

Planning Committee

Town Hall, Colchester
17 January 2013 at 6.00pm

This committee deals with

planning applications, planning enforcement, public rights of way and certain highway matters.

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

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

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

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

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Material Planning Considerations

The following are among the most common issues which the Planning Committee can take into consideration in reaching a decision:-

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, Government guidance, case law, previous decisions of the Council
- design, appearance and layout
- impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance
- impact on trees, listed buildings or a conservation area
- highway safety and traffic
- health and safety
- crime and fear of crime
- economic impact – job creation, employment market and prosperity

The following are among the most common issues that are **not** relevant planning issues and the Planning Committee cannot take these issues into account in reaching a decision:-

- land ownership issues including private property rights, boundary or access disputes
- effects on property values
- restrictive covenants
- loss of a private view
- identity of the applicant, their personality or previous history, or a developer's motives
- competition
- the possibility of a "better" site or "better" use
- anything covered by other legislation

Human Rights Implications

All applications are considered against a background of the Human Rights Act 1998 and in accordance with Article 22(1) of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003 there is a requirement to give reasons for the grant of planning permission. Reasons always have to be given where planning permission is refused. These reasons are always set out on the decision notice. Unless any report specifically indicates otherwise all decisions of this Committee will accord with the requirements of the above Act and Order.

Community Safety Implications

All applications are considered against a background of the implications of the Crime and Disorder Act 1998 and in particular Section 17. Where necessary, consultations have taken place with the Crime Prevention Officer and any comments received are referred to in the reports under the heading Consultations.

Equality and Diversity Implications

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination. The legal context for this framework is for the most part set out in the Equality Act 2010.

REASONABLE DECISIONS AND REASONS FOR REFUSAL.

Circular 03/2009: “Costs Awards In Appeals And Other Planning Proceedings”

Attention is drawn to the following paragraphs of Circular 03/2009:

A3 *“the costs regime is aimed at ensuring as far as possible that... planning authorities properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason”.*

B20 *“Planning authorities are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.”*

B25 *“Whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. They should consider any conditions proposed to them before refusing permission. A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.”*

COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 17 January 2013 at 6:00pm

Members

Chairman : Councillor Theresa Higgins.
Deputy Chairman : Councillor Helen Chuah.
Councillors Nick Barlow, Nigel Chapman, Peter Chillingworth, John Elliott, Stephen Ford, Sonia Lewis, Cyril Liddy, Jackie Maclean, Jon Manning, Nigel Offen, Philip Oxford and Laura Sykes.

Substitute Members : All members of the Council who are not members of this Committee or the Local Plan Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-
Councillors Lyn Barton, Mary Blandon, Mark Cable, Barrie Cook, Nick Cope, Beverly Davies, Annie Feltham, Marcus Harrington, Dave Harris, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Michael Lilley, Sue Lissimore, Colin Mudie, Gerard Oxford, Will Quince, Lesley Scott-Boutell, Terry Sutton, Anne Turrell, Dennis Willetts and Julie Young.

Agenda - Part A

(open to the public including the media)

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

An Amendment Sheet is circulated at the meeting and is available on the council's website by 4.30pm on the day of the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

- action in the event of an emergency;

- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

5. Declarations of Interest

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

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would

reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6. Minutes

1 - 5

To confirm as a correct record the minutes of the meeting held on 29 November 2012.

7. Planning Applications

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

1. 121487 Garage court adjacent to 64 Stalin Road, Colchester (Harbour) **6 - 17**

Demolition of 14 garages for the erection of 2 no. 4 bed affordable houses.
2. 121483 Land adjacent to 9 Rosalind Close, Colchester. (St Andrew's) **18 - 30**

Demolition of 47 garages for the erection of 3 no. 2 bed affordable bungalows with associated parking and additional parking for residents.
3. 121481 Garage court adjacent to 1 Affleck Road, Colchester. (St Andrew's) **31 - 45**

Demolition of the existing 10 garages for the erection of 3 affordable dwellings.
4. 121485 Garage court off Mason Close, Colchester. (Shrub End) **46 - 63**

Demolition of 34 garages for the erection of 2 no. 3 bed and 1 no. 2 bed affordable housing units.
5. 121486 Land adjacent to 20 Swan Grove, Chappel. (Great Tey) **64 - 76**

Demolition of 4 garages for the erection of 2 no. 3 bed and 1 no. 2 bed affordable houses.

6. 121803 Pendleton, The Street, Great Tey. **77 - 84**
(Great Tey)

Construction of new two bedroom detached property.

7. 121457 Moss Farm, Penlan Hall Lane, Fordham. **85 - 97**
(Fordham and Stour)

Listed building application for single storey garden room extension.

8. Exclusion of the Public

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

9. Amendment Sheet 98 - 99

See Amendment Sheet attached

**PLANNING COMMITTEE
29 NOVEMBER 2012**

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Nigel Chapman,
Peter Chillingworth*, Helen Chuah*, John Elliott*,
Sonia Lewis, Cyril Liddy*, Jon Manning, Philip Oxford
and Laura Sykes*

Substitute Members :- Councillor Michael Lilley for Councillor Stephen Ford
Councillor Marcus Harrington
for Councillor Jackie Maclean
Councillor Peter Higgins for Councillor Nigel Offen

(* Committee members who attended the formal site visit.)

59. Minutes

The minutes of the meeting held on 15 November 2012 were confirmed as a correct record.

60. 121353 Land adjacent (south), Grange Road, Tiptree

Consideration of this application was deferred. The Chairman confirmed that the application would be considered by the Committee at the meeting to be held on Thursday, 3 January 2013, when a larger room would be available to facilitate attendance at the meeting of those members of the public who wished to observe the proceedings.

61. 121333 Mersea Court, High Street North, West Mersea

The Committee considered an outline application for an extension to provide six additional flats; this application is a resubmission of planning application 120200. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Simon Osborn, Planning Officer, and Andrew Tyrrell, Planning Manager, attended to assist the Committee in its deliberations.

Andrew Lake, on behalf of objectors, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His objection to this application was in respect of overdevelopment of existing accommodation and the car parking provision. The number of car parking spaces to be provided varied according to how the facility was described:- sheltered accommodation, a block of flats, or a self-contained nursing home. In addition the car parking spaces proposed would be smaller than the standard size making it difficult for

elderly occupants to exit vehicles. No spaces were provided for disabled people. Some of the existing residents opposed the development on the grounds of loss of light, overbearing, out of character for the road, loss of courtyard spaces and insufficient parking. An increase in facilities should be proportional to the increase in residents which was not the case.

Mary Sparks, Chairman of Mersea Island Trust, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Trust was a charity providing warden assisted sheltered accommodation managed by volunteers. The self-contained flats were specifically constructed for the frail and elderly appropriate for the age group. Some modifications had been made in response to comments from neighbours. Currently there were just two cars amongst the fourteen residents; the rest used buggies. Five letters of objection from residents represented six of the fourteen existing residents. Light from the south would not be affected by the development. Parking on the road was not connected with Mersea Court. The Town Council supported the proposal which enabled more elderly people to remain in Mersea at no cost to the public purse.

Members of the Committee were of the opinion that the Trust provided a much needed facility which would be needed more in the coming years. This facility was near to shops in the town centre. It should be recognised that the demand for sheltered accommodation indicated an independent life. Some members considered that the car parking provision should be scaled up in proportion to the number of additional flats and others were concerned that the lack of parking provision would restrict the group who could occupy this facility because people were living longer and driving longer. The council's parking policy did not include this type of facility. There was a suggestion that the reserved matters should indicate which flats could and which could not have a car parking space. There was also a suggestion that there should be a covered, secure bicycle provision.

In addition there was also some concern regarding appropriate provision for disabled people and that storage and facilities for recharging mobility scooter batteries should be provided. There was a question on whether care homes required a percentage of disabled parking spaces. It was recognised that this was a private facility where the Trust was able to set their own entry rules, including the age of applicants, their state of health or ability to drive, and it was acknowledged that potential occupants could choose to accept or refuse a tenancy.

The planning officer referred to the parking bay sizes being at the minimum acceptable standard, which was not the preferred size. The current age of residents ranged from 74 to 95. It would be possible to request a covenant regarding the age of occupants and a unilateral undertaking to that effect. A unilateral undertaking could also be required to prohibit anyone going into the flats from having a car. The minimum age limit in Condition 9 had been included in information provided by the applicant. The facility was described as sheltered accommodation rather than a care home. The provision for mobility scooter spaces would need to be secured by condition rather than reserved matters, and clarification would need to be sought from the applicant on whether three buggy spaces could be provided. The council's parking standards included reference only to care homes and self-contained flats, there was no mention

of sheltered accommodation.

Members discussed the size of car parking bays. Whilst the standard size was preferred the space available would only allow six standard parking bays as opposed to seven smaller parking bays; seven parking bays was preferred for a development of this size. Reference was made to the current provision of fourteen bedrooms, two cars and four parking spaces; twenty bedrooms with seven parking spaces was considered to be proportionate and most likely to operate successfully.

The Planning Manager confirmed that it in normal circumstances a covenant in tenancy agreements would be required to secure no parking between owner and tenant. However, it would not be possible to force the applicant to do so. It would be possible to defer consideration of the application for the applicant to indicate how up to six mobility scooter parking bays with charging facilities could be provided.

RESOLVED (TWO voted AGAINST, TWO ABSTAINED from voting) that –

- (a) Consideration of the application be deferred for negotiation on the provision of up to six mobility scooter parking bays.
- (b) Upon agreement of provision of mobility scooter parking bays, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the Amendment Sheet, together with an additional condition for the provision of mobility scooter parking bays and charging facilities.

62. 121334 Akhurst Court, Melrose Road, West Mersea

The Committee considered an application for an extension to provide five additional flats, this application was a resubmission of application number 120198. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

63. 121763 33 Barrack Street, Colchester

Councillor P.Higgins (in respect of having visited both the applicant and the objector to discuss the application in his role as ward councillor prior to being nominated as a substitute member for this meeting) declared a pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(12) and left the meeting during its consideration and determination.

The Committee considered an application for an extension to the side of an existing property to form an addition to the first floor residential unit. The Committee had before

it a report in which all information was set out.

Carl Allen, Planning Officer, attended to assist the Committee in its deliberations. He described the design of the area as mainly comprising terraced properties. He noted that there were not many properties with a flat above an access in the area generally, but there were two others nearby. He illustrated that there would be no loss of light to the kitchen window by virtue of its orientation. The proposed first floor window would have obscured glazing. He confirmed that slow moving vehicles would be using the driveway.

Mrs Lawrence, on behalf of Barrack Street residents, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She disagreed with the case officer's assertion that the proposal would not cast a shadow on the neighbouring kitchen window in the west wall. This design was not common in the area and inclusion of a drive-through access was out of character with the area. Previously there were two parking spaces with no parking for clients. This application proposed that six parking spaces be used by the office premises and vans would park on the public highway, even when the car park was empty. She enquired where cars would be parked during the building works. The new proposal would require additional parking. There has been a parking document on the website indicating that four vehicles would be parked along the back wall.

David Syrett addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. In his opinion the design was acceptable with no impact on neighbours or the street scene. He reassured the Committee that the right of way would be retained for nos. 29 to 31 Barrack Street. He believed that noise levels would not increase, nor would there be any increase in overlooking. He hoped the Committee would agree with the recommendation.

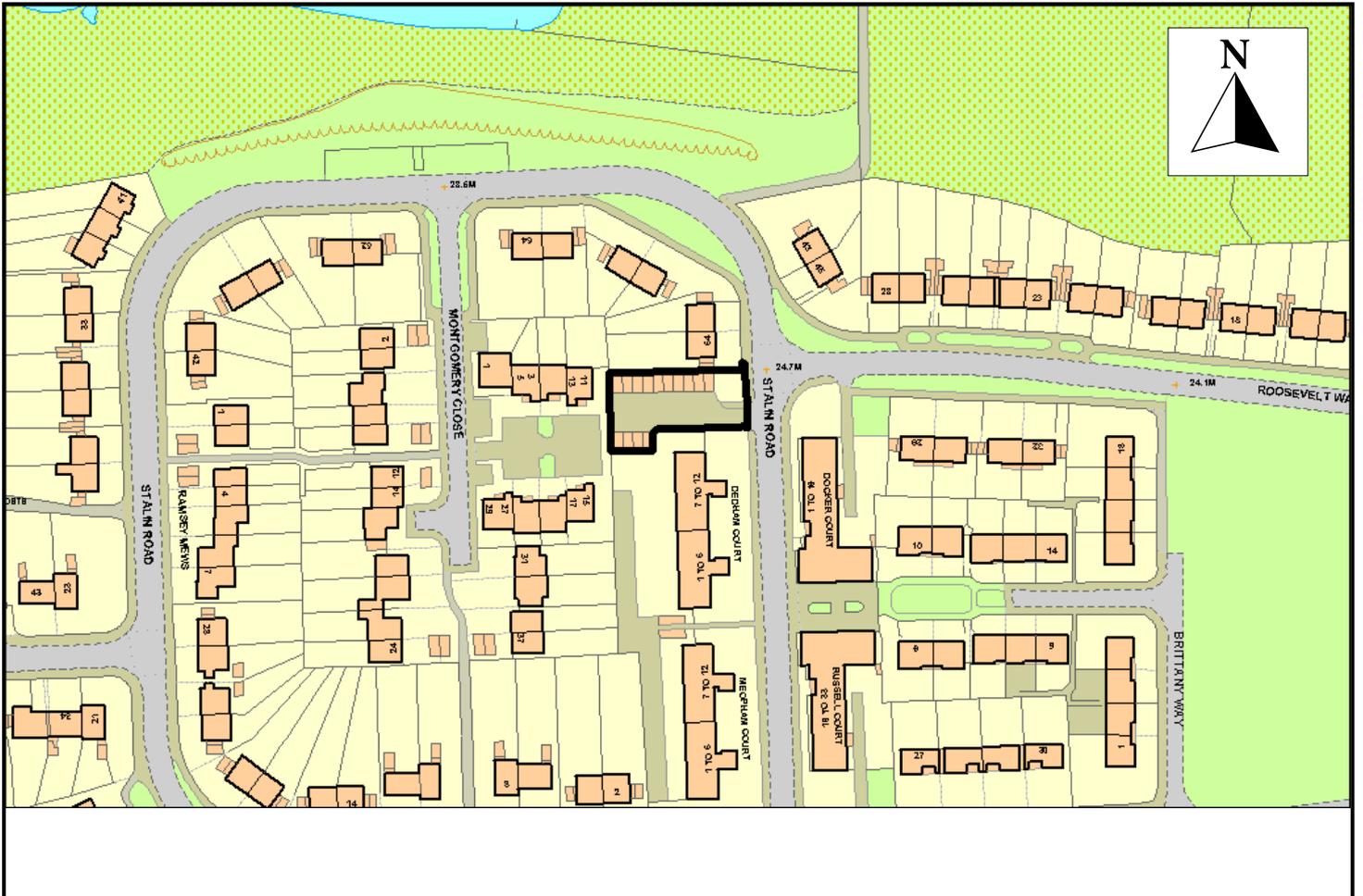
The planning officer explained that the first floor occupied the same area as the ground floor. He confirmed that the neighbour would experience no loss of light and the illustration of the line of the sun across the sky proved there would be no shadow. Four parking spaces were provided at the rear with no additional parking spaces. Vehicles would be off site during the day and would be parked off site. In response to members' queries he also confirmed that the neighbour's right of access through the vehicle access would be retained with a slightly reduced pathway, but the neighbour would still be able to walk through. It was also confirmed that the wall facing the neighbour was a solid wall built on the boundary.

