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Item No:	7.1
Applications:	181908/181909
Applicant:	Mr G Cottee
Proposal:	Demolition of majority of south aisle (retaining western gable wall). Renovation of retained building envelope, Conversion to single dwelling, including new reinforced concrete raft foundation, partial mezzanine and new floors to tower
Location:	St Peters Church, Church Road, Birch, CO2 0NA
Ward:	Marks Tey & Layer
Officer:	Alistair Day
Recommendation:	Approval

1.0 Reason for Referral to the Planning Committee

1.1 The planning and listed building applications are being presented to the Planning Committee because they have been called in by Cllr Bentley on the grounds of:

- **PRINCIPLE OF DEVELOPMENT AND DESIGN AND LAYOUT** - The new dwelling would require demolition of the church and the construction of a dwelling very close to a graveyard that is very much still in use. Such a dwelling would, I believe, not be appropriate and could lead to unnecessary stress to grieving relatives at a funeral or visiting loved ones. It would not afford the peace, privacy and tranquillity that a graveyard should provide.
- **HIGHWAYS IMPACT AND PARKING PROVISION** - Secondly, this area is in a cul-de-sac and is already crowded at peak school times with parked cars and will add further vehicular movements to an already congested and dangerous area.

2.0 Synopsis

2.1 This committee report covers both the planning and listed building consent applications.

2.2 The main issues are: (i) whether the proposed development would provide a suitable site for housing; (ii) the impact that the proposals would have on the identified heritage assets (notably the church as a grade II listed building and the Birch Conservation Area); (iii) the effect of the proposal on highway safety; and (iv) the effect on the amenity of nearby residents. These matters are assessed in the report, taking into account the representations of statutory consultees, professional advisers, and local residents. The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

3.1 The application site relates to Church of St Peter and St Paul [the Church] and part of the associated churchyard. The site has an open aspect and is relatively level from east to west, but the ground slope down to the north. The churchyard is laid to grass with gravestones across the majority of the site and remains in active use. There are a number of mature trees within the churchyard which are predominantly native species.

3.2 The Church is a mid-nineteenth century gothic-revival structure built on the site of a mediaeval church. It was designed by the eminent Victorian architect Samuel Saunders Teulon in 1849/50. Whilst Teulon is famed for the 'roguish' character of his architectural designs, the Church is remarkably restrained in its design and has "none of the offensive features" for which the architect was renowned (Pevsner, Buildings of England).

3.3 The Church is listed at Grade II for its special architectural and historic interest and sits as the centerpiece of the Birch Conservation Area. The church spire is seen in many key views, both from within the conservation area and from a distance as a focal point in the wider landscape. The views of the church spire

are significant to the character and appearance of the conservation area; indeed, the church is probably the *raison d'être* for the conservation area as it acts as a focal point and hub of this 'estate' village. The conservation area is included in the Historic England's Heritage at Risk Register. The 'At Risk' status of the conservation area is primarily due to the current redundancy and condition of the Church, which has been ongoing since 1990, the threat to its long-term preservation and the negative effect that this will have on the character and appearance of the conservation area.

- 3.4 The Birch village is generally linear in nature with a small green at its center; the Church sits to the west of the green on raised ground. The Church is accessed via a hard-surfaced track from School Hill. A Public Right of Way (runs east – west) to the south of the application site. There are a number of residential properties located in the immediate vicinity of the church. These includes: Church Cottages; Linden House; the primary school; and School Hill Cottage which are listed grade II for their special architectural or historic interest. The site of the former Birch Castle is located to the south of the site.

4.0 Description of the Proposal

- 4.1 Planning permission and listed building consent is sought for the conversion and alteration the Church into a single dwelling house with associated internal and external works. It is proposed to use part of the churchyard yard as a driveway and private garden.
- 4.2 To facilitate the conversion works, it is proposed to remove the roof of the south aisle of the Church and the majority of the south and east walls. The south porch will also be demolished. A retained section of the south aisle wall and the west gable of the aisle will be retained to screen a new boiler room with a terraced area above. The south arcade of the existing nave, (currently an internal wall) will become the proposed southern external wall of the new dwelling and will be infilled with glazing. Internally, the chancel and a substantial area of the nave will remain as open double height volumes and will be adapted to provide the principal living areas of the new dwelling. An inserted floor is proposed within the north aisle and at the western end of the nave which will provide bedroom accommodation on the upper floor and smaller scale domestic accommodation on the ground floor. The upper floors of the tower would also be utilised to provide an additional bedroom suite.

5.0 Land Use Allocation

- 5.1 Unallocated

6.0 Planning Policy Context

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprise: the Core Strategy (adopted 2008, reviewed 2014); Development Policies (adopted 2010, reviewed 2014) and the Site Allocations (adopted 2010).

- 6.2 The Core Strategy contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- H1 - Housing Delivery
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities

- 6.3 The Development Policies 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

- 6.4 Some “allocated sites” also have specific policies applicable to them; none are of particular relevance to this application.

- 6.5 The Council is developing a new Local Plan (Submission Colchester Borough Local Plan 2017-2033). The whole of the emerging Local Plan was submitted to the Secretary of State in October 2017; however, the examination of the two sections is taking place separately. The Section 1 examination hearing sessions were held in January and in May 2018 and January 2020. The Inspector has issued his letter in respect of Part 1. The examination of Section 2 of the emerging Local Plan has not commenced.

- 6.6 The National Planning Policy Framework (the Framework) must be taken into account in planning decisions and is a material consideration, setting out national planning policy

- 6.7 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings together with their setting and any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

- 6.8 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
Managing Archaeology in Development.
Developing a Landscape for the Future

7.0 Consultations

- 7.1 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.

Landscape Officer

- 7.2 The following point should be taken into consideration as part of any revised proposals:

- The existing hedge to the southern boundary of the site with the adjacent field should be gapped up and reinforced and the open boundary to the site's eastern boundary planted up with native hedgerow. This planting is in addition to the proposed railings. This is to help the development complement existing local landscape character which is defined, in part, by robust native hedgerow field enclosure. The reinforced and new hedge planting would, in this case, help to screen the proposed rear & side gardens from the open countryside and graveyard, and thereby protect public amenity for users of PRow 124_33 which runs alongside the southern boundary of the site and from which those users currently have glimpsed views back across the graveyard to the church from the southern boundary and through the hedgerow beyond the site's eastern end.

Urban Design

- 7.3 Comments made by the Council's former Urban Design Officer in respect of the original submitted scheme include:
- It is important that the local community can enjoy views of the western frontage of the church and access into the western forecourt, and linking through to the wider church grounds and in turn to nearby Public Rights of Way
 - In order to function as a viable dwelling, a private secure garden and parking are necessary and the proposed location primarily to the south are along the right lines due to the position of graves and sun. Preventing public access in this particular area is unfortunate though probably necessary and reasonably mitigated by alternative walking routes.
 - The "rear" garden appears to inappropriately intrude on the (key) western forecourt, the driveway seems too much within the western forecourt. Gating should instead be reined back to only secure the to the south of the main building.

