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**Item No:** 7.2

**Application:** 211117

**Applicant:** Mrs Marguerite Haddrell

**Proposal:** Erection of four bedroom detached house

**Location:** Land Adjacent To, 3 Highfield Drive, Colchester, CO3 3QA

**Ward:** Lexden & Braiswick

**Officer:** Chris Harden

**Recommendation:** Refusal

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Lyn Barton who states that the “design and access statement was loaded incorrectly on the web page --- in my opinion in view of the controversy surrounding this application I feel it should be discussed by committee in terms of fairness and openness ..It is important decisions are made on current planning policy not previous application in 2015.”

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact of the dwelling upon its surroundings as well as any issues relating to neighbouring residential amenity, highway safety and impact upon vegetation.
- 2.2 The application is subsequently recommended for refusal. It is considered that proposed development would lead to the loss of this attractive, open green corner and would thus erode the feature that gives the area its quality to the serious detriment of the character and appearance of the street scene and surroundings. The flank wall of the substantially sized dwelling would be considerably closer to the Drive than the existing dwelling and would result in a cramped form of development that would detract further from and harm the character of the area.
- 2.3 The proposal would also result in a private rear garden of limited size in comparison with the more generous plot sizes found in the immediate area, thus detrimentally changing the character of this part of Highfield Drive. The proposal would be discordant with its context and would fail to enhance the attractive and tranquil character of the area. Applications for a dwelling on the site have previously been dismissed on appeal, the latest in 2015 (145426 & 146416). The Inspector concluded that the undeveloped site was an “important feature that contributes to the character of the Drive and area.”

## **3.0 Site Description and Context**

- 3.1 The site lies within the settlement limits as defined in the Colchester Borough Council Local Plan and currently comprises part of the side and rear garden to No.3 Highfield Drive, an unmade lane leading from Lexden Road, and beyond the Conservation area. The site slopes down to the adjacent lane. The host property is one of a series of three mid 20th century houses on this lane, with a further two properties at the bottom. The lane is relatively well screened with trees, especially along the western side. No trees of any merit are on the site itself although a group of trees with preservation orders are found on the other side of the lane.

## 4.0 Description of the Proposal

- 4.1 The proposal comprises the erection of four bedroom, pitched roofed, detached house. It would be positioned slightly set back from the frontage of the adjacent No.3 Highfield Drive and would measure approximately 6.5 metres in terms of gable width and just over 8 metres in height.

## 5.0 Land Use Allocation

- 5.1 Within settlement limits.

## 6.0 Relevant Planning History

- 6.1 200847 Erection of four bedroom detached house  
Withdrawn: 17.6.20
- 6.2 151993  
Two storey side extension.  
Approve Conditional - 20/11/2015
- 6.3 145426  
Erection of three bedroom detached house  
Refuse - 09/10/2014 Appeal dismissed
- 6.4 145559  
Renewal of planning permission 111460 for a two storey side extension.  
Withdrawn - 27/11/2014
- 6.5 146416  
28/11/2014 -  
Erection of two bedroom detached bungalow (Resubmission of application 145426)  
Refuse - 21/01/2015 Appeal dismissed.

*Inspector's comments for dismissed appeals 145426 & 146416:*

..The area includes a number of small cul-de-sacs and although it is within the built up area I consider it has **retained a sylvan character** with a significant number of trees and shrubs. The site is mainly grassed with a fence separating it from No 3 and the garages and along the road edge there is a low timber rail. Although partly fenced and somewhat unkempt at the time of my visit it **nevertheless provides an important feature that contributes to the character of the Drive and area.**

7. The developments proposed are for the erection of a detached two storey, 3 bedroom dwelling or a detached 2 bedroom bungalow. These would be sited within the open area and **would erode the feature that gives the area its quality. They would provide a discordant element that would fail to retain the attractive character by further urbanising the area.**

8. Furthermore, the existing properties on the Drive are set well back from the road frontage and whilst the areas in front of the properties are used

for parking there is also a considerable amount of vegetation. The **combination of the set back and verdant appearance contributes to the character of the area.** However, the proposed developments would result in the **flank wall of the dwellings being considerably closer to the Drive. This would provide a cramped form of development that would detract further from and harm the character of the area.** Although the proposals include retention and reinforcement of landscaping on the site I do not consider any scheme of landscaping would reduce the harm caused by a dwelling on the site.