Members of the Committee were aware that offices required a maximum number of parking spaces rather than a minimum number and that this scheme would comply with that policy, therefore there were no grounds on which to object. It was clear that the neighbour would not want a solid wall but there were no planning reasons on which to refuse the application.

RESOLVED (ONE ABSTAINED from voting) that the application be approved with conditions and informatives as set out in the report.

64. Enforcement Report // Application no. 121353 Land adjacent (south), Grange Road, Tiptree

Consideration of this application was deferred. The Chairman confirmed that the application would be considered by the Committee at the meeting to be held on Thursday, 3 January 2013, when a larger room would be available to facilitate attendance at the meeting of those members of the public who wished to observe the proceedings.



Application No: 121487

Location: Garage Court adjacent to 64 Stalin Road, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **17 January 2013**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

7.1 Case Officer: Carl Allen

MINOR

Site: Garage Court adjacent to 64 Stalin Road, Colchester
Application No: 121487
Date Received: 20 August 2012
Agent: Miss Jane Hunting
Applicant: Estuary Housing Association
Development: Demolition of 14 garages for the erection of 2 No. 4 bed affordable houses.
Ward: Harbour

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee firstly because it presents a departure from adopted policy requiring such applications to be accompanied by a contribution towards public open space provision, and secondly because Colchester Borough Council is the owner of the land.

2.0 Synopsis

2.1 The proposal is to demolish the existing garages and to replace with two semi-detached affordable dwellings, each with two off-street vehicle parking spaces. It is considered that the proposal is acceptable with no amenity issues and that the design is suitable for the area. The recommendation is for approval with standard conditions.

2.2 This application is one of several submitted concurrently by Estuary Housing Association for affordable housing on under-used Colchester Borough Council owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives. The Council currently has a shortfall of over 1,000 affordable housing units per annum over 5 years since 2007 in the Borough and this is increasing. Last year the Council was able to deliver 366 units through planning obligations on major developments but with the gap increasing the Council are looking at creative ways to deliver more proactively.

2.3 In fact, the housing need evidence is provided by the results of CBC’s Strategic Housing Market Assessment (November 2007) which was updated last in April 2010. This need is clearly set out in the Cabinet Approved SPD (see extract below).
“The SHMA forms the main Evidence Base for the Council’s assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites”.

The figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	192	-890
2011/12	1,082	366	-716
2012/13	1,082	49 to date	-1033

As you can see to meet our need 2009/2012 we would have had to deliver 3,264 new affordable homes. We in fact delivered 714, a three year shortfall of 2,550 units. This demonstrates that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations. Indeed, this year looks even worse having delivered only 49 affordable homes and with the likelihood of us failing to reach 100 units being quite real.

3.0 Site Description and Context

3.1 The site is a garage court consisting of two blocks of garages which provide 14 individual garages, with a central concrete maneuvering area. To the north of the northern garage block is 64 Stalin Road – a semi-detached dwelling, to the east is the entrance to the garage court on Stalin Road, with two trees established on the grassed verge. Beyond the southern garage block is Dedham Court – which is a three-storey block of flats, whilst to the west is the cul-de-sac of Montgomery Close and the associated houses.

4.0 Description of the Proposal

4.1 The proposal is to demolish the garages and to create two affordable semi-detached dwellings, each with a rear garden and two off-street parking spaces. Each dwelling would provide four bedrooms and would be managed by Estuary Housing. The dwellings would be built to meet 'Lifetime Homes' standards and the 'Code for Sustainable Homes' level 3 standard. The dwellings would be 12.5m long, 10m wide and 9m high. Materials would be Old English Dark Red and Hanson Clumber Red Mixture Bricks with Double Roman Interlocking tiles. One of the two trees on the grassed verge would be removed.

5.0 Land Use Allocation

5.1 Residential

6.0 Relevant Planning History

6.1 None

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 3: Housing

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

H3 – Housing Diversity
H4 – Affordable Housing
UR2 – Built Design and Character

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

DP1 - Design and Amenity
DP12 - Dwelling Standards
DP16 – Private Amenity Space and Open Space Provision for New Residential Development
DP17 – Accessibility and Access
DP19 – Parking Standards

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

N/A.

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

Backland and Infill
Vehicle Parking Standards
The Essex Design Guide
Affordable Housing
Open Space, Sport and Recreation
External materials in new development

8.0 Consultations

8.1 ECC Highways have not raised an objection, subject to standard highways conditions (see conditions).

8.2 Environmental Control have not raised an objection.

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

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 Six letters of objection (two from the same household). Concern has been raised over the potential for occupiers of the dwelling to be able to see into the rear flats of Dedham Court when standing in the proposed rear garden, noise, loss of garages will result in parking problems, an additional two dwellings will increase parking problems in the area. One comment of no objection subject to being provided with an alternative garage (as garage is used for storage – the applicant lives in Rowhedge and requests to be offered a suitable garage closer to their home). A comment that the plans as drawn are incorrect with regards to the wall lines of the existing garage block and that this will lead to ownership problems.

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

11.0 Parking Provision

11.1 The proposal includes four off-street parking spaces, two for each dwelling.

12.0 Open Space Provisions

12.1 There is no open space requirement for this use – see main body of report.

13.0 Air Quality

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

14.0 Report

Design and Layout:

- 14.1 The proposed design would recreate features found in the existing semi-detached dwellings in the area and would not appear as alien to the street scene. The scale and proportions of the proposed dwellings would be in keeping with the surrounding semi-detached dwellings and would follow the existing building lines. The off-road parking spaces to the front of the dwellings would be a new feature in the immediate area, but would not be detrimental to the overall street scene, given that vehicles currently park on the highway. The proposal is considered acceptable design wise and accords with the design requirement of DP1 and UR2. The neighbour at the ground floor Dedham Court has requested that the existing brick wall to the side is retained, rather than replaced with a fence. The wall appears well built with quality bricks, would be the same height as the proposed fence, and its retention would be desirable, and the agent has agreed to this and has amended the plans.

Amenity

- 14.2 Amenity wise there would be a first floor window in both side elevations, but as these would serve bathrooms, and would be conditioned to be obscure glazed, this would not have any overlooking issues as a result. Ground floor side elevation windows would not have any opportunity to overlook, given the position on the ground floor and the height of the boundary fences being 1.8m. Concern has been raised by a neighbour that occupiers of the dwellings – in particular unit 2 – would have views into the dwellings at Dedham Court, from the new garden. It is considered that given the residential nature of the area, the boundary fence being 1.8m high and the existing opportunity to overlook directly into the gardens of the ground floor flats of Dedham Court by the occupiers of the flats on the first and second stories, that any potential for additional overlooking from the proposed gardens into flats at Dedham Court would be unlikely. Overlooking from the proposed rear first floor windows to the rear gardens of Dedham Court would be oblique from a small distance and would be less than the existing direct views from the first and second floors of Dedham Court.
- 14.3 The issue of noise has been raised by an objector. Given that Stalin Road is an established residential area the proposal for an additional two dwellings would only result in the type of noise that is associated and is accepted in residential areas. Noise associated with the construction of the dwellings would be temporary and not a valid reason to refuse the application.
- 14.4 The issue that the proposal would result in ownership disputes is not an issue that planning can consider. Any ownership issues would need to be addressed outside of the planning role. It is noted that the original plan showed an area to the south of the site noted as an area for 'potential land transfer'. This area is actually part of the garden of 7 Dedham Court and a revised plan has been submitted removing the reference to a potential land transfer.

- 14.5 Given the orientation and distance of the proposed dwellings to the existing dwellings there would be no overshadowing issues. The application is considered to comply with DP1 with regards to amenity. It would be prudent to removed Permitted Development Rights for extensions so that the Council could consider the potential impacts to neighbours of any future proposal.
- 14.6 Highways have not raised any objections to the proposal and have suggested standard highways conditions (see Conditions). One of the conditions required the provision and implementation of a Travel Information and Marketing Scheme for sustainable transport approved by Essex County. This is not imposed because it is not considered to pass the relevant tests in this instance.

Parking

- 14.7 Adopted parking standards require two parking spaces per dwelling for new dwellings. This has been achieved by the proposal. The same standards also require 0.25 visitor parking spaces per dwelling. Whilst no off-street visitor parking is proposed, it is commonly accepted that such provision can be provided on-street and there is room for such parking in front of the bungalows.
- 14.8 The proposal results in the loss of 14 garages. These garages are unallocated. They are managed by Colchester Borough Homes (CBH) and are rented out. Information provided by CBH shows that only 8 of these garages are occupied and of them, only 5 are occupied by tenants with a CO2 postcode. Garages occupied by persons without a local postcode are not considered to serve as local parking and are more likely to be used as storage. CBH advise that all local displaced tenants can be provided with garages at alternative nearby sites at Mulberry Avenue (230m from the site) and Churchill Way (160m from the site).
- 14.9 CBH has undertaken an extensive exercise of public consultation. They advise that 4 of the displaced garage tenants have accepted the offer of a garage at an alternative site, whilst one is deciding and another one has requested a garage in Rowhedge (where they live). Two tenants have not yet responded to CBH. It is anticipated that the remainder will relocate once there is no longer an option of parking in existing garages. CBH confirm that other local garages within their management contain adequate provision to accommodate this potential demand even if all displaced garage tenants requested an alternative.

Affordable Housing

- 14.10 The provision of affordable housing is a stated priority of the Council. The Council's Housing Strategy 2008 identifies the need for 1,082 units of affordable accommodation across each year. The same document says that it is a priority to "Investigate new ways of developing or funding the delivery of new affordable housing including reviewing CBC's land use, land sales policy and the use of capital receipts." Similarly, the Council's Local Development Framework Core Strategy sets out that "The Borough Council is committed to improving housing affordability in Colchester" (H4 – Affordable Housing). The fact that this proposal delivers affordable housing must therefore be given significant weight.

14.11 A development of this size does not generate a policy requirement for affordable housing provision. Whilst A S106 agreement is usually needed to secure an affordable housing unit, in this case, the applicant is a Housing Association and the landowner is Colchester Borough Council. In this context, the dwelling's status as affordable housing can and will be ensured through other means. Government advice is that Local Planning Authorities should not seek to replicate what can be adequately achieved through other means

Private Amenity Space and Public Open Space, Sport and Play Areas.

14.12 105 square metres of private amenity space is proposed for Unit 1, whilst Unit 2 would have 155 square metres. This more than complies with the 60 square metre minimum required by Development Policy DP16.

14.13 DP16 also states that "all new residential development will be expected to provide new public areas of accessible strategic or local open space" In smaller developments a commuted sum is acceptable.

14.14 No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document "Provision of Open Space, Sport and Recreational Facilities" specifies that "The standards, outlined above, are to be applied to all additional new residential Units....New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space."

14.15 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a departure from adopted policy. In similar previous cases at Darwin Close and Gloucester Avenue, the normal requirements for such contributions have been waived. This is based on the pressing need for the delivery of affordable housing.

14.16 CBC is the provider of public open space. It is also the landowner. In this capacity, it has the power to agree with the applicant (Estuary Housing) any fee it wishes as part of any future land transaction and use such funds in its provision of public open space, community facilities, or for any other purpose. The consequence of CBC Planning imposing a legal agreement that effects a payment in lieu of public open space is likely to be that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. In conclusion, it is not necessary, nor appropriate to require a Unilateral Undertaking in this instance.

15.0 Conclusion

15.1 The two proposed affordable dwellings are considered acceptable and would not result in any detrimental amenity issues to existing residents. There would be no highways issues as a result of the loss of the garage block given that only five of the garages are rented out to near by residents - who would be offered alternative garage arrangements. The design is acceptable and would be in character with the area, and therefore complies with the Council's policies.

16.0 Recommendation – Approve subject to conditions

17.0 Recommended Reasons for the Decision

YPD - *Reason for Approval (Policy Conflict - Committee)

Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy DP16 in so far as no open space contribution is proposed. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because although there is no Unilateral Undertaking in respect of public open space, as Colchester Borough Council is the landowner, such contributions can (if required) be included as part of any land transfer agreement. Were a legal agreement to be imposed, it is likely that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely that the development does not materially harm neighbours' amenities, is acceptable in highway safety terms, improves the appearance of the site and achieves new affordable housing units.