- There is concern that the eastern side of the church would be wrapped in rear-type garden, which in practice will inevitably result in privacy screening blocking further views of the church from publicly accessible grounds and rights of way.

Tree Officer

- 7.4 The Tree Officer has advised that the the arboricultural content of the proposal is satisfactory

Archaeological Officer

- 7.5 In terms of below-ground archaeology, there is very high potential for encountering burials relating to current church and, in particular, to the earlier medieval church, as well as structural archaeological remains from the earlier church. There are likely to be many unmarked graves to the south of the church (burials were often located on the south side of the church). I would advise the need for an archaeological trial-trenched evaluation to assess the significance of archaeological remains and in order for the LPA to be able to take into account the particular nature and the significance of any below-ground heritage assets at this location.
- 7.6 Every opportunity should be undertaken to minimise the extent of the groundworks. Detailed information is required about all groundworks relating to the project - depth and extent of ground reduction in and around the Church (including for new floors, wall foundations, fence posts and car parking), any underpinning to wall/first floor structural supports with groundworks (if at all); the location, size and extent of all services. It is also unclear from the application what, if any, works are proposed in the enclosed/walled area outside of the Church; this needs to be provided in the application.
- 7.7 The application does not establish if there any grave stones within the area of the proposed development – if there are, proposals need to be provided in the application for the future of these.
- 7.8 There will also need to be a requirement for a maximum dig limit within the enclosure (i.e. with a non-dig zone below this depth), to prevent damage to underlying archaeological remains in the future (if consent is forthcoming); this can be established by the archaeological evaluation.
- 7.9 In terms of the standing building, a historic building survey should be carried out, by a historic buildings' specialist.

Natural England

- 7.10 It has been identified that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect

on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects

Highway Authority

- 7.11 No objection. The Highway Authority observes that the red line boundary includes the access track across the frontage of "Nightingales" and "Churchview" which is considered to be highway. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority.

Historic England

- 7.12 The principal impacts of the proposed works on the significance of the church will arise from the demolition of the majority of the south aisle, and the subdivision of a considerable area of the remaining interior volume of the church. These works should be considered as harm, as defined by the NPPF. The alterations will remove the integrity of the original structure, leaving only part of the listed building to be converted. Such a harm may well be justified in the need to make radical change to adapt the building to a sustainable use, as the deep plan form and scale of the building would make conversion difficult without major interventions. Your authority should establish beyond reasonable doubt that the extent of demolition is justified to guarantee the future of the building.
- 7.13 The south side of the church is not prominent in key views of the church from within the Conservation Area, such as that from the village green, but the areas of demolition will be evident from viewpoints to the south, especially the public footpath that runs along that edge of the existing graveyard. The retention of a significant area of the interior of the church undivided horizontally will allow the current spaciousness of the interior to be still experience, if in the rather changed environment of a domestic interior.
- 7.14 By maintaining the west elevation of the church complete, including the tower and spire, the proposal avoids any major impact on the contribution that the church makes to the wider conservation area. By bringing the currently unused and neglected church back into use and good repair the proposals have the potential to have a very positive impact on the conservation area, and if carried out might lead to the removal of the conservation area from the Heritage At Risk Register.
- 7.15 In the NPPF the Government puts great weight on the goal of achieving sustainable development (para 7). The church at Birch has been redundant for 27 years. During that time various schemes for conversion and reuse have come forwards, but none were shown to be fundable and they were all subsequently abandoned. It seems reasonable to conclude that the present residential conversion scheme represents the last opportunity to allow a sustainable future for the listed building into the future.

- 7.16 In considering the acceptability of the current proposals your authority should give considerable weight to the public benefit of the conversion, in securing a sustainable future for the long redundant and at risk former church building, against the potential harm that the conversion proposals, which include considerable demolition works and subdivision, might be seen as representing, as set out in the NPPF. While the fabric of the building might be radically altered by the proposals, the key significance of the building will be preserved, and its contribution to the Conservation Area enhanced.
- 7.17 Historic England supports the proposals on heritage grounds, as representing the only known opportunity to conserve the key elements of this historic building, and its contribution to the Birch Conservation Area. Your authority should take these representations into account in determining the application.

Ancient Monument Society

- 7.18 The application involves compromise most obviously in the loss of the aisle but at this stage in the life of the building, we fully accept that the other option is complete destruction. You will note reference to the three significant fittings – the reredos, the East Window and the Bridges monument. Can express assurances be offered that these will either be retained in situ or suitably rehoused

Victorian Society

- 7.19 As far as the information it brings to bear on aspects of the landscaping we are grateful for it. However, we remain concerned by the somewhat insubstantial and, ultimately, inadequate amount of information supplied in support of the scheme as a whole. In that sense the concerns we raised when we first responded to the application, in November 2018, remain unaddressed. I should reiterate that the Victorian Society is very keen to see the future of this nationally important building secured with a sympathetic scheme of reuse. We consider that the building's conversion to residential use capable of achieving this.
- 7.20 However, in order to do so planning and listed building consent applications would need to be granted consent. In addition to which, as I understand it, a faculty would be required for the relevant archaeological investigations. Much information is required to satisfy these various processes; a great deal more than has been supplied to date. This is a concern: unless the applicant is prepared to fulfil statutory requirements, the Council will be unable to process the applications and the scheme will never come to fruition. In that case it would seem the most likely outcome would be the complete loss of the listed building.
- 7.21 In November we requested an articulation of the rationale for the proposed demolition of the south aisle. We reiterate that request now. Notwithstanding the terrible state of the building, and the broad recognition on our part that some significant interventions would likely be required in order to achieve a suitable conversion of the building, the fact is that the demolition of an entire

aisle and the church's porch would constitute a major and destructive intervention. Some rationale for it will be necessary. Even if one accepts the loss of much of the aisle, there seem to us – as we stated previously – alternative ways of detailing that south side that would not necessitate such extensive demolition.

- 7.22 Details are missing too over the proposed treatment of the interior and what remains of its historic finishes and fixtures. What of the stained glass, tilework, memorials and reredos? And, for that matter, anything else. Details of what survives, in what state, and how it would be treated will help all consultees draw conclusions on the significance of the building as it stands now, and what the impact on that significance is likely to be by the works proposed. At present it is impossible to accurately assess the interest of the interior and, by extension, what the impact of the transformative works will be.
- 7.23 We encourage the applicant to submit the additional information required to appropriately process this application. We wish also to impress on them, via the Council, the urgency of the present situation. It is now almost a year and a half since we were last consulted. The condition of the building is known to be perilous. This process cannot be protracted indefinitely. It is our view that an acceptable scheme can be realised here: all it requires is the necessary preparatory work and documentation.