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

10. There have also been a number of applications refused for a new dwelling and one appeal for the erection of one detached three bedroom house and replacement garages was dismissed in 2011<sup>1</sup>. Although this decision predates the Framework I consider the Inspector's conclusions regarding the effect of a new dwelling on the site still to be relevant. **I consider the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area.**

11. A number of matters have been put forward by the appellant to support the proposals. The site is vacant and untidy and it is suggested the proposals would improve the appearance but such arguments could easily be replicated elsewhere to justify a proposal that is otherwise unacceptable and there are other options open to the Council if the condition of the site deteriorates.

12. My attention has also been drawn to a relatively recent development comprising a new dwelling sited to the rear of No 1 and 2 Highfield Drive. From my visit this development differs in a number of ways from the appeal proposals as the site is considerably larger allowing space around the building to be retained and it is not a prominent corner site. I therefore do not consider the development provides support for the appeal proposals. Reference is also made to a number of other developments within the Borough but I do not have the full details nor do I know the circumstances that led to the developments. **In any event I must determine these appeals on their merits.**

13. I have noted the Council has not raised concerns regarding the external appearance of the dwellings, the effect on living conditions of nearby residents, amenity space provision or that the developments would create a highway hazard. A number of interested parties have raised concerns regarding highway and parking matters but I am satisfied that one additional dwelling would not lead to an increase in additional traffic or congestion that would justify dismissal of the appeals. The design of the proposed dwellings is pleasant and from my visit I am satisfied would not result in a loss of privacy or other impacts that would detract from the

living conditions of nearby residents. However, these factors do not outweigh my concerns regarding the effect of the development on the character and appearance of the area.

14. Having considered carefully all the points made **I do not consider the benefits of the proposal outweigh the harm to the character, quality and appearance of the area. I therefore conclude both proposals conflict with CS Policy UR2, DP Policy DP1 and the SPG.**

6.6      111460  
10/08/2011 - Full (8 Week Determination)  
Two storey side extension  
Approve Conditional - 15/09/2011

6.7      102315  
10/11/2010 -  
One detached three bedroom house and replacement garages.  
Resubmission of 101564.  
Refuse - 16/12/2010

6.8      101564  
27/07/2010 -  
One detached four bedroom house and replacement of existing detached garage.  
Refuse - 21/10/2010

*Refusals for det dwelling under refs 101564 & 102315 with appeal dismissed, the Inspector having concluded :*

"As I saw it at my site visit, this part of Colchester has a character which relies heavily on the interaction of the built environment with the significant amount of trees and shrubs. This character is present in Highfield Drive, where trees and bushes provide the backdrop to the dwellings making a substantial contribution to the attractive quality of the area. The site comprises part of a garden and the double garage to number 3 Highfield Drive. At the front of the site, alongside the existing dwelling, there is an area of lawn that is fairly open with a recently erected fence at the boundary. Behind this, to the east, there is a substantial amount of reasonably dense and tall planting. **At present I judge that this plays a full part in defining the attractive character of the cul-de-sac.**

**The appeal proposal would change the character of this part of Highfield Drive, reducing the very quality which makes this an attractive living environment.** I conclude that it would be contrary to Policy UR2, which resists developments which are discordant with their context and fail to enhance the character, quality and function of the area."

## **7.0 Principal Policies**

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

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

- SD1 - Sustainable Development Locations
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- UR2 - Built Design and Character

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

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

N/A

7.5 Neighbourhood Plan: Not applicable.

## 7.6 Submission Colchester Borough Local Plan 2017-2033:

### **Adopted Local Plan and Emerging Local Plan Status – March 2021**

#### **Overview**

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to be examined, with hearing sessions scheduled for two weeks between 20 and 30 April 2021. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

#### **Adopted Section 1 Local Plan**

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website [here](#).

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

## **Emerging Section 2 Local Plan**

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 competing examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as we have yet to receive the Inspectors report following the examination, the exact level of weight to be afforded to Part 2 plan policies will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

## **5 Year Housing Land Supply**

Section 1 of the Emerging Local Plan was adopted by the Council on the 1 February 2021 and therefore carries full weight.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes. The Council can demonstrate in excess of a five year housing land supply.

## **Further Local Plan information is outlined in Appendix 1**

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Backland and Infill  
Open Space, Sport and Recreation  
Sustainable Construction  
managing Archaeology in Development.