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 8660-05-1000; 8660-05-1003; 8660-05-1002 and 8660-05-1001 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Materials as Stated in Application

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

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

4 - Removal of PD for Residential Extensions

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

5 - Simple Landscaping Scheme Part 1 of 2

Prior to the commencement of development, there shall have been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the publicly visible parts of the site, which shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

6 - Simple Landscaping Scheme Part 2 of 2

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

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

7 -Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, 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.

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.

8 - *Vehicular Visibility Splays

Prior to the first use of the vehicular access to the development, the accesses shall be provided (at its centre lines) with a clear to ground visibility splay with dimensions of 2 metres by 33 metres to the north and 2 metres by 33 metres to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall thereafter be retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the accesses and those in the existing highway in the interest of highway safety.

9 - Pedestrian Visibility Splays

Prior to the first use of the vehicular access to the development, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall thereafter be retained free of any obstruction at all times and must not form part of the vehicular surface of the access.

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

10 - No Unbound Surface Materials

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

11 – Non Standard Condition

Each vehicular parking space shall have a minimum dimensions of 2.9m x 5.5m.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

12 - Non-Standard Condition/Reason

In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and subject to the approval in writing of, the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

13 - *Removal of PD - Obscure Glazing But Opening

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the first floor windows in the south and north elevations shall be glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

19.0 Informatives

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

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

(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. Please pay particular attention to these requirements.

20.0 Positivity Statement

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



Application No: 121483

Location: Land Adjacent to, 9 Rosalind Close, Colchester

Scale (approx): 1:1250

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7.2 Case Officer: Peter Hill**MINOR****Site:** Land Adjacent to, 9 Rosalind Close, Colchester**Application No:** 121483**Date Received:** 20 August 2012**Agent:** Miss Jane Hunting**Applicant:** Estuary Housing Association**Development:** Demolition of 47 garages for the erection of 3No. 2 bed affordable bungalows with associated parking and additional parking for residents.**Ward:** St Andrews**Summary of Recommendation:** Conditional Approval**1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee firstly because it presents a departure from adopted policy requiring such applications to be accompanied by a contribution towards public open space provision, and secondly because it has been referred by Councillor Julie Young for the following reason; "This planning application will be detrimental to existing residents by removing parking provision in an area which already suffers from a lack of parking provision."

2.0 Synopsis

2.1 This application is one of several submitted concurrently by Estuary Housing Association for affordable housing on under-used Colchester Borough Council owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives. The Council currently has a shortfall of over 1,000 affordable housing units per annum over 5 years since 2007 in the Borough and this is increasing. Last year the Council was able to deliver 366 units through planning obligations on major developments but with the gap increasing the Council are looking at creative ways to deliver more proactively.

2.2 In fact, the housing need evidence is provided by the results of CBC’s Strategic Housing Market Assessment (November 2007) which was updated last in April 2010. This need is clearly set out in the Cabinet Approved SPD (see extract below).
“The SHMA forms the main Evidence Base for the Council’s assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites”.

The figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	192	-890
2011/12	1,082	366	-716
2012/13	1,082	49 to date	-1033

As you can see to meet our need 2009/2012 we would have had to deliver 3,264 new affordable homes. We in fact delivered 714, a three year shortfall of 2,550 units. This demonstrates that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations. Indeed, this year looks even worse having delivered only 49 affordable homes and with the likelihood of us failing to reach 100 units being quite real.

2.3 The key issues are;

1. Neighbours’ Amenities
2. Parking
3. Highway Safety
4. Affordable Housing
5. Private Amenity Space & Public Open Space, Sport and Play Areas.
6. Design and Sustainability

3.0 Site Description and Context

3.1 The application site is accessed via Rosalind Close. Rosalind Close is part of an estate of two-storey houses and flats dating from the 1960s / 1970s. Parking on the estate is generally communal with various garage blocks offering garages to rent (managed by Colchester Borough Homes) and unallocated and uncontrolled open parking spaces.

3.2 The site currently accommodates 47 garages in flat-roofed blocks together with a small number of external parking bays. It is accessed a wide concrete driveway adjacent to a further garage block that is outside of the application site and is to be retained. To the north east and north west are two-storey maisonette buildings, whilst to the south west is a terrace of two-storey houses. The site is sunken with surrounding residential properties set at a higher level. The garages have a somewhat dilapidated and run-down appearance and have the appearance of being little used.

4.0 Description of the Proposal

4.1 The applicant proposes the demolition of 47 garages and the erection of 3 detached two-bedroom bungalows with their own parking, together with the creation of a communal parking area of 10 spaces to serve existing local residents. Not all of the garages are occupied – figures are presented in the following sections of this report.

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits but has no other allocation.

6.0 Relevant Planning History

6.1 Although there is no relevant planning history that directly relates to this site, planning application 121483 was submitted concurrently with this application and related to a nearby site on the same cul-de-sac. It proposed replacing 3 garages and 3 external parking bays with a single house. That application has now been withdrawn.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 – Sustainable development

H1 – Housing Delivery

H2 – House Density

H3 – Housing Diversity

H4 - Affordable Housing

TA5 – Parking

UR2 – Built Design and Character

PR2 – People Friendly Streets

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

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

Backland and Infill
Vehicle Parking Standards
Open Space, Sport and Recreation
Extending your House
The Essex Design Guide
External Materials in New Developments
Affordable Housing

8.0 Consultations

8.1 The Highway Authority has no objection subject to conditions (see relevant section)

8.2 The Council's Tree Officer has no objection, subject to conditions (see relevant section)

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

9.0 Representations

9.1 There have been no neighbour comments submitted in respect of this application. Corresponding (withdrawn) application 121483 for redevelopment of parking spaces further down Rosalind Close did generate 2 comments, both expressing concerns about the loss of parking. This matter will be addressed in the subsequent sections of this report.

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

10.0 Parking Provision

10.1 The dwellings proposed have 2 parking spaces each and this complies with the Borough's adopted standards. However, the scheme affects tenanted garages and communal parking – see paragraphs 14.2.1-14.2.4 of the main body of this report

11.0 Open Space Provisions

11.1 No contribution towards public open space is proposed. See main body of report for more detail.

12.0 Air Quality

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

13.0 Development Team and Planning Obligations

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

14.0 Report

14.1 Neighbours’ Amenities

14.1.1 Although the ‘back to back distance’ at 17.5 metres is below the 25 metre minimum distance recommended by the Essex Design Guide, being single-storey and having a lower ground level than surrounding maisonettes and houses, the proposed bungalows will not result in any material loss of privacy to the occupiers of surrounding dwellings.

14.1.2 135 Magnolia Drive is the closest dwelling to the site. The side elevation of Plot 1 is 1.2 metres from its side boundary, 3 metres from the rear boundary fence of 135 Magnolia Drive and 10.5 metres from the rear elevation of no.135. The proximity to the rear elevation means that there will be some loss of outlook to that property, however, the bungalow is just 2.6 metres high to the eaves and its hipped roof slopes away from the boundary to a maximum height of 5.4 metres. The change in site levels means that such heights will in fact appear even lower in comparison to the levels of 135 Magnolia Drive. In this context, the bungalow will not appear unduly oppressive and any loss of light / sunlight will be minor. Similar arguments apply to other residential properties bounding the site, all of which benefit from a greater degree of separation than is the case with 135 Magnolia Drive.

14.1.3 The gardens and rear-facing windows of the proposed bungalows will be overlooked by several surrounding properties. Such overlooking will be particularly severe due to the higher level of those properties and because the maisonette buildings have more intense occupation at first floor level compared with houses. Whilst undesirable, such absence of privacy does not compromise any existing occupier’s amenities and the amenities of future potential occupiers of the dwellings carries less weight as this is something that will be readily apparent on the first visit of potential occupiers.

14.2 Parking

- 14.2.1 Adopted parking standards require two parking spaces per dwelling for new dwellings. This has been achieved by the proposal. The same standards also require 0.25 visitor parking spaces per dwelling. Whilst no off-street visitor parking is proposed, it is commonly accepted that such provision can be provided on-street and there is room for such parking in front of the bungalows.
- 14.2.2 The proposal results in the loss of 47 garages. These garages are unallocated. They are managed by Colchester Borough Homes (CBH) and are rented out. Information provided by CBH shows that only 6 of these garages are occupied and of them, only 5 are occupied by tenants with a CO4 postcode. Garages occupied by persons without a local postcode are not considered to serve as local parking and are more likely to be used as storage. CBH advise that all local displaced tenants can be provided with garages at alternative nearby sites within 150 metres of the site.
- 14.2.3 The proposal also results in the loss of 3 marked external parking bays. These are not allocated or managed and are available for general use. In addition, it is apparent that further informal parking occurs on the site in unmarked locations. The informal nature of such parking makes it difficult to calculate numbers, but it is estimated that 4 cars can be parked without blocking off garages or essential manoeuvring areas. In total therefore, 7 external parking spaces would be lost to this development. The application includes proposal for a new external communal parking area with space for 10 cars. This more than compensates for the external parking spaces that will be lost to the development.
- 14.2.4 CBH has undertaken an extensive exercise of public consultation. They advise that 3 of the displaced garage tenants have accepted the offer of a garage at an alternative site. It is anticipated that the remainder will relocate once there is no longer an option of parking in existing garages. CBH confirm that other local garages within their management contain adequate provision to accommodate this potential demand even if all displaced garage tenants requested an alternative.

14.3 Highway Safety

- 14.3.1 The Highway Authority originally responded to plans that showed very little change to the existing vehicular access to the site, expressing no objection, subject to conditions. However, the Planning Service was able to suggest a revised layout that achieved greater on-site parking levels and increased soft landscaping.

- 14.3.2 Plans have subsequently been amended to show a narrower 4.8 metre wide vehicular access adjacent to a 1.2 metre wide footway that would also serve as clearance for opening garage doors. This footway would only be delineated by surfacing materials. Amended plans also show an enlarged parking court. The Highway Authority has been asked for their views on this and continue to express no objection, noting that the “Essex Design Guide allows for 4.8m carriageways for Mews Courts serving 20 units in a cul-de-sac. Parking standards require 2 spaces per unit so a mews court could have 40 cars going in and out daily. If all the garages currently on site are occupied it is also potentially 40 vehicles going in and out” and concluding that “the traffic associated with the proposal will (not) be any greater than this so the levels of conflict could still be less than at present.” Officers agree with the views of the Highway Authority in this regard.
- 14.3.3 In their original comments, the Highway Authority recommended various conditions be imposed. One such condition related to vehicular visibility splays, requiring 11 metres in either direction. This cannot be achieved in a north-easterly direction as the existing garage block obscures it, allowing for only 9 metres visibility to the nearside edge of the carriageway. However, vehicles approaching the site’s main access from the north east would do so on the far side of the road. The distance to the far side of the carriageway is 17 metres – much greater than that originally suggested by the Highway Authority in relation to vehicles coming from the opposite direction and approximately half the distance to the head of the cul-de-sac, meaning that vehicle speeds and traffic levels will be very low. In this context, and in the context of the highway safety improvements that result from a less intensive use of the access than could otherwise occur, the visibility splays that are achievable are considered acceptable. Through ongoing discussions, the Highway Authority has confirmed verbally that this is acceptable. Such vehicular visibility splays (and similar splays from the access to the new parking court) would be within the boundary of the highway and/or footpaths / carriageways of the application site and so no conditions would be necessary in order to achieve them.
- 14.3.4 The Highway Authority also recommended minimum sizes for parking spaces and the provision of turning areas. Both are achieved in the proposed layout and so no condition is required other than for the implementation of the proposed layout. A condition requiring no loose materials within 6 metres of the highway would be achieved by a landscaping condition. A further condition recommended by the Highway Authority requires the “provision and implementation of a Travel Information and Marketing Scheme for sustainable transport approved by Essex County Council.” This is not imposed because it is not considered to pass the relevant tests in this instance. Consequently, the only condition suggested by the highway authority that needs to be implemented relates to a requirement for pedestrian visibility splays.

14.4 Affordable Housing

14.4.1 The provision of affordable housing is a stated priority of the Council. The Council's Housing Strategy 2008 identifies the need for 1,082 units of affordable accommodation across each year. The same document says that it is a priority to "Investigate new ways of developing or funding the delivery of new affordable housing including reviewing CBC's land use, land sales policy and the use of capital receipts." Similarly, the Council's Local Development Framework Core Strategy sets out that "The Borough Council is committed to improving housing affordability in Colchester" (H4 – Affordable Housing). The fact that this proposal delivers affordable housing must therefore be given significant weight.

14.4.2 A development of this size does not generate a policy requirement for affordable housing provision. Whilst A S106 agreement is usually needed to secure an affordable housing unit, in this case, the applicant is a Housing Association and the landowner is Colchester Borough Council. In this context, the dwelling's status as affordable housing can and will be ensured through other means. Government advice is that Local Planning Authorities should not seek to replicate what can be adequately achieved through other means

14.5 Private Amenity Space and Public Open Space, Sport and Play Areas.

14.5.1 108 square metres of private amenity space is proposed for each dwelling. This more than complies with the 60 square metre minimum required by Development Policy DP16.

14.5.2 DP16 also states that "all new residential development will be expected to provide new public areas of accessible strategic or local open space" In smaller developments a commuted sum is acceptable.

14.5.3 No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document "Provision of Open Space, Sport and Recreational Facilities" specifies that "The standards, outlined above, are to be applied to all additional new residential Units....New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space."

14.5.4 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a departure from adopted policy. In similar previous cases at Darwin Close and Gloucester Avenue, the normal requirements for such contributions have been waived. This is based on the pressing need for the delivery of affordable housing.

14.5.5 CBC is the provider of public open space. It is also the landowner. In this capacity, it has the power to agree with the applicant (Estuary Housing) any fee it wishes as part of any future land transaction and use such funds in its provision of public open space, community facilities, or for any other purpose. The consequence of CBC Planning imposing a legal agreement that effects a payment in lieu of public open space is likely to be that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. In conclusion, it is not necessary, nor appropriate to require a Unilateral Undertaking in this instance.