8.0 Parish Council Response

- 8.1 Birch Parish Council considers that the proposed development is undesirable and inappropriate development within a churchyard that remains open for burials.
- 8.2 Access to the open churchyard is a serious concern of the Council. The plans show that part of the churchyard is to be used for a private garden and car park which means that this section of the churchyard, like the building itself, would become private property with no public access. The proposed site plan shows a grey hatched area denoted as grass/gravel drive at the west end of the church. Is this area to be appropriated as part of the applicant's car parking spaces? If so how are funeral processions with coffins, grave digging machinery and grass cutting machinery to access the open graveyard? It is also noted that that this gravel drive to the left of the main door lies outside the boundary of the proposed development site as delineated on the Block Plan submitted with the planning applications.
- 8.3 The proposal offers no element of public amenity for the local community. The Parish Council considers the Church Commissioners' Draft Scheme for demolition, retaining the footprint of the building as a garden of remembrance which would be incorporated into the churchyard, is a far more appropriate alternative in the open churchyard. The Council would be fully supportive of this scheme which would retain the whole of the current churchyard as a public space within the village and within the Birch Conservation Area.

- 8.4 In further correspondence the Parish Council has raised concern regarding the access and the extent of highway ownership; the reconciliation of the proposed residential conversion of the church with the ongoing operation of the open consecrated churchyard; the reliance on an old structural survey; whether the applicant has the resources to fully undertake the project (leading to the abandonment of the project and the length of time that it may take to complete the project causing prolonged disturbance).

9.0 Representations from Notified Parties

- 9.1 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.

- A large family dwelling in the middle of a churchyard is not appropriate.
- The site should be kept as a place where funeral services are conducted, and where mourners can have space for quiet and contemplation.
- The proposal will limit access to graves
- The question of how existing graves will be managed and re-sited has not been answered
- Loss of amenity for the public in that the proposal effectively privatises part of the churchyard
- Prefer the demolition of the church and creation of a memorial garden
- Residents of the dwelling will be able to watch mourners / funerals
- There is the potential for future social activities in the new property to overspill into the remaining churchyard
- The extent of the highway ownership is not correctly shown
- Opinion regarding the architectural and historic value of the church is unflattering
- The original church on this site was over 600 years old and was demolished to build this current structure; the original church would have been worthy of saving.
- The only real shame is the loss of the spire to the overall landscape which would be significant.
- The church is letting the property fall into considerable disrepair and seem to have a complete lack of interest in dealing with this matter correctly
- The applicant has failed to produce detailed costings / the scheme is not financially viable
- The spire could be rebuilt at a fraction of the cost
- Once the applicant owns the land what is to prevent him declaring the spire unsalvageable or the church structure unsafe.
- It is part of a plan build houses on the fields just outside the existing conservation area
- Most local residents would like to see the spire retained but not if we have to endure increased noise and disturbance in the conservation area
- The proposal will add to parking problem in the area, particularly at school drop off and pick up times.

- the chaos, noise and disruption that will occur from heavy commercial vehicles and others, will make our life, as an immediate neighbour to the church, extremely unpleasant.
- The drawings are inconsistent
- Ownership notices have been incorrectly served
- Why did we not receive the formal Notifications of the Planning Application until a week after the letter was written, thus reducing the period we have had to respond? Similarly, the Public Notice was not posted until Friday 7th September 2018 and then fixed to a street sign outside the School.
- we should have a public hall for Birch, Layer Marney and Layer Breton run by the church after an upgrade. The church is rich and could do a better job than selling the land.
- do not let our local history, heritage and architecture be destroyed
- the building is key to the character of Birch village
- We are very keen that Birch Church is not demolished and would support any project that would keep this local iconic building in existence, provided that the necessary checks and balances are put in place by local building preservation organisations.
- A petition for the previous scheme had almost 100% support for the church's conversion into a residential property and reached around 1000 signatures.

10.0 Planning Obligations

- 10.1 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.

11.0 Air Quality

- 11.1 The site is outside of any Air Quality Management Area and in terms of the planning submission does not generate the need for an Air Quality Impact Assessment.

12.0 Environmental and Carbon Implications

- 12.1 New developments need to help address the challenges of climate change and sustainability, and therefore contribute positively towards the future of Colchester. In support of achieving sustainable development, the Council has committed to being carbon neutral by 2030. The Framework has at its heart the promotion of sustainable development. Consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework. It is considered that on balance the application represents sustainable development as it reuses a building with considerable embodied carbon and avoids demolition and disposal of arisings that would itself generate further emissions.

13.0 Accessibility

- 13.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

14.0 Report

Principle of the Development

- 14.1 Policy SD1 of the Core Strategy (CS) sets out the Council's strategy for delivering housing ensuring that developments are directed towards accessible locations and also to ensure the character and vitality of villages is sustained. CS Policy H1 sets out how this will be delivered with the majority of new housing development located in Colchester with a smaller proportion within the villages. CS Policy ENV2 expands upon the requirements for development within rural communities, confirming that the Borough Council will enhance the vitality of rural communities by supporting appropriate development of infill sites and Previously Developed Land (PDL) within the settlement development boundaries of villages. These policies are intended to ensure the protection of the countryside and to ensure housing is located in areas that are accessible and sustainable. It is however important to note that these policies do not prevent the development of land outside of settlement boundaries. The requirements of CS Policy TA1 is also relevant such that it requires development needs to be focused on highly accessible locations to reduce the need to travel.
- 14.2 The application site is not located within a defined settlement boundary and is therefore in the countryside for planning policy purposes. It should however be noted that both CS Policy SD1 and the Framework seek to focus development to PDL; the Church, as a redundant building, is considered to constitute PDL. It is also important to note that CS Policy ENV1 does not apply to the principle of development in this case. This policy states that unallocated greenfield land outside of settlement boundaries will be protected; whilst the site is unallocated, it is PDL and is therefore not protected by this policy. The development of PDL is encouraged so this weighs in favour of the proposal.
- 14.3 It is relevant to consider that Government guidance acknowledges that rural housing is essential to ensuring the viable use of local facilities such as schools, local shops, cultural venues, public houses, and places of worship. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Indeed, where there are groups of smaller settlements, development in one village may support services in a village nearby. Paragraph 84 states that the use of PDL, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist, although Paragraph 79 makes it clear that planning policies and decisions should avoid the development of isolated homes in the countryside unless specific circumstances apply. Given the site's central location within village of Birch, the site would not result in the creation of an isolated home in the countryside in the context of paragraph

79 of the Framework. Para.79 includes exceptional circumstances that may justify even isolated new homes. These include the optimal viable re-use of a heritage asset or the re-use of redundant buildings.