## **8.0 Consultations**



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

**8.2 Cllr Lewis Barber has stated:**

“1. The private drive is narrow and has no sight splay at its junction with Lexden Road, and none are proposed as part of the development. This access is already a hazard to pedestrians and further development will exacerbate the problem. This matter is neither covered by ECC highways policy in regard to private roads, nor by Borough Planning Policy, so the Planning Committee needs to take a decision on the safety issues pertaining to the proposed development.

2. The proposed site is very small and tightly constrained and the designated parking for a 4 bedroom house appears to have extended beyond the curtilage of the development site so as to impede the flow of traffic to other houses. Again this is a grey area that needs determination by the Planning Committee.

3. While each application is determined on its merits, there is a history of refusal of appeals on this site for similar developments, and the Inspector’s conclusions need to be weight for relevance by the Planning Committee in regard to this application.”

**8.3 Highways Authority states:**

“The Highway Authority observes that Highfield Drive is classified as a Private Road and therefore does not object to the proposals as submitted.

Informative1: The applicants should be requested to demonstrate that vehicular rights of access exist in perpetuity and that adequate and suitable access arrangements can be provided for construction traffic and activities.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:  
SMO1 – Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ”

**8.4 Archaeologist states:**

The proposed development is situated within the area of archaeological interest that has been defined in the Colchester Historic Environment Record, is within the area of a Roman cemetery. A Roman inhumation burial is recorded less than 75m to the southwest of this property (Colchester HER no. MCC2504).

Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

The following archaeological condition (Z00) is recommended:

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions;

and:

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

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority.

The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

I will, on request of the applicant, provide a brief for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

Pre-determination archaeological evaluation is not required for this proposal.

However, I would recommend that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

**8.5 Colchester Cycling Campaign state:**

Reason for comment: Object to the proposal

Comment: Secure cycle parking should be provided at one space per bedroom (Table 11-1 LTN 1/20) that is as convenient as the car garage.

Colchester Cycling Campaign P.S. The Design and Access Statement appears to be missing. The Location Plan has been uploaded twice.

**9.0 Parish Council Response**

**9.1 Non-Parished.**

**10.0 Representations from Notified Parties**

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

10.2 8 letters of objection have been received, raising concerns about the following issues:

- Accessibility of Emergency services and refuse collection- services have great difficulties in accessing this narrow private lane without passing bays.
- Highway Safety-on several occasions large vehicles have attempted to reverse back up the drive. On several occasions because of cars blocking the lane refuse collection was delayed & indeed suspended as unable to access lane & as recent as last year the wall to number 4 was damaged as a large vehicle attempted to pass an oncoming vehicle on the lane.
- Would add to an already congested private drive. Can be up to 9 cars parked at the bottom of Highfield drive.
- 7th appln to build since 2014
- Parking is constant problem.
- Prior to the applicant severing the plot in the hope of building a house on it, the land comprised a large and attractive corner garden owned and maintained by the resident of 3, Highfield Drive.
- large house will be completely out of character with the existing 1930's properties preceding it on the lane as well as the larger houses further down, all of which are characterised by spacious plots to front and rear.
- Despite its proximity to Lexden Road and the Town Centre, Highfield Drive has a unique and rural character which is highly valued by its small community of long-term residents.
- Section 10 states the parking for two vehicles. Appendix A that shows the title deeds for this land. Ms Haddrell persistently ignores this document.
- Hedging already removed.

- Wildlife habitat.
- Contrary to policy DP1.
- Only room for one parking space in front of existing garage
- Although the building is aesthetically unattractive and detrimental to the lovely, open atmosphere of the lane, the main issue is traffic and parking.

## **11.0 Parking Provision**

11.1 2 spaces.

## **12.0 Accessibility**

12.1 The proposal has the ability to comply with the provisions of the Equalities Act in respect of access for the new dwelling.

## **13.0 Open Space Provisions**

13.1 N/A

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

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

## **16.0 Report**

### Principle:

16.1 The site lies within the development boundary and in a reasonably sustainable location surrounded by established residential development. In accordance with Local Plan settlement policy SD1 and emerging Local Plan policy SP1 and the NPPF (which has a presumption in favour of sustainable development), the proposal should be judged on its planning merits. Regard also needs to be had to the planning history of the site as a material consideration, which includes previous refusals and appeal dismissals along with consideration of the case put forward by the agent, which includes examples of other sites.