14.6 Design and Sustainability

14.6.1 In proposing a detached bungalow, the scheme is out of keeping with the ubiquitous terraced or flatted two-storey character of surrounding buildings. Two-storey dwellings would however result in unacceptable harm to neighbour's amenities and so the proposed form of development is the most appropriate for this site. The bungalows themselves are without particular design merit but are low-key and set well back from the public highway. Therefore they do not read as part of the main street scene.

14.6.2 Any harm to existing character or from deficiencies in the design of the new bungalows would be more than compensated for by improvements to the appearance of the site that result from the clearance of existing run-down garaging and improved hard and soft landscaping. Landscaping conditions are recommended by the Council's Tree Officer. Overall, the impact on the appearance and the character of the area is a positive one.

14.6.3 Whilst adopted SPD would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved, all registered social landlords are required to build to a higher standard than this. Consequently no such condition is necessary.

15.0 Conclusion

15.1 Whilst the proposed development has some limitations within it, these factors must be weighted against the benefits of the application that include an improvement in the visual appearance of the site, more communal parking bays, and 3 affordable housing units. Such benefits are significant and justify an approval. None of the deficiencies are significant to a degree that would tip the balance and justify a refusal.

16.0 Recommendation

16.1 APPROVE subject to conditions

17.0 Recommended Reasons for the Decision

YPD - *Reason for Approval (Policy Conflict - Committee)

Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy DP16 in so far as no open space contribution is proposed. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because although there is no Unilateral Undertaking in respect of public open space, as Colchester Borough Council is the landowner, such contributions can (if required) be included as part of any land transfer agreement. Were a legal agreement to be imposed, it is likely that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely that the development does not materially harm neighbours' amenities, is acceptable in highway safety terms, improves the appearance of the site and achieves new affordable housing units.

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 8660-02a-1001 revision D, 8660-02a-1002 revision E, and 8660-02a-1003 revision A.

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

3 - Simple Landscaping Scheme Part 1 of 2

Prior to the commencement of development, there shall have been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the publicly visible parts of the site, which shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

4 - Simple Landscaping Scheme Part 2 of 2

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

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

5 - Non-Standard Condition/Reason

Prior to the first occupation of the dwelling, the access and parking arrangements shown on drawing 8660-02a-1001 revision D, shall be laid out and made available for their approved purpose. The parking spaces and access shown on that drawing shall be retained thereafter, and kept available at all times for their approved purpose.

Reason: To ensure that adequate parking is available to serve the needs of the development in the interests of the amenities of the occupiers of that dwelling and of surrounding residential properties.

6 - Non-Standard Condition/Reason

Prior to the commencement of development a scheme of railings / walls around the soft landscaped areas of the public parking area and the dwelling frontages shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect soft planting areas from damage by vehicles and pedestrians and to ensure that this is done in an attractive manner. Submitted details are inadequate to properly assess such railings and some soft planted areas are not shown as protected on submitted drawing

7 -Removal of PD for Open Plan Developments

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a highway.

Reason: It is considered that there is sufficient merit to justify control of frontages in order to maintain an open plan housing layout.

8 - Pedestrian Visibility Splays

Prior to the first use of the vehicular access to the development, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall thereafter be retained free of any obstruction at all times and must not form part of the vehicular surface of the access.

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

9 - Non-Standard Condition/Reason

Prior to the commencement of development, cross section drawings at a minimum scale of 1:200 shall be submitted to and approved in writing by the Local Planning Authority. The submitted cross sections shall be southwest-northeast and southeast-northwest through each of the three new dwellings and shall include the existing neighbouring dwellings on each side of each cross section. Development shall only be undertaken in such a way that accords with the approved drawings.

Reason: The application as submitted includes inadequate information regarding the change in levels which are significant around the site. Submitted cross section drawings are inaccurate and inconsistent.

19.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

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

(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. Please pay particular attention to these requirements.

20.0 Positivity Statement

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



Application No: 121481

Location: Garage Court adjacent to 1 Affleck Road, Colchester

Scale (approx): 1:1250

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7.3 Case Officer: Peter Hill

MINOR

Site: Garage Court adjacent to 1 Affleck Road, Colchester

Application No: 121481

Date Received: 20 August 2012

Agent: Miss Jane Hunting

Applicant: Estuary Housing Association

Development: Demolition of the existing 10 garages for the erection of 3 affordable dwellings.

Ward: St Andrews

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee firstly because it presents a departure from adopted policy requiring such applications to be accompanied by a contribution towards public open space provision, and secondly because it has been referred by Councillor Julie Young for the following reason; "This planning application will be detrimental to existing residents by removing parking provision in an area which already suffers from a lack of parking provision."

2.0 Synopsis

2.1 This application is one of several submitted concurrently by Estuary Housing Association for affordable housing on under-used Colchester Borough Council owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives. The Council currently has a shortfall of over 1,000 affordable housing units per annum over 5 years since 2007 in the Borough and this is increasing. Last year the Council was able to deliver 366 units through planning obligations on major developments but with the gap increasing the Council are looking at creative ways to deliver more proactively.

2.2 In fact, the housing need evidence is provided by the results of CBC’s Strategic Housing Market Assessment (November 2007) which was updated last in April 2010. This need is clearly set out in the Cabinet Approved SPD (see extract below).
“The SHMA forms the main Evidence Base for the Council’s assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites”.

The figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	192	-890
2011/12	1,082	366	-716
2012/13	1,082	49 to date	-1033

As you can see to meet our need 2009/2012 we would have had to deliver 3,264 new affordable homes. We in fact delivered 714, a three year shortfall of 2,550 units. This demonstrates that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations. Indeed, this year looks even worse having delivered only 49 affordable homes and with the likelihood of us failing to reach 100 units being quite real.

2.3 The key issues are;

1. Neighbours’ Amenities
2. Parking
3. Highway Safety
4. Affordable Housing
5. Private Amenity Space & Public Open Space, Sport and Play Areas.
6. Design and Sustainability

3.0 Site Description and Context

3.1 The application site is accessed via Affleck Road. Affleck Road forms part of an estate of two-storey houses and flats dating from the 1960s / 1970s. Parking on the estate is generally communal with various garage blocks offering garages to rent (managed by Colchester Borough Homes) and unallocated and uncontrolled open parking spaces. A network of footpaths connect the various road of the estate, making it very porous. Two other garage / parking areas are accessed off Affleck Road.

3.2 The site currently accommodates 10 garages in flat-roofed blocks together with 7 external parking bays. To the west of the site are the side elevations and garden areas of two-storey maisonette buildings. To the east is a footpath and then the back gardens of two-storey houses on Hawthorn Drive. To the rear of the site (south), is a wide verge with an attractive avenue of trees along a footway known as Parsonson Walk.

4.0 Description of the Proposal

4.1 The applicant proposes the demolition of 10 garages and the erection of a terrace of 3 two-storey houses with their own parking. (2 x three-bedroom and 1 x four-bedroom). Not all of the garages are occupied – figures are presented in the following sections of this report.

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits but has no other allocation.

6.0 Relevant Planning History

6.1 Although there is no relevant planning history that directly relates to this site, planning application 121482 was submitted concurrently with this application and related to a nearby site on the same cul-de-sac. It proposed replacing 2 garages and 7 external parking bays with a single house. That application has now been withdrawn.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

TA5 – Parking

UR2 - Built Design and Character

PR2 – People Friendly Streets

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

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

Backland and Infill
Vehicle Parking Standards
Open Space, Sport and Recreation
Extending your House
The Essex Design Guide
External Materials in New Developments
Affordable Housing

8.0 Consultations

8.1 The Highway Authority initially stated no objection subject to conditions (see relevant section). This comment was later withdrawn in place of a holding objection based on the loss of parking. The highway authority has indicated that this holding objection may be withdrawn if information regarding nearby parking availability was made available. This objection was removed on 7/1/13 following additional information provided by CBH, the Highway Authority commenting that they would not object if the Council is "content that the parking facilities, whether on the highway, in the remaining garages, or set parking spaces mean there isn't going to be an issue for the existing highway users or residents".

8.2 The Council's Tree Officer has no objection, subject to conditions (see relevant section)

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

9.0 Representations

9.1 Four objections have been submitted in respect of this application and a petition containing 97 signatures has been submitted.

9.2 Objections raised relate principally to the loss of parking, but also include:-

1. Proximity of side wall to footpath behind Hawthorn Avenue properties creates an alleyway that would result in congregation of youths and increase in crime
2. Loss of outlook and overshadowing of back gardens to Hawthorn Avenue properties
3. Harm to access of emergency vehicles and refuse vehicles.

- 9.3 These matters will be addressed in the subsequent sections of this report. It is noted that the petition related to concurrently submitted (and now withdrawn) application 121482 as well as to this application.

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

10.0 Parking Provision

- 10.1 The dwellings proposed have 2 parking spaces each and this complies with the Borough's adopted standards. However, the scheme affects tenanted garages and communal parking – see paragraphs 14.2.1-14.2.5 of the main body of this report

11.0 Open Space Provisions

- 11.1 No contribution towards public open space is proposed. See main body of report for more detail.

12.0 Air Quality

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

13.0 Development Team and Planning Obligations

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

14.0 Report

14.1 Neighbours' Amenities

- 14.1.1 There is a back-to-back distance of 39 metres between the proposed houses and dwellings to the rear (south of the site) and this includes the intervening pedestrian way of Parsonson Walk. It is therefore considered that there is no potential for material harm to the light, outlook or privacy of those properties.

- 14.1.2 The side elevation of the maisonette building containing 1 and 3 Affleck Road to the west would be just 3 metres away at its closest point. However, this facing elevation contains no windows and so there is no potential for overlooking, loss of outlook or loss of privacy to the building itself. The proposed new houses do extend 2.5 metres behind the rearmost point of 1 and 3 Affleck Road, however, the 3 metre side isolation and the orientation of the new houses means that any loss of light or outlook to the gardens of these maisonettes would be within acceptable bounds. The tests set out in adopted SPD 'Extending Your House' are all met to this regard. No windows are proposed to the side elevation of the dwellings and so there will be no materially harmful overlooking of the gardens to these maisonettes.

14.1.3 The east side elevation of the proposed Polt 3 is 14.5 metres from the rear elevations of 152 and 154 Hawthorn Drive. This side elevation contains no windows and so will generate no overlooking of those properties. There will be some loss of outlook, but the separation distance is large enough to ensure that this is within reasonable bounds, especially as there is an intervening footpath, ensuring that the side elevation of the new houses will be 3.5 metres away from the rearmost boundary of Hawthorn Drive properties . There will also be some loss of afternoon sunlight, but this should largely affect only the far end of Hawthorn Drive gardens and only at certain times of the day and in this context, the harm caused is not so severe as to justify a refusal on that basis.

14.1.4 One neighbour has expressed concerns that the development encloses the existing path that connects Affleck Road with Parsonson Walk, running between the site and the backs of Hawthorn Avenue gardens. This (existing) path is straight without doglegs and therefore offers good visibility. The existing garage site provides a greater potential security hazard and its loss together with the additional surveillance created by three new dwellings if anything improves security.

14.2 Parking

14.2.1 Adopted parking standards require two parking spaces per dwelling for new dwellings. This has been achieved by the proposal. The same standards also require 0.25 visitor parking spaces per dwelling. Whilst no off-street visitor parking is proposed, it is commonly accepted that such provision can be provided on-street and there is room for such parking in front of the houses.

14.2.2 The proposal results in the loss of 10 garages. These garages are unallocated. They are managed by Colchester Borough Homes (CBH) and are rented out. Information provided by CBH shows that only 6 of these garages are occupied and of them, only 5 are occupied by tenants with a CO4 postcode. Garages occupied by persons without a local postcode are not considered to serve as local parking and are more likely to be used as storage. CBH advise that all local displaced tenants can be provided with garages at the garage site on the opposite side of Affleck Road.

14.2.3 The proposal also results in the loss of 7 external parking bays. These are not allocated or managed and are available for general use. In addition 2 on-street parking spaces would be lost to general use where the new accesses to the dwellings will be located. Colchester Borough Homes advise that in addition to re-accommodating displaced garage tenants, 9 further spaces can be made available in alternative garage sites within 250 metres of the application site.

14.2.4 CBH has undertaken an extensive exercise of public consultation. They advise that 5 of the displaced garage tenants have accepted the offer of a garage at an alternative site. No users of external parking spaces have made contact with CBH , but It is anticipated that demand for garage parking spaces will increase if there are no alternative 'free' options.

14.2.5 In conclusion, existing garage tenants can be re-accommodated in existing nearby vacant garages at which there are adequate vacancies. If necessary and if required, there is adequate space in nearby CBH managed garage sites to accommodate a parking for a further 9 vehicles – equivalent to the number of external parking bays and on-street parking spaces lost to the development. It is accepted that this may not be as convenient to some as existing arrangements and that persons who currently park for free in external unallocated bays or on-street may not be willing to take up a garage tenancy. However, in planning terms, there is adequate parking availability to absorb parking spaces lost and the proposal is therefore acceptable.

14.2.6 It is likely that uptake of garage tenancies in nearby blocks will, to some extent, be dependant on the supply of and demand for ‘free’ alternatives. If there is adequate alternative on-street parking or parking in ‘free’ external bays, then it is less likely that the displacement of external parking bays and on-street parking by this development will lead to an increased uptake in garages.

14.3 Highway Safety

14.3.1 The Highway Authority originally responded with no objection to this proposal, subject to conditions.

14.3.2 One such condition related to vehicular visibility splays for ‘the access’. These would be almost entirely within the bounds of the highway where no condition is required to control visibility. It is also noted that whereas currently up to 17 vehicles can be using the site, after development only 6 vehicles will be using the site. It is further noted that there is no longer a single access, but instead 6 individual accesses serving single vehicles. Although these vehicles will now be reversing onto/off the highway, the majority of these accesses are now further from the junction with Hawthorn Close, improving highway safety.