- 14.4 The village of Birch benefits from a primary school and village hall. The Hare and Hounds public house and a church (St Mary the Virgin) are located approximately 1km and 1.5km from the application site respectively. Given the distance to the latter two facilities, walking and cycling would for the most part be an unattractive option for occupiers of the proposed dwelling, especially during the winter months where daylight hours are limited. For a wider range of shopping, healthcare, leisure and entertainment facilities, occupiers of the proposed development would have to travel to Colchester or other nearby larger settlements.
- 14.5 In terms of the public transport, there are bus services that run through Birch village and the bus timetables indicate that these services run at regularly intervals. It would therefore be possible for occupiers of the proposed dwelling to access nearby local services and facilities via means of transport other than the private car. It is however accepted that bus services have limitations, and whilst it may be possible to access some facilities by bus, it is recognised that future occupiers would be more likely in reality to use private motor vehicles for most journeys.
- 14.6 The concerns raised by residents regarding the appropriateness of having a dwelling located within an active churchyard are appreciated. The Church Commissioners and the Diocese of Chelmsford have both confirmed that they do not have an in-principle objection to the conversion of closed churches for residential use. The concerns that have been raised by the 'church' are based on the specific factors in this case, principally in relation to where the church building is relation to the only access point into the churchyard and the subsequent impact that this could have on burials and visitors to the churchyard. The comments made in respect of access implications are discuss later in the report.
- 14.7 In conclusion, the proposal would result in the redevelopment of PDL which is encouraged in both national and local planning policy. The proposed development is also not considered to be 'isolated' in terms of the Framework definition. The application site is however not considered to be in a highly accessible location having regard to access to services and facilities. The development would therefore not comply, in this regard, with policies H1, ENV2 and SD1 of the CS which together seek to direct growth towards sustainable and accessible locations. For this reason, it is necessary to consider other material planning matters. However, the exceptional circumstances set out in para.79 of the NPPF that justify a new home in an isolated location are met in principle in this case as a redundant heritage asset would be reused.

Heritage Implications

- 14.8 Both CS Policy ENV1 and DPD Policy DP14 reflect the statutory obligations as set out in s.66 of the Planning (Listed Buildings and Conservation Areas)

Act 1990 to have special regard to the desirability of preserving a listed building or its setting and s72 of the same Act that requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In a similar vein, the Framework gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. This is irrespective of the level of harm.

14.9 The key heritage considerations are:

- i Whether the proposal would preserve the special architectural and historic interest of this Grade II listed building and its setting;
- ii Whether the proposal would preserve or enhance the character or appearance of the Birch Conservation Area; and
- iii Whether the extent of any harm that would result to the significance of the designated heritage assets would be substantial or less than substantial;

14.10 The Framework gives a clear guidance for decision making for cases involving the above and the different balancing acts required depending upon whether the proposal results in substantial harm or less than substantial. The Framework notes that where a proposal would result in less than substantial harm, the relevant balancing exercise is to weigh-up the harm caused against the public benefits of the proposal, including securing the optimum viable use for the building.

14.11 The Church dates from 1849 and was designed by Samuel Teulon in the late Decorated style. The Church is composed of a nave, a north and south aisle, chancel and a west spire. The building is clad in flint with limestone dressings. The spire, which rises to 110ft, is decorated by three rows of lucarnes (gothic dormer-like features) of carefully diminishing sizes and creates an unrivalled landmark in the local area. The interior is a conventional Decorated design of two matching arcades with columns of octagonal section and rendered brick arches above. The roofs are in pitched pine to a simple arch and wind-braced form. The impressive internal spatial qualities of the church's nave, aisles and deep chancel contribute positively to its special interest. The majority of the internal fixtures and fittings have been removed (pews, font, pulpit, altar, most stained glass etc). Matthew Saunders (an expert on Teulon) notes that, in terms of fittings there are three principal survivors: the east window by Mary Lamb; reredos screen and the monument to Oliver Simpson Bridges.

14.12 The Church has been vacant (closed) for nearly thirty years and is currently in a poor condition due to lack of active maintenance. Much of the damage has been caused by water ingress due to damaged and defective rainwater goods and the valley gutters. This damage could have been prevented by route maintenance. Metal sheeting has been erected around the north side of the Church due to concerns about the poor condition of the flint work. More recently, internal scaffolding has been erected due to concerns over the structural integrity of the roof (decay caused by water ingress).

- 14.13 The Church has retained considerable heritage significance. This significance is: evidential due to the survival of original elements; historical, representing High Victorian church architecture and the work of an eminent architect; aesthetic due to its design (including surviving fixtures and fittings); and communal value associated with its social contribution to the wider community.
- 14.14 The Church of St Peter was rebuilt by Charles Gray Round to the plan of Samuel Teulon, a prominent and important Victorian architect. The Church is designed in the decorated Gothic style. As Saunders and Pevsner (both notable architectural commentators) note, the Church lacks the flamboyancy that typically characterises Teulon's architecture; whilst the design of the church is more restrained than Teulon's typical work, it is nevertheless ambitious which makes it all the more accessible from a design perspective. The architecture of the church and fact that it is an atypical design by such an important Victorian architect contributes to the buildings special interest. Internally, the Church has lost much of the furniture and fittings associated with its historic use as a village church (*altar table, pulpit, organ, pews and font*) and yet despite this, it still retains special architectural qualities. In particular, the impressive internal spatial qualities of nave and chancel, the elaborate east end stained glass window, the reredos and the surviving memorials all contribute to the Church's special architectural and historic interest and significance. Some local residents have expressed the view that the Church is not of particular architectural or historic significance; whilst it is appreciated that some residents may not consider the church to be of architectural value, it is important to note that the church has been identified as being of significant architectural or historic interest and is afforded listed building protection, which reflects its national importance.
- 14.15 In terms of the conservation area, designation report notes that the village has a range of social and domestic uses, including farmsteads, a school and the church. The report notes that both the church and the school owe their origin to the Round Family who commissioned their construction. The Church forms the centre piece of the conservation area. The exterior of the Church has mellowed with the surrounding landscape and the west front forms a pleasing feature standing on rising ground above the memorial green. The spire is a prominent feature in the local landscape and contributes positively to views from both within and outside the conservation area. The designation report refers to the spire as a silent finger [that] points to Heaven. In more localised views (notably from within the churchyard) the current poor condition of the church (and more particularly the metal sheeting that has been erected around part of its perimeter) detracts from the appearance of the conservation area.
- 14.16 To achieve the proposed change of use to a residential dwelling, it will be necessary to carry out alterations to the fabric of the Church and part of the churchyard. It is proposed to remove the roof of the south aisle and the majority of its south and east walls together with the south porch. The south arcade of the existing nave, currently an internal wall, will be infilled with glazing and become the southern external wall of the new dwelling. The principal access to the building will remain at the west end via the existing

main entrance. Internally the chancel and a substantial area of the nave will remain open and will be adapted to provide the principal living areas. A new floor will be inserted within the north aisle and at the western end of the nave to provide bedroom accommodation on the upper floor and smaller scale domestic accommodation on the ground floor. The upper floors of the tower will be utilised as bedroom accommodation.