### Impact upon surroundings:

16.2 The latest previously determined applications for a dwelling on this site (146416 & 145426 ) were refused on the grounds of the new dwelling’s adverse impact upon its surroundings and the appeal subsequently dismissed for the reasons shown in the Planning History (6.1) above. It is considered that these reasons

for refusal have not been overcome and that there is not a significant change in Local Plan policy or the NPPF or other planning circumstances to warrant a different decision now being reached. This proposed building is larger than that previously refused and although its design in itself is unobjectionable, its scale exacerbates the loss of open space. The previous reasons for refusal on the grounds of impact upon the character of the surroundings are applicable, namely:

*"In this instance, Highfield Drive is a secluded, wooded lane, with a row of three houses sharing a common building line. The corner subject to this application is a green garden feature which enhances the open, airy, character of the area. **The proposed development would lead to the loss of this green corner and results in a private rear garden of limited size by comparison to the more generous plot sizes {DP16} found in the immediate area, thus changing the character of this part of Highfield Drive and reducing the very quality which makes this an attractive living environment. It would be discordant with its context and fails to enhance the attractive and tranquil character of the area, contrary to the aims and intentions of policies UR2 and DP1 as outlined above, as well as the above supplementary planning documents and national policy guidance.**"*

- 16.3 The appeal Inspector agreed that the site was an important open green feature and that a dwelling on this site would harm the character, quality and appearance of the area, commenting:

*"...nevertheless provides an important feature that contributes to the character of the Drive and area."*

*"...would erode the feature that gives the area its quality. They would provide a discordant element that would fail to retain the attractive character by further urbanising the area."*

*...combination of the set back and verdant appearance contributes to the character of the area.*

*...flank wall of the dwellings being considerably closer to the Drive. This would provide a cramped form of development that would detract further from and harm the character of the area.*

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

- 16.4 These comments remain pertinent to the current proposal and the concerns and serious impact upon the character of the location have not been overcome. Regard has been had to the planning history submitted by the applicant, including other schemes that she considers are comparable and have been favourably determined. However, each site is different and needs to be judged on its planning merits. It is not considered the other examples warrant changing the unfavourable recommendation, a fact acknowledged by the Inspector on the previous case when some examples were submitted.

16.5 The approved two storey side extension (151993) eats into far less of the site than the proposed dwelling. The fact that there had been a previously approved extension prior to the appeal decision had also been taken into consideration by the Inspector.

16.6 Accordingly, overall it is considered that the proposal should be refused on the same grounds as previously and it remains contrary to Local Plan policies DP1, UR2 and the Backland and Infill SPD for the same reasons. It also conflicts with the NPPF, in particular section 12 which provides that “the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve.”

16.7 As before and outlined by the Inspector, “it is not considered the benefits of the proposal outweigh the harm to the character, quality and appearance of the area.”

5 year land supply

16.8 As outlined in the Planning policy section above, the current position is that the Council has a 5 year Housing Land Supply, supported by the most recent appeal decisions and as such paragraph 11(d) of the NPPF is not engaged.

Impact upon neighbouring residential amenity:

16.9 Owing to the location and orientation of the property and distance from neighbours it is considered the proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.

- 16.10 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.11 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. The rear first floor windows would look down the rear garden. The property would be far enough from dwellings opposite to avoid any significant overlooking.

Highway Issues

- 16.12 The Highways Authority has raised no objections and state that this is a private road. Overall there would be space to provide adequate parking. The existing garaging is unlikely to be policy compliant in terms of size but it exists and there is the space to provide additional policy compliant space. Visibility is good in one direction and as exists in the other. Consultation responses have raised a number of concerns about the width of the lane, current congestion and highway safety issues. However, it is not considered these concerns can form part of the refusal particularly as the Highways Authority have not objected and the introduction of one dwelling would not substantially intensify vehicular traffic. The residual cumulative impacts on the road network would not be severe as referred to in Para 109 of the NPPF. Overall it is not considered there is a justification to refuse the application on highway safety (DP1) and parking provision (DP19) grounds.