14.3.4 The Highway Authority also recommended minimum sizes for parking spaces and the provision of turning areas. Both are achieved in the proposed layout and so no condition is required other than for the implementation of the proposed layout. A condition requiring no loose materials within 6 metres of the highway would be achieved by a landscaping condition. A further condition recommended by the Highway Authority requires the “provision and implementation of a Travel Information and Marketing Scheme for sustainable transport approved by Essex County Council.” This is not imposed because it is not considered to pass the relevant tests in this instance. Consequently, the only condition suggested by the highway authority that needs to be implemented relates to a requirement for pedestrian visibility splays.

14.3.5 Neighbours have commented that the application will make emergency vehicle access difficult. It is unclear why this should be the case as the street and/or the footpaths remain the closest access point to the dwellings of Affleck Road / Hawthorn Drive. Neighbours also comment that refuse trucks will have difficulty turning. Existing turning and manoeuvring areas towards the end of Affleck Road remain the most likely turning places for such vehicles (which will in any case need to proceed to the end of Affleck Road) rather than the application site.

14.4 Affordable Housing

14.4.1 The provision of affordable housing is a stated priority of the Council. The Council's Housing Strategy 2008 identifies the need for 1,082 units of affordable accommodation across each year. The same document says that it is a priority to "Investigate new ways of developing or funding the delivery of new affordable housing including reviewing CBC's land use, land sales policy and the use of capital receipts." Similarly, the Council's Local Development Framework Core Strategy sets out that "The Borough Council is committed to improving housing affordability in Colchester" (H4 – Affordable Housing). The fact that this proposal delivers affordable housing must therefore be given significant weight.

14.4.2 A development of this size does not generate a policy requirement for affordable housing provision. Whilst A S106 agreement is usually needed to secure an affordable housing unit, in this case, the applicant is a Housing Association and the landowner is Colchester Borough Council. In this context, the dwelling's status as affordable housing can and will be ensured through other means. Government advice is that Local Planning Authorities should not seek to replicate what can be adequately achieved through other means

14.5 Private Amenity Space and Public Open Space, Sport and Play Areas.

14.5.1 Areas of amenity space stated on submitted drawings are incorrect. In fact, 70 square metres of private amenity space is provided for Plot 1, 90 square metres for plot 2 and 72 square metres for Plot 3. Consequently, Plots 1 and 3 more than comply with the 60 square metre minimum required of 3-bedroom dwellings by Development Policy DP16. The same policy requires 100 square metres for 4-bedroom houses and so Plot 2 is slightly short of the required area of amenity space. However, the deficiency is not so significant as to justify a refusal on that basis.

14.5.2 DP16 also states that "all new residential development will be expected to provide new public areas of accessible strategic or local open space" In smaller developments a commuted sum is acceptable.

14.5.3 No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document "Provision of Open Space, Sport and Recreational Facilities" specifies that "The standards, outlined above, are to be applied to all additional new residential Units....New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space."

14.5.4 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a departure from adopted policy. In similar previous cases at Darwin Close and Gloucester Avenue, the normal requirements for such contributions have been waived. This is based on the pressing need for the delivery of affordable housing.

14.5.5 CBC is the provider of public open space. It is also the landowner. In this capacity, it has the power to agree with the applicant (Estuary Housing) any fee it wishes as part of any future land transaction and use such funds in its provision of public open space, community facilities, or for any other purpose. The consequence of CBC Planning imposing a legal agreement that effects a payment in lieu of public open space is likely to be that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. In conclusion, it is not necessary, nor appropriate to require a Unilateral Undertaking in this instance.

14.6 Design and Sustainability

14.6.1 The proposed dwelling design is without particular design merit. The building's appearance is plain and the fenestration arrangement could be better. Bland windowless side elevations offer little quality to the public domain. The building form is different to the gable-ended character of surrounding buildings. That said, the two storey character of the surroundings is maintained and there are no existing design features in surrounding houses that are of such positive benefit to the surrounding character that an alternative design could be considered to cause significant harm to this character.

14.6.2 Perhaps the greatest harm to the appearance of the site comes from the loss of soft landscaping, including three small trees, on the existing site frontage together with views over the garages of the trees behind them that will be lost to the two-storey development proposed. These features combine together to offer a welcome area of greenery in what is otherwise a somewhat stark area. There is potential for new tree planting in the frontages of the new dwellings that will soften the appearance of the site, but the parking interspersed along that frontage reduces the potential positive impact of such planting.

14.6.3 The Council's Tree Officer observes that a large Ash Tree to in the location of the back garden of Plot 1 will need to be removed. This Ash Tree is not protected and is of secondary visual importance to the avenue of trees behind it along Parsonson Walk. The loss of that tree is therefore acceptable.

14.6.4 In conclusion, the poor design and loss of greenery is a material consideration that weighs against this proposal.

14.6.4 Whilst adopted SPD would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved, all registered social landlords are required to build to a higher standard than this. Consequently no such condition is necessary.

15.0 Conclusion

15.1 In terms of its impact on parking, highway safety, private amenity space provision and impact on neighbours' amenities, this proposal is considered to be acceptable. The absence of a contribution towards the provision of Public Open Space as part of this planning application is acceptable in this instance as such contributions can (if required) be secured by other means. The proposed development erodes an area of greenery that is of benefit to the surrounding area. In its place, it proposes dwellings of poor design. This harm can be mitigated against to some degree by new planting and by the use of good building materials but there will remain material harm to visual amenity. However, Members must weigh this up against the material benefits of providing 3 units of affordable housing which is a stated Council priority. In Officers opinion, such benefits outweigh the harm described and the application is consequently recommended for approval.

16.0 Recommendation

16.1 APPROVE subject to conditions

17.0 Recommended Reasons for the Decision

YPD - *Reason for Approval (Policy Conflict - Committee)

Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy DP16 in so far as no open space contribution is proposed. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because such contributions can (if required) be secured by other means. In terms of its impact on parking, highway safety, private amenity space provision, and impact on neighbours' amenities, this proposal is considered to be acceptable. Deficiencies in private amenity space are not so significant as to justify a refusal on that basis. Deficiencies in design quality must be weighed against the positive benefits of securing 3 affordable housing units. In this instance, such benefits outweigh the harm caused by such deficiencies. Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause unacceptable harm to interests of acknowledged importance that would warrant the refusal of this application.

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 8660-01A-1000 revision D, 8660-01A-1002 revision E, and 8660-01A-1003.

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

3 - Non-Standard Condition/Reason

Prior to the commencement of development, a scheme of hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include any proposed changes in ground levels and shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

Reason: In order to ensure to ensure an attractive scheme that breaks up what would otherwise be an overly stark appearance to the site.

4 - Simple Landscaping Scheme Part 2 of 2

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

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

5 - Non-Standard Condition/Reason

Prior to the first occupation of the dwelling, the parking arrangements shown on drawing 8660-01A-1000 revision D, shall be laid out in precise accordance with that drawing and made available for their approved purpose. The parking spaces and access shown on that drawing shall be retained thereafter, and kept available at all times for their approved purpose.

Reason: To ensure that adequate parking is available to serve the needs of the development in the interests of the amenities of the occupiers of that dwelling and of surrounding residential properties.

6 - Non-Standard Condition/Reason

Prior to the commencement of development a scheme of railings / walls around the soft landscaped areas of the public parking area and the dwelling frontages shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect soft planting areas and to ensure an attractive finish to the development. Submitted drawings contain inadequate information regarding the elevations of boundary treatment to be used and the positioning shown is in some cases unacceptable, causing harm to visual amenities.

7 -Removal of PD for Open Plan Developments

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a highway or within / bounding the public parking area, with the exception of any railings / walls approved as part of condition 6.

Reason: To ensure an open and attractive finish to the publicly visible parts of the development.

8 - Pedestrian Visibility Splays

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

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

9 - Non-Standard Condition/Reason

None of the sheds shown on drawing 8660-01A-1000 shall be erected until such times as a scheme showing the elevations and finishing materials has been submitted to and approved in writing by the Local Planning Authority. The shed shall then only be erected in such a way that fully complies with the approved scheme.

Reason: Inadequate details have been submitted with this application for this element of the scheme to be properly assessed.

10 - Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

11 - Tree and Natural Feature Protection: Protected Areas

Prior to the commencement of development, all trees, shrubs and other natural features not scheduled for removal on the approved plans shall have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

12 - Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

13 - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) 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, by 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.

14 - Non-Standard Condition/Reason

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

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

19.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

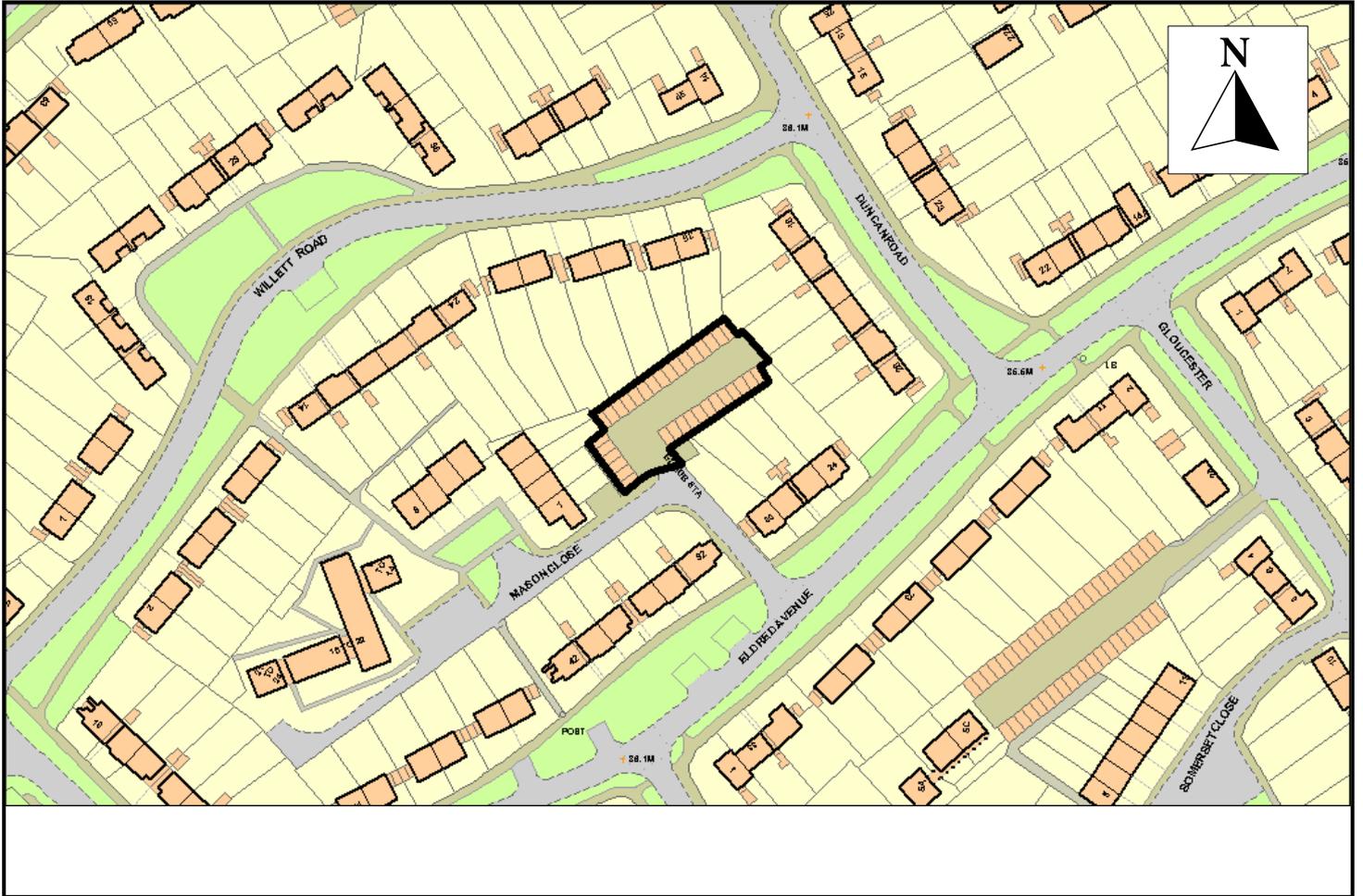
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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. Please pay particular attention to these requirements.

20.0 Positivity Statement

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



Application No: 121485

Location: Garage Court off Mason Close, Colchester, CO2 9BH

Scale (approx): 1:1250

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7.4 Case Officer: Lucy Mondon

MINOR

Site: Garage Court off Mason Close, Colchester, CO2 9BH

Application No: 121485

Date Received: 20 August 2012

Agent: Miss Jane Hunting

Applicant: Estuary Housing Association

Development: Demolition of 34 garages for the erection of 2 No. 3 bed and 1 No. 2 bed affordable housing units.

Ward: Shrub End

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it presents a departure from adopted policy requiring such applications to be accompanied by a contribution towards public open space provision.

2.0 Synopsis

2.1 This application is one of several submitted concurrently by Estuary Housing Association for affordable housing on under-used Colchester Borough Council owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives. The Council currently has a shortfall of over 1,000 affordable housing units per annum over 5 years since 2007 in the Borough and this is increasing. Last year the Council was able to deliver 366 units through planning obligations on major developments but with the gap increasing the Council are looking at creative ways to deliver more proactively.

2.2 In fact, the housing need evidence is provided by the results of CBC's Strategic Housing Market Assessment (November 2007) which was updated last in April 2010. This need is clearly set out in the Cabinet Approved SPD (see extract below).
"The SHMA forms the main Evidence Base for the Council's assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites".

The figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	192	-890
2011/12	1,082	366	-716
2012/13	1,082	49 to date	-1033

As you can see to meet our need 2009/2012 we would have had to deliver 3,264 new affordable homes. We in fact delivered 714, a three year shortfall of 2,550 units. This demonstrates that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations. Indeed, this year looks even worse having delivered only 49 affordable homes and with the likelihood of us failing to reach 100 units being quite real.