- 14.17 The above alteration works will constitute a major intervention to the original church structure. The applicant has explained that they have considered various options for the conversion of the church and are of the view that it would be impractical to retain the full footprint of the church due to its size; they consider that the demolition of the south aisle provides the best solution to creating a new dwelling that is suitable for modern family living. The removal of a significant element of the south aisle and the south porch would be damaging to the special interest of the building. The southern side of the Church is not however prominent in key views from within the conservation area, such as that from the village green, although it will be evident from viewpoints to the south, especially the public footpath that runs along that edge of the existing churchyard. By maintaining the west elevation of the church complete, including the tower and spire, the proposals will avoid any major impact on the contribution that the Church makes to the conservation area when seen from the street and to that of the wider area, including in longer views. The prominence and importance of the church spire as a local landmark (including its contribution to the character and appearance of the conservation area) will be retained.
- 14.18 Internally, it is proposed to insert a new floor in the north aisle and at the west of the nave. A new wall will be set behind the aisle of the nave arcade and has been designed as a freestanding / self-supporting structure so that there is minimum interference with the existing structure. Whilst these works will compromise the internal spatial qualities of the aisle and west end of the nave, they are considered necessary to enable the adaption of the church to residential use. These works would also be reversible. Key aspects of the church that contribute to its special interest are to be retained. The distinctive floor plan of the nave, chancel and north aisle would still be legible. The chancel and two bays of the nave will also remain fully open and therefore retain the church's impressive spatial qualities and continue to allow an appreciation of the east stained-glass window. Matthew Saunders has identified three key features within the church that contribute to the special interest of the building; the monument to Oliver Simpson Bridges; the reredos and the west end stained glass window. The monument to Oliver Simpson Bridges is set on the south wall of the south aisle, which is proposed for demolition. The monument can be carefully removed re-sited to an appropriate location within the retained section of the church. The reredos is set at the western end of the chancel and is to be retained in-situ as a part of the proposed conversion works. The east end stained glass window is also being retained in-situ. In addition to these features, the church also contains a number of additional features (other memorials, stained glass windows, floor tiling etc) which are to be retained where possible.

- 14.19 The Church was built on the site of an earlier church, probably dating from the late 11th or 12th century and is adjacent to the site of a possible motte and bailey castle (Birch Castle). There is thus the potential for encountering the remains from the medieval church and burials relating to the current church and/or the earlier church. The Council's Archaeological Officers has advised of the need for an archaeological trial-trenched evaluation to assess the significance of archaeological remains and thereby allow the Local Planning Authority to take into account the particular nature and the significance of any below-ground heritage assets. Despite requests to undertake archaeological investigations, the applicant has not submitted such a report. The applicant has however stated that he is fully aware of the high potential for encountering buried remains, and for it is this reason, that he has proposed a raft foundation. Whilst officers would normally seek to establish the depth of any buried remains prior to granting planning permission, in this instance, it is considered that the evaluation works can be subject to a condition. The reason for this is that there is scope to allow for adjustment of the finished floor level within the interior of the church following the investigation work and thereby minimise the potential for impact on any buried remains. Should buried remains be discovered, these can be recorded. Regarding external works (such as the installation of new drainage runs), it is again considered that there is the scope for the adjustment of these works following the grant of planning permission and therefore investigation works can be the subject of a condition. No grounds works are indicated to the proposed garden area; it is however acknowledged that any grave markers will need to be re-sited (as it would not be appropriate to retain them within a domestic garden); likewise the burials in the church crypt will need to be relocated. As discussed later in the report there is separate legislation that covers the relocation of graves; however a condition is proposed requiring a scheme to be submitted for the relocation graves stones prior to the commencement of work.
- 14.20 The proposed alteration works to enable the conversion of the church to a dwelling are substantial. It is however considered that overall, the works required to enable the conversion of the church to residential use, have retained the essential interest of the church. Indeed, following the implementation of the proposed alteration works, the new dwelling would still read as a being within an historic church and therefore much of its significance would be conserved. The contribution that the church makes to the conservation area would also be retained (particularly in terms of long-distance views) and the repair of the retained fabric would enhance the appearance of the Church within the conservation area. For this reason, taking the scheme as a whole, it is considered that the proposed works would result in less than substantial harm being caused to the special interest of the Church. Accordingly, this harm needs be weighed against the public benefits of the proposal, including securing its viable use (paragraph 194 of the Framework).
- 14.21 Benefits do not always have to be visible or accessible to the public in order to be genuine public benefits. These can include heritage benefits, sustaining or enhancing the significances of a heritage asset or the contribution to its setting, reducing or removing risks to a heritage asset and securing the

optimum viable use of a heritage asset in support of its long-term conservation.

- 14.22 There is a significant benefit in bringing the building back into use. As stated above, the Church is classed as being "at risk" and, as a consequence of its threat of demolition, the Birch Conservation Area has been placed at Risk by Historic England. The proposed conversion of the Church would result in investment in the building which would bring about necessary and urgent long-term repairs, which would be wholly welcomed. Beyond essential repairs, the proposal would also repair the important timber roof structure, refurbish the stained-glass windows; internal plasterwork and repair decayed stonework and flint work.
- 14.23 Additional benefits which include maintaining the historic relationship between the church and the churchyard and the important contribution that the spire makes to the character and appearance of the conservation areas and the wider landscape setting. By bringing the currently unused and neglected Church back into use and good repair the proposals have the potential to have a very positive impact on the conservation area, and if carried out should lead to the removal of the conservation area from the Heritage at Risk Register. The new unit would also make a modest contribution to the supply of housing in the Borough.
- 14.24 The Framework (paragraph 192) states that when determining applications account should be taken of desirability of sustaining the significance of the asset and putting it to viable uses consistent with their conservation. A viable use is one that would secure a long-term use for the Church. Since the church was closed in the 1990s, various schemes have been promoted to find an alternative use for the building without success. The current proposal to convert the building into a single dwelling would be compatible with the fabric of the building and would represent a viable long-term use of this building. Furthermore, the proposal would preserve, as far as reasonably possible, the special interest and significance of the church and this would be the viable use. The alternative to the conversion of the church to a dwelling would be the complete demolition (total destruction) of the church equating to substantial harm in heritage terms.
- 14.25 The comments made by various objectors, including the Church Commissioners, that the applicant does not have the resources for the conversion of the church are noted. The resources of the applicant and whether they can afford to undertake the works is not a planning consideration. If the land owner [the Church Commissioners] have concerns about whether the applicant is able to complete the proposed conversion works, they can impose restrictions on the land sale – for example they could give the applicant a lease enabling him to undertake the repair of the envelop of the building within a set time frame or require security (a bond or an Escrow account) to be put in place to cover the potential scenario that the applicant is unable to complete the works.

- 14.26 The proposed development presents a permanent and viable solution which is acceptable on the basis that it would secure the long-term future of the Church, and would safeguard the special architectural and historic interest as far as possible. Whilst it is accepted that the proposal will result in some harm being caused to the listed building and potential buried archaeological remains, the alternative to this scheme is the demolition (total destruction of the church) and should this eventually arise, this would result in 'substantial harm' to the identified heritage assets. For the reasons given above, the current application is considered to be consistent with local planning policies and national guidance.

