee at the granting of the outline / original planning permission indicates that it requires to determine the aforementioned matter itself."

- 5.2 The two parts would then be numbered separately and the remaining powers from the current number 3 would then be re-numbered accordingly.

6. Standard References

- 6.1 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.