- 2.3 The application seeks planning permission for the erection of 3 No. dwellings, with associated parking. The proposed development would consist of 2 No. three-bedroom properties and 1 No. two-bedroom property.
- 2.4 The following report considers the material planning matters together with issues raised in representations. The report describes the site and its setting, the proposal itself, and the consultation responses received. The planning merits of the case will be assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The application site is a garage site located on Mason Close, a small development of two-storey houses and blocks of flats. Mason Close is serviced by a narrow road. Parking provision consists of a number of unallocated open parking spaces, as well as the garage blocks in the application site which offer garages to rent (managed by Colchester Borough Homes).
- 3.2 The site currently accommodates 34 garages in flat-roofed blocks. Mason Close lies to the west of the site. The site lies adjacent to the rear gardens of properties on Willett Road, Duncan Road and Eldred Road, to the north, east and south of the site.
- 3.3 The garages on site appear to be relatively well used and are in a reasonable state of repair.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of 3 No. two-storey dwellings and associated parking areas. The mix of units is as follows: 2 No. three-bedroom properties and 1 No. two-bedroom property. The properties would be arranged as a terrace and would have rear gardens ranging 72m² to 80m².

- 4.2 The properties would be between 8.8 and 9.2 metres high and would be constructed in brick beneath a pantile roof. Windows would be white upvc. Six covered parking spaces would be provided for the future occupants of the development.
- 4.3 Minimal soft landscaping is proposed. Boundary treatments consist of: a 2 metre high wall to the northern, southern, and western boundaries of the site (to replace the existing garage walls); a 0.8 metre high wall with 1 metre high railings above adjacent to the entrance to the site; and a 1.8 metre high close boarded fence to remaining boundaries.

5.0 Land Use Allocation

- 5.1 The site lies within the defined settlement limits but has no other allocation.

6.0 Relevant Planning History

- 6.1 There is no relevant planning history that relates to this site.

7.0 Principal Policies

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

ER1 - Energy, Resources, Waste, Water and Recycling

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

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

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

Backland and Infill
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing

8.0 Consultations

8.1 Highway Authority: Recommended conditions

8.2 Environmental Protection: Recommended conditions

8.3 Landscape: Agreement to the landscape aspect of the application subject to conditions.

8.4 Urban Design:

- The Parking should be contained in a structure with a pitched roof so that additional visual protection of amenity for the exposed rear of existing dwellings can be preserved. ('A letter from the police architectural liaison officer was submitted previously to justify not constructing covered parking but this fails, in my opinion to justify the change to the existing situation and the lack of the covered parking will affect the neighbouring properties more than create the issues that the ALO suggests').
- Stone sills and headers would be preferable on every elevation. This would present a more considered and consistent design.

8.5 Arboricultural Officer: Agreement with the recommendations and conclusions in the Arboricultural Impact Assessment submitted. Recommended conditions.

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

9.0 Parish Council's Comments

9.1 N/A

10.0 Representations

10.1 Comments have been received from Cllr Barton summarised as follows:

- The garages are not an eyesore (not vandalised) and are not sitting empty as on other garage sites.
- Parking in Mason Close will become intolerable. It is very tight now but add the cars which were parked in garages and it creates a real problem.
- The design should be changed to create more parking spaces to replace those lost.
- There is no provision for visitors' parking - adding to the parking problems.
- It will be difficult to turn in Mason Close if the development goes ahead.
- The back walls of the garages form the rear boundary of a number of properties and should be replaced with a boundary wall for privacy and security.
- Residents feel their bedrooms can be looked in to and light to a conservatory will be lost. This loss of amenity is the main concern.
- The homes surrounding the site are occupied by middle aged/older people and family housing of this sort will alter the area.

10.2 Comments have been received from Cllr Hazell summarised as follows:

- Most of these garages are occupied. To displace cars from these garages will cause even further congestion on nearby roads.
- Masons Close is a narrow cul-de-sac, to displace parking will make it impossible for Doctors, ambulances, emergency services access.
- Loss of light and privacy to neighbouring properties.

10.3 One letter of no objection has been received.

10.4 One letter of comment has been received, the content of which is summarised below:

- Who will be responsible for the boundary walls and fences?
- How will the gates be accessed? Possibility of intruders.
- What will the space at the ends of the gardens be used for?

10.5 A petition of objection with sixty-nine signatures has been received.

10.6 Fourteen letters of objection have been received, the contents of which are summarised below:

- Development will block skyline
- The development will block sunlight to rear gardens
- Who will be responsible for the boundary?
- Do not want damage or disruption to back garden

- The garages currently provide privacy and security for properties. This would be lost with the demolition of the garages. The brick walls should be retained or replaced like for like
- The development would result in an increase of noise and disturbance
- The development would devalue homes
- There are currently parking issues in the area which will get worse following the development
- Roads currently get blocked and have prevented access to Mason Close by a fire engine when there was a fire in one of the flats
- Increased parking on Mason Close, Eldred Avenue, and Willett Close will prevent access for emergency services
- There will be excessive traffic
- There is insufficient parking provided for the new houses
- Visitors will park in Mason Close causing more congestion
- The development would overlook rear gardens and look into properties
- The development would cause inconvenience (noise, disruption)
- Rented garage (for No. 16 Duncan Road) can be seen from the house. If a garage has to be rented elsewhere this level of security would be lost.
- The garages are well used and not vandalised
- There is enough new build in Colchester

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

11.0 Parking Provision

- 11.1 The Vehicle Parking Standards SPD provides the parking standards for dwellings. The adopted standard for dwellings of two or more bedrooms is a minimum of two car parking spaces per dwelling; and a minimum of one secure covered cycle space per dwelling (unless a secure area can be provided within the curtilage of the dwelling). Visitor car parking is also required: 0.25 spaces per dwelling (rounded up to the nearest whole number).
- 11.2 The proposal provides two parking spaces per dwelling and this complies with the Borough's adopted standards. However, the scheme affects tenanted garages. See paragraphs 15.18-15.22 of the main body of this report for detail and discussion.

12.0 Open Space Provisions

- 12.1 No contribution towards public open space is proposed. See paragraphs 15.24-15.29 of the main body of this report for more detail.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Design and Impact on the Character of the Area

- 15.1 The proposal is for 3 No. two-storey houses, arranged as a terrace. This is reflective of the character of Mason Close, which consists of two-storey blocks of flats and terraced houses. The use of brick and pantiles is considered to be acceptable with regards to the character of the area. A condition requiring samples of the materials to be used can secure appropriate type and colour. Amendments to the original proposal have improved the detailed design of the properties: stone cills and headers have been proposed, which provides a consistency in design across the three properties and improves the quality of the proposed development in terms of its character and appearance.
- 15.2 The proposal includes the provision of car ports, which would provide under cover parking for the occupants of the proposed dwellings. The car ports would replace existing garaging on the western boundary of the site. With the exception of their pitched roofs, the car ports would not appear out of character with the area when taking into account the existing garages.
- 15.3 The proposal would, therefore, be acceptable in terms of its design and would compliment the character of the area.
- 15.4 Whilst Core Strategy Policy ER1 and adopted SPD would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved, all registered social landlords are required to build to a higher standard than this. Consequently no such condition is necessary.

Impact on Residential Amenity

- 15.5 The proposal would be located amongst existing residential development. Consideration has been given as to how the proposal would affect the occupants of nearby residential properties in terms of loss of light, overbearing, privacy, and noise.
- 15.6 The proposed dwellings would be between 21-37 metres from neighbouring properties. Due to the distances between the proposed dwellings and neighbouring properties on Mason Close, Willett Road, Duncan Road, and Eldred Road, the proposal is not considered to have a significant impact on the amount of light that would enter these properties and would not have an overbearing impact.

- 15.7 The proposed dwellings would be sited to the south of No's 32 and 34 Willett Road. Due to their southerly position, there would be some loss of sunlight to the rear gardens of these properties. However, the gardens that serve No's 32 and 34 Willett Road are at least 20 metres long and the loss of sunlight to the ends of these gardens is not considered to have such an impact on the level of amenity currently enjoyed by the occupants of these properties with which to justify refusal of planning permission.
- 15.8 In terms of daylight, the Essex Design Guide states that acceptable daylight in interiors is achieved if a 25 degree vertical angle from a point 2 metres above the floor at the façade is not obstructed. Although the proposed dwellings would replace single-storey structures, and would therefore be more visible from neighbouring properties, the distance between the buildings allows for a clear 25 degree angle to be achieved. It is therefore considered that the proposal would not significantly affect the amount of daylight that enters neighbouring properties.
- 15.9 The distances between the proposed dwellings and neighbouring properties significantly reduces any prospect of overlooking from the proposed dwellings. Residents have a higher expectation of privacy from the private garden side of the property. The Essex Design Guide states that a minimum of 25 metres between the backs of houses may be acceptable. Where new development backs onto the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses are approximately parallel to the existing, the rear of new houses may not encroach closer than 15 metres to an existing rear boundary.
- 15.10 With regards to the relationship between the proposed dwellings and the existing properties on Duncan Road, the proposed dwellings would be more than 25 metres from the properties on Duncan Road and would be more than 15 metres from the existing rear boundary. The distance between the proposed dwellings and the existing properties on Duncan Road is therefore sufficient to preserve acceptable levels of privacy.
- 15.11 There would be a slightly different relationship between the proposed dwellings and the properties on Mason Close as the proposed dwellings would face the rear of these existing properties. The proposed dwellings would be more than 25 metres from the rear of the properties on Mason Close and would be more than 15 metres from the rear boundary. Due to the 'front-to-rear' relationship, pitched roofed carports have been introduced in the parking area to provide an intervening feature that will further reduce the perception of overlooking to the existing properties in Mason Close. The distance between the proposed dwellings and the existing properties on Mason Close is therefore sufficient to preserve acceptable levels of privacy.
- 15.12 There are no concerns regarding overlooking to properties in Willett Road or Eldred Road as there will be no first-floor windows to the flank elevations of the proposed dwellings.

- 15.13 Comments have been received from local residents with concerns regarding noise and disturbance. The application site is currently used for garaging which would generate noise associated with car movements and parking (e.g. the revving of car engines, car doors slamming). In contrast, the proposal is for housing, with associated parking, which would reduce the number of car movements and associated noise. The proposal is not, therefore, considered to give rise to noise disturbance. Should future occupants of the dwellings generate unacceptable levels of noise, this will be dealt with under environmental health legislation.
- 15.14 The Council's Environmental Protection Team have recommended that a condition be attached to the decision to ensure that, prior to the first use or occupation of the development, the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. However, the proposal does not include any plant, equipment or machinery. The condition is not, therefore, considered necessary.

Trees and Landscaping

- 15.15 There are no concerns regarding the protection or retention of trees as there are no trees on site. There are trees on neighbouring sites and the roots to these trees may be affected. An Arboricultural Impact Assessment has been submitted with the application that addresses the safeguarding of the root zones to these trees. The Council's Arboricultural Officer is content with the conclusions and recommendations contained within the assessment and has recommended conditions to ensure adequate root protection.
- 15.16 Minimal soft landscaping is proposed. It is recommended that further details regarding the landscaping for the publicly visible parts of the site be submitted via condition. It is also recommended that permitted development rights for development forward of the dwellings be removed in order to preserve the open character of the area.
- 15.17 Amendments have been submitted with regards to the boundary treatments of the site. A brick wall will replace the existing garage walls. This will provide security for the neighbouring properties, as well as preserve their current outlook in terms of boundary treatment. A 1.8 metre high close boarded fence will be erected to the eastern boundary. This replaces existing fencing. The boundary treatment proposed is considered to be visually acceptable.

Parking and Highway Safety

- 15.18 Adopted parking standards require two parking spaces per dwelling, plus cycle parking, for new dwellings. This has been achieved by the proposal. The same standards also require 0.25 visitor parking spaces per dwelling. The proposal would require one visitor parking space and, whilst no off-street visitor parking is proposed, it is commonly accepted that such provision can be provided on-street for the occasional instances when visitor parking is required.

- 15.19 The proposal results in the loss of thirty-four garages. These garages are unallocated to local residents. They are managed by Colchester Borough Homes (CBH) and are rented out. Information provided by CBH shows that twenty-one of these garages are occupied, fifteen of which are rented by local residents (those within the CO2 postcode). Of these fifteen garages, nine are used for parking, the remainder are used for storage. Garages occupied by persons without a local postcode are not considered to serve as local parking and are more likely to be used as storage. Therefore, there are nine cars that will be displaced as a result of the proposal.
- 15.20 CBH has undertaken an extensive exercise of public consultation. They advise that, of the twenty-one tenants, six have accepted garages at alternative sites in the area. A further six tenants will end their tenancy: one tenant will park their car on their driveway; one tenant will sell their car; and four tenants who used the garages for storage and will seek storage elsewhere. The remaining nine tenants have not responded to the consultation exercise. There is a sufficient number of alternative garages within 400 metres of the site (walking distance) which can be made available to the fifteen local tenants should they wish to let them. Therefore, the nine cars that would be displaced as a result of the proposal can be accommodated at other garage sites in the surrounding area. The proposal is not, therefore, considered to result in an increased burden on on-street parking.
- 15.21 Mason Close is a narrow road and access for emergency vehicles is likely to be difficult. However, the proposal would not make this situation any worse. Other than the loss of a narrow turning area between the garages within the application site, access and turning facilities within Mason Close remain unaltered. The Highway Authority does not have any objections to the proposal on highway safety grounds subject to conditions.
- 15.22 The Highway Authority also recommended a condition requiring the “provision and implementation of a Travel Information and Marketing Scheme for sustainable transport approved by Essex County Council”. This is not imposed because it is not considered to pass the relevant tests in this instance.

Affordable Housing

- 15.23 The provision of affordable housing is a stated priority of the Council. The Council’s Housing Strategy 2008 identifies the need for 1,082 units of affordable accommodation across each year. The same document says that it is a priority to “Investigate new ways of developing or funding the delivery of new affordable housing including reviewing CBC’s land use, land sales policy and the use of capital receipts.” Similarly, the Council’s Local Development Framework Core Strategy sets out that “The Borough Council is committed to improving housing affordability in Colchester” (H4 – Affordable Housing). The fact that this proposal delivers affordable housing must therefore be given significant weight.