Trees and Landscape

- 14.27 CS Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with DPD Policy DP1 requiring development proposals to respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.
- 14.28 The application site is relatively level from east to west but slopes down to the north. The churchyard is laid to grass with gravestones and scattered mature tree planting. To the west and north of the site is residential development which is composed around the village green or the access track that extends from it. To the south of the churchyard there is part of the rear garden to The Cottage (accessed from School Hill) and agricultural fields.
- 14.29 A Tree survey has been submitted in support of this application. This states that there are seven trees that are of high amenity value on the site. The Tree Survey recommends that an arboricultural impact assessment and arboricultural method statement is submitted to assess the impact and associated mitigation relative to any development of the site. The report also recommends that retained trees are protected during the construction work. Conditions are proposed to cover these matters. The Council's Tree Officer has confirmed that he is satisfied with the submitted Tree Report.
- 14.30 It is proposed to create a driveway / turning area to the west of the Church and a private garden area to the south of the building. The enclosure to the garden area has been amended in the light of the initial comments made by the Urban Design Officer and Landscape Officer. The Landscape Officer has commented further on the amended drawings recommending that the existing hedge to the southern boundary of the site is 'gapped up' and that the open boundary to the site's eastern boundary is planted with a native hedgerow (in addition to the proposed railings). This additional planting has been suggested to help reinforce the existing local landscape character, which is defined by robust native hedgerow field enclosure, and to assimilate the development into the wider countryside setting. Landscaping conditions are accordingly recommended

- 14.31 For the foregoing reasons, it is considered that the proposed development would have not have a significantly harmful effect on the character and appearance of the surrounding landscape. The development would not therefore conflict with policy ENV1 which seeks to ensure that development is compatible with and enhances the character of the locality and policy DP1 which requires development to respect and enhance the character of the site and its context.

Residential Amenity

- 14.32 DPD Policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. DPD Policy DP12 requires high standards for design, construction and layout in new residential development. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity. Policy DP16 sets out space standards for private amenity space.
- 14.33 Representations have been received regarding the effect of construction activity will have on the amenity of nearby residents. It is accepted that construction activity can cause noise and disturbance; however, it is considered that such concerns can be adequately controlled by a Construction Method Statement.
- 14.34 Concern has also been raised that the conversion of the church to a dwelling house will result in the overlooking of nearby dwellings and that new dwelling would erode the tranquility of the churchyard.
- 14.35 'Churchview' is located to the south west of the church and is the nearest property to the proposed dwelling (the Church). 'Churchview' is orientated north / south (i.e. the principle windows face in these directions) and therefore do not face towards the church. There is a long single storey structure that runs parallel to the churchyard and the boundary between the church and the house is formed by tall hedge. The distance between the 'Churchview' and the church is approximately 19m. Church Cottages and Hillside Cottages are located some 55m and 42m to north and north west of the church. To the south of the churchyard is part of the rear garden to The Cottage. Concern has been expressed that the bedrooms within the church tower would overlook the rear gardens of the adjacent residential properties. 'Churchview' is the property that has the potential to be most affected by this proposal. The majority of the church windows face north and south and will therefore not affect the amenity of this property. The windows in the west end of the church are offset from the neighbouring property such that there would not be any direct overlooking caused the development. Furthermore, the existing outlook from 'Churchview' is be retained (i.e. by the existing structure of the church) and would not therefore be significantly harmed by this proposal. The use of the land to the west of the church frontage for car parking is also not considered to create significant disturbance to the occupiers of 'Churchview'. Other nearby dwellings are

located at a sufficient distance from the church for the proposal not to affect their private amenity,

- 14.36 For the reasons given above, the proposed development would not be significantly harmful to the living conditions of the nearby residents in respect of overlooking or adversely affect their outlook. In respect of this these issues, the proposal is in accordance with Policy DP1 of the DP and paragraph 127 of the Framework, which aim to protect the living conditions of occupiers of residential properties.

Ecology

- 14.37 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the Framework that planning should contribute to conserving and enhancing the natural environment. DPD Policy DP21 seeks to conserve or enhance biodiversity.
- 14.38 The application is supported by an initial ecological appraisal. This has identified that bats are using the church as a bat roost. It is therefore recommended that a detailed bat surveys is carried out to locate any additional bat roosts and determine the species and roost types. The initial report also identified that barn owls make use of the church and further survey will need to be undertaken to enable a detailed mitigation strategy to be developed. Conditions are recommended in respect of these matters.
- 14.39 The whole of Colchester Borough is within the zone of influence (Zol) for the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and the proposal is thus subject to Appropriate Assessment (AA) under the Habitats Regulations. The proposal is likely to have a significant effect upon the interest features of Habitat sites (Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Colne Estuary (SPA and Ramsar), The Dengie (SPA and Ramsar and Essex Estuaries (SAC); through increased recreational pressure, when considered either alone or in-combination with other plans and projects. A condition requiring a scheme of mitigation to be submitted is proposed.
- 14.40 Subject to conditions to secure ecological enhancement measures, it is considered that the proposed development accords with adopted policy ENV1 and the requirements of the Framework which seek to minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity.

Highway and Transportation Matters

- 14.41 CS Policy TA – TA4 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy. DPD Policy DP17 requires all development to maintain the right and safe passage of all highways users. The Framework states that development should only be

prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 14.42 The site is currently accessed via a lane from School Hill. The application proposes improvements to the existing access to enable vehicles to access the part of the churchyard immediately beyond the existing gates.
- 14.43 The Highway Authority has considered the proposals and has confirmed that, from a highway and transportation perspective, they do not object to the proposal subject to conditions. Concerns regarding the impact of construction workers vehicles and, in particular the potential for conflict during school drop-off and pick-up times, are appreciated. These concerns can be adequately mitigated via the requirement to submit a construction method statement. It is not considered that the use of the church as a single dwelling house will result in a severe residual cumulative impacts on the road network – the threshold set by the Framework when considering refusing an application on highway grounds. The Highway Authority has also not raised an objection in terms of highway safety.
- 14.44 In view of the above, it is considered that the proposed development will not have a detrimental impact on highway capacity or safety and, as such, there is no conflict with the aforementioned local planning policies and/or the guidance set out in the Framework.

Parking

- 14.45 CS Policy TA refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. DPD Policy DP 19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November.
- 14.46 The adopted Parking Standards require two parking spaces to be provided for residential dwellings and 0.25 spaces per dwelling for visitor parking. The application shows an area for parking of vehicles to the west end of the Church which is adequate to accommodate the required number of parking spaces. The adopted Parking Standards also require secure cycle parking to be provided as a part of development proposals. A condition is recommended to ensure that secure cycle parking is provided.
- 14.47 Comment has been made that hearses will not be able to access the site. The applicant has advised that funeral hearses do not currently access the churchyard and that the proposed scheme will allow hearses to access the site. The development is not dependent on the delivery of this benefit and should it not be possible to deliver 'on-site' parking for the hearse this would not render the scheme unacceptable in planning terms.

- 14.48 For the reasons given above, the application is considered to accord with the requirements of local policy DP19 and the Council's adopted parking standards.