Other:

- 16.13 No archaeological issues to warrant a refusal but an archaeological watching brief condition would have been applied if the application had been recommended favourably. (DP14).
- 16.14 It is not considered there is a justification for refusal on site specific wildlife grounds. This is relatively small parcel of land with no particular wildlife value. It is not particularly overgrown, there are no ponds nearby or outbuildings that could harbour bats. The proposal therefore does not conflict with Policy DP21 in this respect.
- 16.15 A RAMs wildlife mitigation payment would be required to mitigate against recreational disturbance to wildlife sites and at the time of writing this report this has not been made so this will need to form part of the refusal reason.
- 16.16 Unilateral Undertaking forms have been completed.
- 16.17 There are no trees of significance on the site and it is unlikely that there would be such a significant impact upon vegetation nearby to warrant a refusal on tree impact grounds. TPO trees are unaffected.
- 16.18 The proposal would also result in a private rear garden of limited size in comparison to the more generous plot sizes found in the immediate area, thus

detrimentally changing the character of this part of Highfield Drive, contrary to the background text supporting Policy DP16.

- 16.19 The Design and Access Statement has now been loaded correctly on the website and a reconsultation undertaken with this information available.

## **17.0 Conclusion**

- 17.1 In conclusion, it is considered that proposed development would lead to the loss of this attractive, open green corner to the serious detriment of the character and appearance of the street scene and surroundings. The flank wall of the substantially sized dwelling would be considerably closer to the Drive than the existing dwelling and would result in a cramped form of development that would detract further from and harm the character of the area. The proposal would also result in a private rear garden of limited size by comparison to the more generous plot sizes found in the immediate area, thus detrimentally changing the character of this part of Highfield Drive. The proposal would be discordant with its context and would fail to enhance the attractive and tranquil character of the area. Applications for a dwelling on the site have previously been dismissed on appeal the latest in 2015. The Inspector concluded that the undeveloped site was an "important feature that contributes to the character of the Drive and area."

## **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee is for:

REFUSAL of planning permission for the reasons set out below:

1. Highfield Drive is a secluded, wooded lane, with a row of three houses sharing a common building line. The corner site the subject of the application for a two storey dwelling is an important open, green, garden feature which enhances the open, airy, character of the Drive and area. The combination of the set back of the existing dwelling and verdant appearance of the site contributes significantly to the character of the area. The proposed development would lead to the loss of this green corner and would thus erode the feature that gives the area its quality to the serious detriment of the character and appearance of the street scene and surroundings. The flank wall of the substantially sized dwelling would be considerably closer to the Drive than the existing dwelling and would result in a cramped form of development that would detract further from and harm the character, quality and appearance of the area. The proposal would also result in a private rear garden of limited size by comparison to the more generous plot sizes found in the immediate area, thus changing the character of this part of Highfield Drive and reducing the very quality which makes this an attractive living environment. It would be discordant with its context and fails to enhance the attractive and tranquil character of the area.



The proposal would therefore be contrary to the following policies of the Colchester Borough Council Local Plan Core Strategy (Adopted Dec 2008 revised 2014) and Development Policies (Adopted Oct 2010 revised 2014):

- (i) Policy UR2 which provides that the Borough Council will promote high quality and inclusive design in all developments to make better places for both residents and visitors. It also provides that developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported.
  - (ii) Policy DP1 which provides that all development must be designed to a high standard, respect and enhance the character of the site, its context and surroundings in terms of scale and townscape setting and respect assets that contribute positively to the site and surrounding area.
  - (iii) The proposal would also conflict with the Borough Council's adopted "Backland & Infill Development" SPD, which requires a high standard of design, an appropriate architectural approach, relating well to the surrounding context, and an enhancement in the character of an area.
2. Under the Habitats Regulations, a development (including residential) which is likely to have a significant effect or an adverse effect (alone or in combination) on a Special Protection Area must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

Insufficient information has been provided to enable proper assessment of the proposal in accordance with The Conservation of Habitat and Species Regulations 2017. Without this, there is no certainty that the development would not adversely affect the integrity of Habitats sites. The proposal is therefore considered contrary to Regulation 63 of The Conservation of Habitat and Species Regulations 2017.

In accordance with emerging Essex Coast RAMS requirements, a proportionate financial contribution is considered to be required to mitigate wildlife impact from recreational disturbance. Accordingly, all new residential proposals within the borough (in this case one extra dwelling) should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance generated by people travelling to such sites from new dwellings to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast RAMS requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites. The proposal is therefore contrary to the Local Plan Policy DP21

(adopted 2010, revised 2014) and Policy ENV1 (Environment) of the emerging Local Plan.