15.24 A development of this size does not generate a policy requirement for affordable housing provision. Whilst a S106 agreement is usually needed to secure an affordable housing unit, in this case, the applicant is a Housing Association and the landowner is Colchester Borough Council. In this context, the dwelling's status as affordable housing can and will be ensured through other means. Government advice is that Local Planning Authorities should not seek to replicate what can be adequately achieved through other means.

Private Amenity Space and Public Open Space, Sport and Play Areas.

- 15.25 Development Policy DP16 requires that all new residential development shall provide private amenity space to a high standard, with secure usable space that is also appropriate to the surrounding context. Garden size standards are: 50m² for one or two-bedroom houses and 60m² for three-bedroom houses. The proposal provides garden sizes of between 72-80m², which complies with the policy and provides a usable garden space for future occupants. The garden size may not be as large as those associated with properties in Willett Road, Duncan Road, or Eldred Road, but the gardens would be similar in size to those in Mason Close and, therefore, the garden sizes would be appropriate to their context.
- 15.26 Development Policy DP16 also states that "all new residential development will be expected to provide new public areas of accessible strategic or local open space". In smaller developments a commuted sum is acceptable.
- 15.27 No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document 'Provision of Open Space, Sport and Recreational Facilities' specifies that "the standards, outlined above, are to be applied to all additional new residential Units....New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space."
- 15.28 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a departure from adopted policy. In similar previous cases at Darwin Close and Gloucester Avenue, the normal requirements for such contributions have been waived. This is based on the pressing need for the delivery of affordable housing.
- 15.29 CBC is the provider of public open space. It is also the landowner. In this capacity, it has the power to agree with the applicant (Estuary Housing) any fee it wishes as part of any future land transaction and use such funds in its provision of public open space, community facilities, or for any other purpose. The consequence of CBC Planning imposing a legal agreement that effects a payment in lieu of public open space is likely to be that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. In conclusion, it is not necessary, nor appropriate to require a Unilateral Undertaking in this instance.

Contamination

- 15.30 The site has been used for garaging for some years. Although the site is considered to be capable of development, there is a risk of ground contamination from engine oil or storage. The Council's Environmental Protection Team has recommended a condition that ensures that appropriate action is taken should any contamination be encountered during development.

Flood Risk and Drainage

- 15.31 The site is located within Flood Zone 1 and the application has been assessed in line with the NPPF and Environment Agency Standing Advice. As a Flood Zone 1, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding. No mitigation is required.

Biodiversity

- 15.32 The proposal has been assessed in line with the NPPF and Natural England Standing Advice. The site is not considered to encompass suitable habitat for protected species, nor is the proposal considered likely to have an impact upon protected species. The proposal is therefore acceptable in regards to biodiversity.

Other Matters

- 15.33 The Environmental Protection Team have recommended a condition regarding the control of hazardous substances. However, the proposal is for residential housing and will not involve hazardous substances. Therefore the condition is not considered to be necessary and has not been included in the recommended conditions below.
- 15.34 Other matters have been raised by local residents which will be discussed as follows: The existing garages are relatively well kept and are not 'an eyesore'. However, the well-kept appearance of the garages does not preclude further development. The garages are not of particular historic or architectural merit that would warrant their retention.
- 15.35 Comments have been received that suggest that the demographic of the area is middle-aged and older people, rather than families. Whilst this may be the case, the proposal is not out of the ordinary as there are many two or three bedroom properties in the area. The proposal is not, therefore, considered to be out of character with the surrounding area.
- 15.36 A number of questions have been raised as to who will be responsible for the boundary wall and fences, how the gates will be accessed, and what the space at the end of the gardens will be used for. The Agent has confirmed that the responsibility for boundaries will not be verified until planning permission is obtained. The access to the rear of the properties is via gates, which can be lockable. The space at the end of the gardens is shown as an open area for access to the rear gardens of the proposed properties.

15.37 It is noted that one garage tenant, who lives in a property adjacent to the site, can see their garages from their property, which does provide added security. Should the tenant choose to rent one of the alternative garages in the surrounding area, this personal surveillance would be lost. However, the alternative garages available would benefit from natural surveillance from adjacent properties. Therefore, there would not be a total loss of security.

15.38 The concern that the proposed development would devalue homes is not a material planning consideration and cannot be taken into account as part of the assessment of the application.

16.0 Conclusion

16.1 Whilst the proposed development has some limitations within it, these factors must be weighted against the benefits of the application that include an improvement in the visual appearance of the site and the provision of three affordable housing units. Such benefits are significant and justify an approval. None of the deficiencies are significant to a degree that would tip the balance and justify a refusal.

17.0 Recommendation - APPROVE subject to the following conditions

18.0 Recommended Reasons for the Decision

YPD - *Reason for Approval (Policy Conflict - Committee)

Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy DP16 in so far as no open space contribution is proposed. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because although there is no Unilateral Undertaking in respect of public open space, as Colchester Borough Council is the landowner, such contributions can (if required) be included as part of any land transfer agreement. Were a legal agreement to be imposed, it is likely that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely that the development does not materially harm neighbours' amenities, is acceptable in highway safety terms, improves the appearance of the site and achieves new affordable housing units.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 8660-04-1000, 8660-04-1001, and 8660-04-1002, received on 24th September 2012, and Drawing Number 8660-04-1004, received on 7th January 2013.

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

3 - Non-Standard Condition/Reason

Notwithstanding the submitted details, no development shall be commenced until samples of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Before it is first used or occupied, the approved external facing and roofing materials shall be fully applied to the development and shall thereafter be retained.

Reason: In the interests of visual amenity and the character of the area where insufficient information has been submitted as part of the application.

4 - Construction Method Statement

Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have 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;

wheel washing facilities;

measures to control the emission of dust and dirt during construction; 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.

5 - 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.

6 - *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.

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

7 - Simple Landscaping Scheme Part 1 of 2

Prior to the commencement of development, there shall have been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the publicly visible parts of the site, which shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

8 - Simple Landscaping Scheme Part 2 of 2

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

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

9 - Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

10 - Tree and Hedgerow Protection: General

All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, fail to thrive or are otherwise defective, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, by 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.

11 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, where remediation is necessary, a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12 - Non-Standard Condition/Reason

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2 metres by 33 metres to the south west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

13 - Non-Standard Condition/Reason

Prior to occupation of the development the vehicular parking and turning facility, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

14 - Removal of PD for Open Plan Fences/Walls

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

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

(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. Please pay particular attention to these requirements.

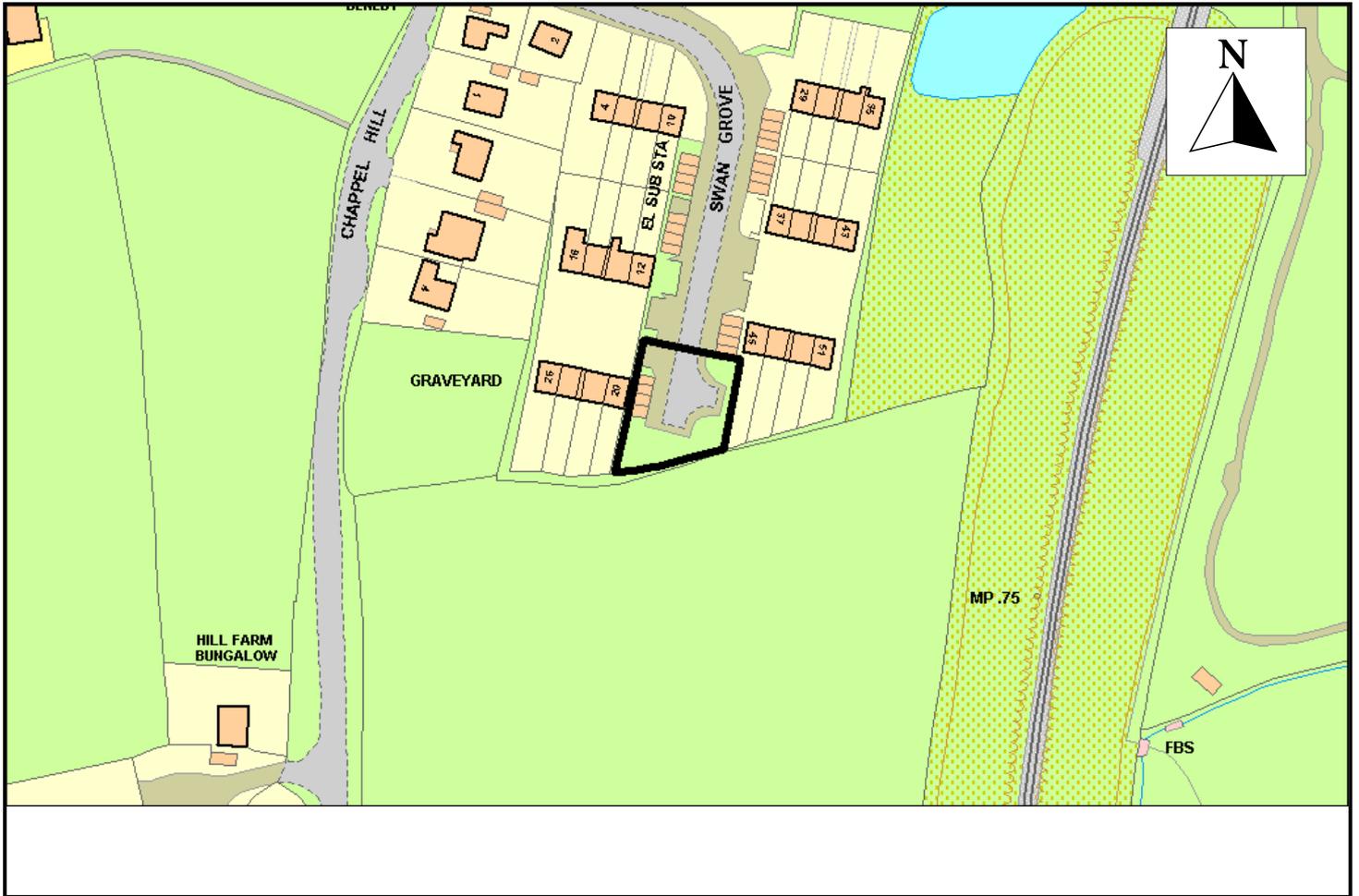
(3) Non-standard Informative

In respect of condition 11, the Applicant/Agent/Developer is advised that further information can be found on the Council's Contaminated Land webpages:

<http://www.colchester.gov.uk/article/6922/Contaminated-Land>

21.0 Positivity Statement

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



Application No: 121486

Location: Land Adjacent to 20 Swan Grove, Chappel, Colchester

Scale (approx): 1:1250

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7.5 Case Officer: Mr David Whybrow

MINOR

Site: Land Adjacent to 20 Swan Grove, Chappel, Colchester

Application No: 121486

Date Received: 20 August 2012

Agent: Miss Jane Hunting

Applicant: Estuary Housing Association

Development: Demolition of 4 garages for the erection of 2 No. 3 bed and 1 No. 2 bed affordable houses (amended layout)

Ward: Great Tey

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is submitted for consideration of the Committee as one of a series of proposals for residential development of CBC garage sites in order to provide affordable housing. It has attracted significant numbers of objections from local residents.

2.0 Synopsis

2.1 The following report describes the proposal and considers consultation responses and representations received. In the "report" section the planning merits of the case are considered leading to the conclusion that the proposals as submitted are, on balance, acceptable and a conditional approval is recommended.

2.2 This application is one of several submitted concurrently by Estuary Housing Association for affordable housing on under-used Colchester Borough Council owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives. The Council currently has a shortfall of over 1,000 affordable housing units per annum over 5 years since 2007 in the Borough and this is increasing. Last year the Council was able to deliver 366 units through planning obligations on major developments but with the gap increasing the Council are looking at creative ways to deliver more proactively.

- 2.3 In fact, the housing need evidence is provided by the results of CBC’s Strategic Housing Market Assessment (November 2007) which was updated last in April 2010. This need is clearly set out in the Cabinet Approved SPD (see extract below).
“The SHMA forms the main Evidence Base for the Council’s assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites”.

The figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	192	-890
2011/12	1,082	366	-716
2012/13	1,082	49 to date	-1033

As you can see to meet our need 2009/2012 we would have had to deliver 3,264 new affordable homes. We in fact delivered 714, a three year shortfall of 2,550 units. This demonstrates that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations. Indeed, this year looks even worse having delivered only 49 affordable homes and with the likelihood of us failing to reach 100 units being quite real.

3.0 Site Description and Context

3.1 Swan Grove is a cul de sac giving access to groups of 2 storey, terraced housing with roadside garages and parking spaces. The application site lies at the southern end of the cul de sac and comprises the vehicular turning head and an area of grassed amenity space with trees to the southern boundary. It also includes a group of 4 garages located alongside No. 20 Swan Grove.

3.2 The rear garden of No. 45 extends along the eastern boundary and to the north is meadowland. The site is on land that rises steadily from north to south.

4.0 Description of the Proposal

4.1 3 no. two and 3 bedroomed dwellings are proposed facing down Swan Grove and served by 5 car parking spaces. A reduced turning head is proposed in the northern part of the site.

4.2 Members will be aware that amended proposals were submitted on 20th December 2012 which show Unit 3 repositioned as a detached house to achieve a rear garden less dominated and overshadowed by retained trees. At the time of writing this report further neighbour notification had been carried out and any new comments arising will be reported at the Meeting.

4.3 Additional information submitted with the application includes a Design and Access Statement, secured by design report, Ecological Appraisal and Arboricultural Impact Assessment (AIA).

5.0 Land Use Allocation

5.1 The site falls within the defined settlement boundary for Chappel.

6.0 Relevant Planning History

6.1 None

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

TA5 - Parking

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

DP1 Design and Amenity

DP12 Dwelling Standards

8.0 Consultations

8.1 Environmental Control require conditions to be attached to any consent granted to cover the reporting of unexpected contamination.