Other Matters:

- 14.49 Local representations have been taken into account as part of the assessment of the application. The majority of comments have been addressed in the above assessment, but there are some points that require additional clarification.
- 14.50 Concern has been expressed that the notice has not been served on all of the landowners and the extent of the highway land was incorrectly identified. These points were raised with the applicant shortly after the submission of applicant and the applicant has served notice on the correct landowners.
- 14.51 The level of information provided with the application(s) has been criticised. It is considered that the level of information submitted is acceptable and that the application(s) can be assessed on the basis of this information along with additional research and site visits undertaken by the Case Officer. Sufficient information has been provided with which to assess the impacts of the proposal, with precise details being approved via condition.
- 14.52 Whilst both the Church Commissioners and the Diocese of Chelmsford have both confirmed that they do not have an in-principle objection to the conversion of closed churches for residential use they have made comment regarding the implications that this would have on access to the retained open churchyard. The Church Commissioner, whilst accepting that the area to the south of the church is the logical place for a private garden, they have raised concern that the proposal does not adequately address the operational requirements of the open churchyard (access to the south of the church has a shallower gradient and therefore provides an easier / more convenient route to the 'active' area of the churchyard). These concerns are fully appreciated and have been raised with the applicant. The applicant notes that there is an alternative access to the north of the church that is unaffected by the proposed scheme and that this route will be improved when the hoarding is removed. The applicant also states that their designs have always included the churchyard to the south, up to the public right of way, as private amenity space. The applicant goes on to state that Church Commissioners recorded their tacit acceptance of this proposal at the aborted public inquiry in their Turley document Statement of Common Ground April 2018 v4 where they listed under matters agreed Fact Section 2.1 "What constitutes the Cottee proposal for alternative residential use". Notwithstanding this, the Diocese has advised that it is not practical for grave diggers and pallbearers to use the land to the north of the church for access due the gradient of the land, which means that they are reliant on the land to the south of the church for accessing the churchyard; the current proposal does not facilitate. The future access to the retained areas of the open churchyard clearly need to be maintained and, in the view of Officers, this best secured through covenants attached to the sale of the land. A condition

has nevertheless been recommended to require details of the access route to be submitted to ensure that this is sensitively designed.

14.53 With regard to the potential impact on burials, the Diocese of Chelmsford has advised that the churchyard still has considerable space for future burials toward the eastern end of the churchyard. In addition, there are graves near to the church building, to the north east, where there have been recent additional burials and are visited on a regular basis. It is important that due regard is given to the potential impact that this proposal will have on existing graves as well as land not yet utilised for burials. It is significant that neither the Church Commissioners nor the Diocese of Chelmsford have an objection in principle to the conversion of the church to residential use. The applicant also accepts that there should be no diminution to the passive enjoyment of the burial ground by those visiting graves. The proposed garden area of the dwelling is located to the south of the church which is subject to historic burials (i.e. new burials do not take place in this area) and officers are conscious that the creation of the garden in this area the potential to impact on these burials. The Church Commissioners have advised that legislation requires any burials within the curtilage of the proposed dwelling (including those within the church building itself) to be re-interred in another part of the churchyard unless an Order is first obtained from the Ministry of Justice 'dispensing' with this requirement after consultation with the Bishop and the Commonwealth War Graves Commission. To achieve dispensation, Officers are advised that it has to be demonstrated that burials will not be disturbed by excavations (for example by incoming services, drainage provision including septic tanks and landscaping proposals etc). Furthermore, if burials have occurred within the last 50 years (which is not thought to be the case in respect of this part of the site) relatives have the right to object to the proposal. Given that any potential disturbance to burials is covered by separate legislation it is considered appropriate that this the potential for disturbance to burials is resolved under the specific relevant legislation rather than planning seeking to impose controls. With regard to the 'retained' churchyard land, care has been taken to ensure that all boundary enclosures to the proposed garden are both sensitive to their setting in terms of their design and provide an appropriate screen between the two uses.

14.54 Related to the above considerations, the Diocese of Chelmsford has advised that, even if planning permission were granted for this proposal, the scheme would need to go through the Mission and Pastoral Measure process which would include proposals for the disposal of the churchyard as well as the building. This scheme will consider future access requirements and the acceptability (in terms of impact) that the proposed dwelling will have on future operation of the 'retained' churchyard. As a part of this process, the Diocese has stated the proposals will be subject to further public consultation and that this will include the potential for a committee hearing at which any representations that may arise will be considered before making a decision as to whether to allow the scheme to proceed or not. This process will consider the acceptability of the process from an ecclesiastical perspective (including necessary operational requirements).

Conditions and Development Obligations

- 14.55 The conditions are set out at the end of the report. Officers have considered the need for all of the conditions in the context of the six tests contained in paragraph 55 of the Framework and the advice contained in the NPPG. The conditions are considered necessary to ensure that the development is of a high standard, is safe and sustainable, minimises the impact on the environment (both historic and natural) and complies with the relevant development policies. Additionally, the conditions comply with the requirements of paragraphs 54 and 55 of the Framework and are considered to meet the other statutory tests.
- 14.56 As a procedural matter under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the applicant has been consulted on the proposed condition. At the time of writing the report the applicant is still to confirm if they have no objection to the suggested conditions.

15.0 The Planning Balance

- 15.1 In considering the planning balance, the Framework makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. The Framework identifies three dimensions to sustainable development – economic, social and environmental. National policy requires planning to be genuinely plan-led. The proposal does represent a departure from the adopted Local Plan in terms of its location outside of a settlement boundary, but it would involve the development of previously developed land and would not constitute an isolated dwelling. The current proposal would provide economic benefits, for example in respect of employment during the construction phase and in future residents supporting local facilities and services in accordance with paragraph 78 of the Framework. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure the long-term future of a listed building and serve to enhance the character and appearance of the conservation area. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network. Overall, it is considered the positive economic, social, and environmental effects of the proposal would weigh in favour of this scheme.
- 15.2 Special regard must be had to the desirability of preserving this Grade II listed building, its setting and any features of special architectural or historic interest which it possesses. Whilst the removal of the features of interest would be harmful, the proposed residential scheme presents a long-term solution for the Church which would safeguard its special architectural and historic interest, as far as possible and help to preserve and enhance the conservation area. In weighing-up the public benefits against the harm, the repair of the Church, the provision of a long term viable use that would not

require further alterations in the future, the preservation of the relationship between the church and the churchyard, the enhancement of the conservation area and creation an additional residential dwelling for the Borough are all considered to constitute public benefits. It is considered that the sum of the public benefits including securing the viable use is sufficient to outweigh the less than substantial harm that is caused by the proposed alteration works to the listed building.

- 15.3 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts identified and, as such, Members are recommended to resolve to grant planning permission and listed building consent subject to the conditions set out below.

16.0 Recommendation to the Committee

- 16.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission Ref: 181908 subject to the following conditions:

Planning Permission

1. ZAA - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers

Drawing No.237464 200 Rev A	Elevation / plan
Drawing No.237464 201 -	Section
Drawing No.237464 202 -	Roof
Drawing No.237464 203 rev B	Site plan
Drawing No.237464 300 -	South Façade
Drawing No.237464 301 -	Window Detail
Drawing No. 001 A	External Masonry Repairs North Elevation
Drawing No. 002 A	External Masonry Repairs South Elevation
Drawing No. 003 A	External Masonry Repairs East Elevation
Drawing No. 004 A	External Masonry Repairs West Elevation

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3 Construction Method Statement

No works shall take place, including any demolition or stripping out works, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- The parking of vehicles of site operatives and visitors;
- Hours of deliveries and hours of work;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Measures to control the emission of dust and dirt during construction;
- Measures to ensure that access to all existing homes in the vicinity of the site will be maintained and free from obstruction; and
- A scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

4. Programme of Archaeological Work

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

5. Unknown Evidence

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority.