## **Appendix 1 – Policies Superseded from the Core Strategy Focused Review 2014 by the Shared Strategic Section 1 Local Plan**

### **General Local Plan Status**

The Colchester emerging Local Plan (eLP) was submitted to the Planning Inspectorate in October 2017. The Plan is in two parts with Section 1 being a shared Strategic Plan for the North Essex Authorities (Colchester, Braintree, and Tendring). Following Examination in Public (EiP) the Section 1 Local Plan was found sound and Colchester Borough Council adopted the Section 1 Local Plan on 1 February 2021 in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004.

Policy SP2 should be referred to when applying the Habitats Regulations requirements to secure RAMs contributions where appropriate. This does not update the approach that the Council have been implementing but the Policy context has updated status with the adoption of Section 1 which includes a specific policy covering this issue.

A few policies in the Core Strategy are superseded in part by the adopted Section 1 Local Plan, and SD2 in full only. This is outlined below in detail and a summary table for all Section 1 Policies.

### **Policy SD2 – Full**

The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community.

New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. Development will also be expected to contribute, as appropriate, to strategic projects that support sustainable development and the wider community.

The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. This will either be through a planning obligation (usually contained within a Section 106 agreement) and/or, if applicable, through a Community Infrastructure Levy (CIL) payment, following adoption of a CIL charging schedule.

A CIL charging schedule would set a specified charge for each square metre of gross internal floorspace, related to the use class of the development. CIL payments will contribute to the provision of infrastructure to support development. Planning obligations and s278 agreements will continue to be used to make individual applications acceptable. The Council will publish a list of infrastructure to be funded through CIL to ensure developers do not pay twice for the same item of infrastructure. The viability of developments will be considered when determining the extent and priority of development contributions.

Is replaced by SP6.

Policy SD2 is no longer relevant.

### **Policy SD1 – In Part**

Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.

Is replaced by SP1.

All other parts of SD1 remain relevant.

### **Policy H1 – In Part**

The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.

Is replaced by SP3 and SP4.

All other parts of H1 remain relevant.

### **Policy CE1- In part**

The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021

Is replaced by SP5.

All over parts of CE1 remain relevant.

<b>Section 1 Adopted Policy</b>	<b>Context of Section 1 Policy</b>	<b>Relevant Core Strategy Policy status</b>
<b>Policy SP 1</b> Presumption in Favour of Sustainable Development	Restates national Policy	Replaces SD1 - in part.  Following text of SD1 is replaced by SP1.

		<p><i>Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.</i></p> <p><i>When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.</i></p> <p><i>Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.</i></p>
<b>Policy SP 2</b> Recreational disturbance Avoidance and Mitigation Strategy (RAMS)	Statutory requirement under the Habitats Regs- Policy provides a new authorisation for contributions	New policy relevant to confirm approach implementing the Habitats Regulations. Full status for decisions post 1.02.2021
<b>Policy SP 3</b> Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester strategy	High level N/A
<b>Policy SP 4</b> Meeting Housing Needs	Sets the housing supply figure for the Plan period at 920 per year. Section to	Replaces H1 - in part.

	allocate sites and determine the spatial distribution	<p>Following text of H1 replaced by SP4.</p> <p><i>The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.</i></p> <p>All other parts of H1 remain relevant</p>
<b>Policy SP 5</b> Employment	Strategic target – relies on Section 2 eLP to allocated sites	<p>Replaces CE1 – in part.</p> <p>Following text from CE1 replaced by SP5.</p> <p><i>The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.</i></p> <p>All other parts of CE1 remain relevant.</p>
<b>Policy SP 6</b> Infrastructure & Connectivity	<p>Strategic and restates national policy</p> <p>Section 2 covers matters specifically</p>	<p>High level/Garden Community – Section A</p> <p>Sections B, C, D and E of policy apply to all allocations and development proposals in the North Essex Authorities area.</p> <p>These sections replace SD2.</p>
<b>Policy SP 7</b> Place Shaping Principles	Strategic / restates national policy and eLP Section 2 covers matters specifically	High level N/A
<b>Policy SP 8</b> Development & Delivery of a New Garden Community in North Essex	New- specific to the Garden Community	Garden Community N/A
<b>Policy SP 9</b> Tendring/Colchester Borders Garden Community	New- specific to the Garden Community	Garden Community N/A

Note Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes. - All other Policies in the Core Strategy, Site Allocations and Development Policies remain current.