Reason: To secure the proper recording of the listed building.

6. Grave Markers

Prior to the commencement of any works with the churchyard, a survey shall be undertaken to identify all existing grave markers within the application site boundary and a scheme shall be submitted to and approved in writing by the Local Planning Authority for the recording and relocation of the all identified grave markers to an agreed location. The development shall be implemented in accordance with the details as subsequently approved.

Reason: To ensure that an appropriate record is made of all grave marker and that the markers are re-site to an appropriate location within the churchyard.

7. Materials

Full details of the new external walling and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before works commence above ground floor slab level. The development shall be implemented in accordance with agreed details.

Reason: To ensure that the approved works are carried out without detriment to the listed building or that of the conservation area.

8. Rainwater Goods

All external rainwater goods and other pipes shall be of a similar design to the existing and shall be formed in cast aluminium and shall be finished in black oil based paint

Reason: To ensure that the approved works are carried out without detriment to the listed building or that of the conservation area.

9. Architectural details

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include new windows and curtain wall glazing, rooflights, guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: To ensure that the proposed works are of high quality design for the rural location.

10.ZFT - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant

to monitor and periodically report to the Local Planning Authority, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

11.ZFS - Tree and Hedgerow Protection: General

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

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

12.ZFB - *Full Landscape Proposals TBA*

No works shall take place above ground floor slab level until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE, POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND

- **IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.**

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

13. Access Route

Prior to the enclosure of the land proposed as the domestic garden, a scheme for the provision of access by third parties to the retained open area of churchyard shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details that are subsequently approved.

Reason: To ensure appropriate access is provided for the purposes of maintenance and for visitors to the retained area of the open churchyard

14. RAMS

A scheme to mitigate the impact of the development on designated Habitat sites, which shall previously have been submitted to and approved in writing by the Local Planning Authority, shall be implemented prior to the occupation of the building.

Reason: To ensure that the development does not have a significant effect upon the interest features of Habitat site through increased recreational pressure, when considered either alone or in-combination with other plans and projects.

15. Ecological Mitigation

Prior to the commencement of development an up to date ecological survey report (for birds, bats, and reptiles) shall be carried out by a suitably qualified independent ecologist which shall be submitted to and approved in writing by the Local Planning Authority. The report shall also identify presence or otherwise of birds, bats, and/or reptiles and shall include ecological mitigation, compensation and enhancement measures, together with details of scheme for the monitoring of protected species for a minimum period of five years and details of further works required to mitigate undue adverse effects that may be found. The development shall be undertaken in accordance with the approved ecological report.

Reason: To ensure the scheme provides appropriate ecological mitigation, compensation and enhancement

16. ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity).

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

17.ZCE - Refuse and Recycling Facilities

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

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

18.Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development or by visitors to the church as shown on the drawings as subsequently approved.

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

19.Cycle Parking

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

Listed Building Application Ref: 181909

1. ZAB - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004

2. Historic Building Survey

Prior to the commencement of any work, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works

3. Archaeological works

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.

4. Safeguarding historic features

Prior to the commencement of any works, details of measures to be taken to secure and protect features identified as of historic or architectural interest as a part of the Historic Building Survey for the duration of the works shall be submitted to and approved, in writing, by the Local Planning Authority. No such features shall be disturbed or removed temporarily or permanently except as may be required by the measures approved in pursuance of this condition without the prior written approval of the Local Planning Authority. In particular provision shall be made for the security and protection of the windows and stained glass, the nave arcade, piscina, memorials, the reredos, floor tiles, mouldings and doors. The works shall be implemented in accordance with the agreed details.

Reason: In order to ensure that feature identified of interest are afforded appropriate protection to these features where there is insufficient information within the submitted application.

5. Relocation of Features

Following the approval of the historic building survey, a scheme for the safeguarding and re-location of features identified as being of architectural or

historic interest that would otherwise be affected by the alteration works hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Any identified features shall be re-sited within the retained church building unless otherwise agreed in writing by the Local Planning Authority. The works for the conversion of the church shall be undertaken in accordance with the scheme as subsequently approved.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building

6. Unknown Evidence

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority.

Reason: To secure the proper recording of the listed building.

7. Schedule of Repair

No works shall start on site until a Schedule of Repair Works, specification and a Phasing Programme has been submitted to and approved in writing by the Local Planning Authority. The Schedule of Repair Works shall be supported as appropriate by drawings and photographs and the works shall be implemented in strict accordance with the approved details and completed prior to the occupation of the building.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

8. Stonework Repairs

All repairs to existing stonework shall be undertaken, using natural stone chosen to match the existing in all respects (including colour, texture, geology, proportions and tooling), the existing stonework. All ashlar shall be laid to its natural bed except sills which may be vertically end bedded. Prior to undertaking any stonework repairs, a sample panel of facing ashlar stonework and flintwork shall be provided on site and approved in writing by the local planning authority. All new stonework shall match the approved sample panel and the sample panels shall be retained on site until the work is completed.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

9. Scheme for the making good of element exposed by demolition

Notwithstanding the information submitted, further details of the retained elements of the south aisle, porch and east gable (including the proposed boiler room) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works. The additional information shall include drawings in elevation and section of the height of the retained structures together with detail of the treatment of new elements or existing fabric exposed by the demolition works hereby permitted. The alteration works shall be implemented in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

10. Additional Drawings

Notwithstanding the details submitted, additional drawings in section and elevation of all new architectural features including doors, windows, curtain wall glazing, mezzanine floors (including details of its relationship to the floor and existing windows), stairs, roof lights shall be submitted to and approved in writing by the Local Planning Authority. The alteration works shall be carried out in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

11. Rainwater Goods

All external rainwater goods and other pipes shall be of a similar design to the existing and shall be formed in cast aluminium and shall be finished in black oil based paint

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

12. Floor Levels

Following the submission of the archaeological elevation, full details shall be submitted to and approved in writing in respect of the floor construction and these details shall include drawings that show the extent of the new flooring together with its relationship to buried archaeology and the existing upstanding historic fabric. The subbase / foundation of the new flooring shall be designed so that it sits above any archaeological remains that are of significance. The new flooring shall be implemented in accordance with the details that are subsequently agreed.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

13. Window Repair and Detailing

Notwithstanding the details submitted a scheme for the conservation and design of the church windows and their leaded lights and any secondary glazing or new windows shall be submitted to and approved in writing by the Local Planning Authority. The alteration works shall be implemented in accordance with the agreed details

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

14. Insulation

Notwithstanding the details submitted, full details of the proposed insulation (to walls and ceiling) and any extraction and flue vent terminals shall be submitted to and approved in writing by the Local Planning Authority. The alteration works shall be carried out in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

19.0 Informatives

19.1 The following informatives are also recommended:

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

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

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

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

4. Informative on Highway

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

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

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