8.2 The Highway Authority raise an objection to the proposal and confirm that the removal of highway rights over a substantial portion of the site would need to be completed before any development takes place. They have also required clarity as to the current parking situation and have written in the following terms:-

“Previously this Authority raised concerns about the displacement of parked vehicles and the risks to highway safety and efficiency as a result of the proposal. It is noted that 6 new parking spaces are now proposed.

Further information was requested including evening and overnight photographs which proved the road in question was capable of accommodating the displaced traffic. This information has not been provided.

As such, this Authority is unable to ascertain whether the land to be used for the new parking spaces is already informally used as a parking facility. Experience shows that in housing estates of this nature, this sort of informal parking often occurs and as such the construction of the spaces would not be a new facility, merely regularising the existing informal arrangement.

The Highway Authority again requests the applicant provide suitable information proving the proposal will not exacerbate the parking difficulties or create safety or efficiency problems.”

Officer Comments: This issue is dealt with later in the report.

8.3 The Tree Protection Officer has noted that the submitted AIA concludes that the site contains no significant individual tree specimens. 3 trees are to be removed but the boundary hedge belt will be retained and protected. While no objection is raised to these conclusions he has drawn attention to the fact that the canopy of retained trees will largely fill and overshadow the garden to Plot 3 and this has contributed to the submission of amended plans.

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

9.0 Parish Council Response

9.1 Chappel Parish Council’s comments are:-

“On behalf of the residents of Chappel, the Parish Council is agreed in its decision to OBJECT to the above planning application, the reasons for objection are as follows:-

1. Parking Requirements – It was noted that the issue surrounding parking would be compromised if the proposed project goes ahead. The area of Swan Grove will lose 12 parking spaces, which is not acceptable, and a major concern to the Parish Council.
2. Unused Garages – The Parish Council understands that all the garages are currently being used and that they are not ‘unused garages’ as mentioned through the media.
3. Badly Written Application – The application submitted and put before Council is very badly written. The Ecological Appraisal refers to the site as Swan Grove, Little Tey and states that there is no local wildlife close to the proposed site, actually 50 metres away there is local wildlife! Council were concerned that the report was very badly written and researched leading to problems if the planning application was granted.

4. Notification of the proposed project to the Parish Council – The members of the Parish Council were very concerned that information regarding this project was first heard about the in the village through a newspaper article, which was published earlier in the year. It would seem that all parties involved in this project have very little respect for the residents of Swan Grove and the Village of Chappel in general. To allow this information to be printed in the media prior to consulting the people of Swan Grove is very inconsiderate and thoughtless by all concerned.

To conclude Chappel Parish Council are unanimous in their decision to OBJECT to the application as set out before the Council. It was misleading and confusing and from reading these comments, we would hope that the planning department would be uniform in their decision making. We urge the to take all our points of objection and REFUSE this planning application. In addition, the Parish Council would also like all the local residents' comments to also be taken into consideration.”

10.0 Representations

- 10.1 20 objections have been received by letter, e mail and on-line messages, the majority from local residents or former residents. A summary of the concerns were expressed as follows:-

- The withdrawal of existing parking and garage spaces can only aggravate an existing parking problem and increase friction between residents.
- The parking situation at Swan Grove is already at saturation point with cars and vans being provided on pathways and greens when existing spaces have been used. This is particularly acute in the evenings and at weekends.
- The proposal does not provide sufficient on-site car parking space to meet established guidelines.
- A full survey of parking needs should be carried out.
- The road is dangerous in icy conditions.
- Noise, disruption and inconvenience will be caused when building works are carried out.
- In the 1970s the meadow to the south was earmarked as land suitable for increasing housing stock in the village. Swan Grove was designed and constructed to provide access via the application site.
- It is clear from neighbourhood meetings etc that community spirit will suffer if this scheme goes ahead. This is a friendly, harmonious environment which could easily be destroyed.
- There will not be room for oil tankers and bin men to turn around. Also, a skip used by residents in spring and summer uses this site and this facility will be lost.
- The loss of fruiting trees will affect and disturb local hedgehogs and newts in the adjacent meadowland and will impact on the “green corridor” between Chappel Ponds Millennium Green and the Cemetery.
- The houses will cut summer sunlight from our garden (No. 45) and natural light from our bedroom and lounge (No. 20).
- No evidence has been provided for the need for additional affordable housing for Chappel.

Members will be able to view all representations and consultation responses on-line. It will be noted that a number of objectors support the need for affordable housing.

11.0 Parking Provision

- 11.1 Your current policy standards for dwellings of 2 or more bedrooms require 2 spaces per dwelling and 0.25 spaces (unallocated) for visitors. This generates a need for 6/7 spaces in this case. 5 spaces are proposed on site and a further 6 “additional” spaces are shown close by in Swan Grove.

12.0 Open Space Provisions

- 12.1 The application makes no contribution towards open space and recreation as this would detract from the “affordability” of the scheme (see 14.0). Private garden areas ranging in size between 70 sq.m. and 82.5 sq. m. are proposed and are consistent with the 60 sq.m. standard.
- 12.2 DP16 also states that “all new residential development will be expected to provide new public areas of accessible strategic or local open space” In smaller developments a commuted sum is acceptable.
- 12.3 No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “The standards, outlined above, are to be applied to all additional new residential Units....New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”
- 12.4 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a departure from adopted policy. In similar previous cases at Darwin Close and Gloucester Avenue, the normal requirements for such contributions have been waived. This is based on the pressing need for the delivery of affordable housing.
- 12.5 CBC is the provider of public open space. It is also the landowner. In this capacity, it has the power to agree with the applicant (Estuary Housing) any fee it wishes as part of any future land transaction and use such funds in its provision of public open space, community facilities, or for any other purpose. The consequence of CBC Planning imposing a legal agreement that effects a payment in lieu of public open space is likely to be that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. In conclusion, it is not necessary, nor appropriate to require a Unilateral Undertaking in this instance.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 There is no basic land use objection to the proposed scheme given that the site lies within the village settlement limits. A simple elevation treatment as proposed here is considered appropriate to the architectural flavour of Swan Grove.
- 15.2 The report will go on to consider the proposal under the headings of – design, layout and impact on neighbouring residents; highways and parking and trees and ecology.

Design, layout and impact on neighbouring residents

- 15.3 The proposed layout closes the vista at the head of Swan Grove and provides a visual stop to the head of the cul de sac. The dwellings’ position generally complies with adopted policy guidelines for the protection of light, outlook and privacy of adjoining residents as set out in the Essex Design Guide and “Extending Your House?” SPD. Special attention is drawn to an angled/opaque glazed upper floor bedroom window in the easternmost unit (3) so as to avoid overlooking of 45 Swan Grove.
- 15.4 Also, members should be aware that to the west the relationship between the dwelling at Plot 1 and 20 Swan Grove does not fully meet the usual requirement for safeguarding a 45 degree zone drawn from the rear corner of the adjacent dwelling, however, the southerly aspect of these buildings, the orientation of the roof parallel with the site building and satisfactory protection of the 45 degree daylighting zone from the main habitable rooms in No. 20 means that light and outlook to the occupants will not be unduly compromised.

Highways and Parking

- 15.5 It will be seen that additional information has been submitted by Colchester Borough Homes (CBH) in respect of alternative garaging/parking facilities for existing tenants. The Highway Authority have commented further in the light of this.
- 15.6 It is acknowledged that the 5 car parking spaces proposed on site for 3 dwellings of 2 or more bedrooms is less than ordinarily required by your adopted standards and furthermore the “additional” spaces indicated on the plan cannot be secured through the present planning application as they are outside the red-lined area. It is however within the Council’s power to deliver these spaces in a timely fashion.
- 15.7 Members will have noted that the main pre-occupation of the majority of objectors is concern over the loss of garages coupled with the present difficulties experienced by residents caused by insufficient allocated parking facilities which they claim will be aggravated by approving the application.

- 15.8 To date, CBC have met with residents to advise them about the proposed parking provision and alternative garage tenancies, including the residents who may have disabilities. Their findings are that of the 4 garages to be removed, all are occupied (3 by local people) and a further 9 external spaces will be lost to the development. Of the 3 local people, 2 have already been offered another garage within 100m of their present garage and there are 2 further alternative garages to offer. Of the 2 remaining residents 1 lives in London. Both have been written to.
- 15.9 With the 2 of the 3 tenants having accepted garages in the same road, and there being 1 more who has the offer of a garage here there are no existing local garage tenants to be relocated. The person from London who rents a garage clearly would not result in an additional car being parked in the highway once the garages are redeveloped. That leaves one more spare garage in Swan Grove that CBH are offering to local residents for parking purposes. There are also 9 cars parked in various area of the surrounding highway and grassed areas that need to be considered below but one of these could take up a spare garage leaving 8 to be found alternative parking spaces in order to achieve a nil loss of on-street parking position.
- 15.10 Essex County Council have stated that they do not consider that some of the alternative parking provisions offered by CBC/CBH will be satisfactory. With regard to the two grassed areas to be turned into parking spaces, one of these is currently accessible by bumping up a kerb and there is evidence that people have parked on this grass recently. Although this use of privately owned land is unauthorised ECC Highways have taken the view that this area would not result in additional parking if tarmac was laid down, the kerb was dropped and the parking arrangement was made formal for public highway use. However, it is also possible to argue that this stance condones an unauthorised use of CBC owned land and that actually, people should not currently be parking here and therefore the grass area being converted into a parking area with 3 spaces does create additional spaces. Furthermore, on the other grassed area, this creates another 3 spaces but ECC have stated that an existing on-street parking space would be lost. This means that the net gain is only 2 spaces. Presumably the same logic means that if the former grassed area that should not be parked upon was counted to provide new parking then one on-street space that would be lost should also be discounted from this calculation. That means that by ECC counts there are only 2 additional spaces being provided, although it is argued that 4 additional parking spaces are being provided by converting grass areas into formal parking spaces.
- 15.11 Furthermore, apart from the spaces mentioned above, there are also cars parked in the turning head which is to be reduced. Cars parked in the turning head at Swan Grove are also an unauthorised use of the highway although the Highway Authority have never taken steps to prevent it occurring. Turning heads should be kept clear at all times in order for emergency access and other manoeuvring to take place. Contrary to their views on the CBC owned land, the Highway Authority have said that because these vehicles would be parked in the turning head they can be discounted. However, this seems to be an illogical stance in combination with their position on the grass areas. In theory, it is agreed that these can also be discounted as can the CBC owned "spaces" which means that only the 3 local-living tenants of the demolished garage who need to be relocated. This can be achieved. However, we often discuss in committee meetings how planning and common sense never seem to compliment one another. If we accept that 8 new parking spaces do need to be provided then this can not be achieved. If we count the grassed areas to be hard surfaces as new space then

there will be 4 additional spaces once the on-street parking space per area is lost. There are no other area left that could provide additional parking, meaning that people would have to compete for spaces or park further down the road away from their homes due to a net loss of 4 parking spaces.

- 15.12 Further clarification from Highways is being sought before the committee meeting occurs. However, for the time being they hold objection until further notice. As a Planning Authority parking is only one of several issues to consider. It is your officers opinion that although it would seem that there is an increased shortfall in local street parking caused by this development that this negative is outweighed by the benefits of providing 3 new families with a much needed affordable home to live in. Therefore, the balance of factors still weighs in favour of an approval. Members will need to consider if they agree with this opinion or not.

Trees and Ecology

- 15.13 The submitted AIA indicates that a group of crab apple trees will be removed but other trees and vegetation, including the existing boundary hedge, will be retained. Those trees scheduled for removal would not ordinarily be considered specimens of amenity value and the Tree Protection Officer raises no objections.
- 15.14 As regards natural conservation interests, the submitted Ecological Report indicates that there are no designated sites for nature conservation within 1km of the site and no local wildlife site in the vicinity. The site itself has reduced ecological value due to being bunded on 3 sides by development but nonetheless special consideration was given to:-
1. Birds – Vegetation on site shows potential to support breeding birds.
 2. Woodland Banks – Linear landscape feature to rear of site shows high botanical value and will be retained.
 3. Badgers – No sett on site and area considered unsuitable for habitation.
 4. Great Crested Newts – This species is known to exist although site is of limited value as habitat. If individual specimens are found, works must cease and an ecological engaged.
- 15.15 These findings, by a competent company, are considered acceptable by your officers and consistent with the observations on site. If permission is granted, a condition requiring adherence to the report's recommendations is essential.

16.0 Conclusion

- 16.1 As discussed above, the proposals are largely consistent with your established policies but have generated considerable concern over car parking/garaging which has been considered in great detail by this report.
- 16.2 It is acknowledged Swan Grove is subject to parking issues currently and this development will add to any shortfall, however Members will wish to balance this against the benefits of providing urgently required affordable housing. Officers consider the scheme to be worthy of support and recommend approval.

17.0 Recommended Reasons for the Decision

YPD - *Reason for Approval (Policy Conflict - Committee)

Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy DP16 in so far as no open space contribution is proposed. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because although there is no Unilateral Undertaking in respect of public open space, as Colchester Borough Council is the landowner, such contributions can (if required) be included as part of any land transfer agreement. Were a legal agreement to be imposed, it is likely that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely that the development does not materially harm neighbours' amenities, is acceptable in highway safety terms, improves the appearance of the site and achieves new affordable housing units.

18.0 Recommendation

17.1 It is recommended, on balance, that permission be granted subject to the following conditions:-

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number 8660-03-1000 received 20 December 2012 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Materials to be Agreed

Notwithstanding the details of external materials as submitted with the application, prior to the commencement of development, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4 - Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

5 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in full accordance with the conclusions and recommendations of the Arboricultural Impact Assessment dated April 2012 and Ecological Appraisal dated 12 April 2012 accompanying the submitted application documents.

Reason: In order to safeguard visual amenity and in the interests of nature conservation.

6 - Non-Standard Condition/Reason

In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of, and subject to the approval in writing of, the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers.'

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

7 –Non-Standard Condition/Reason

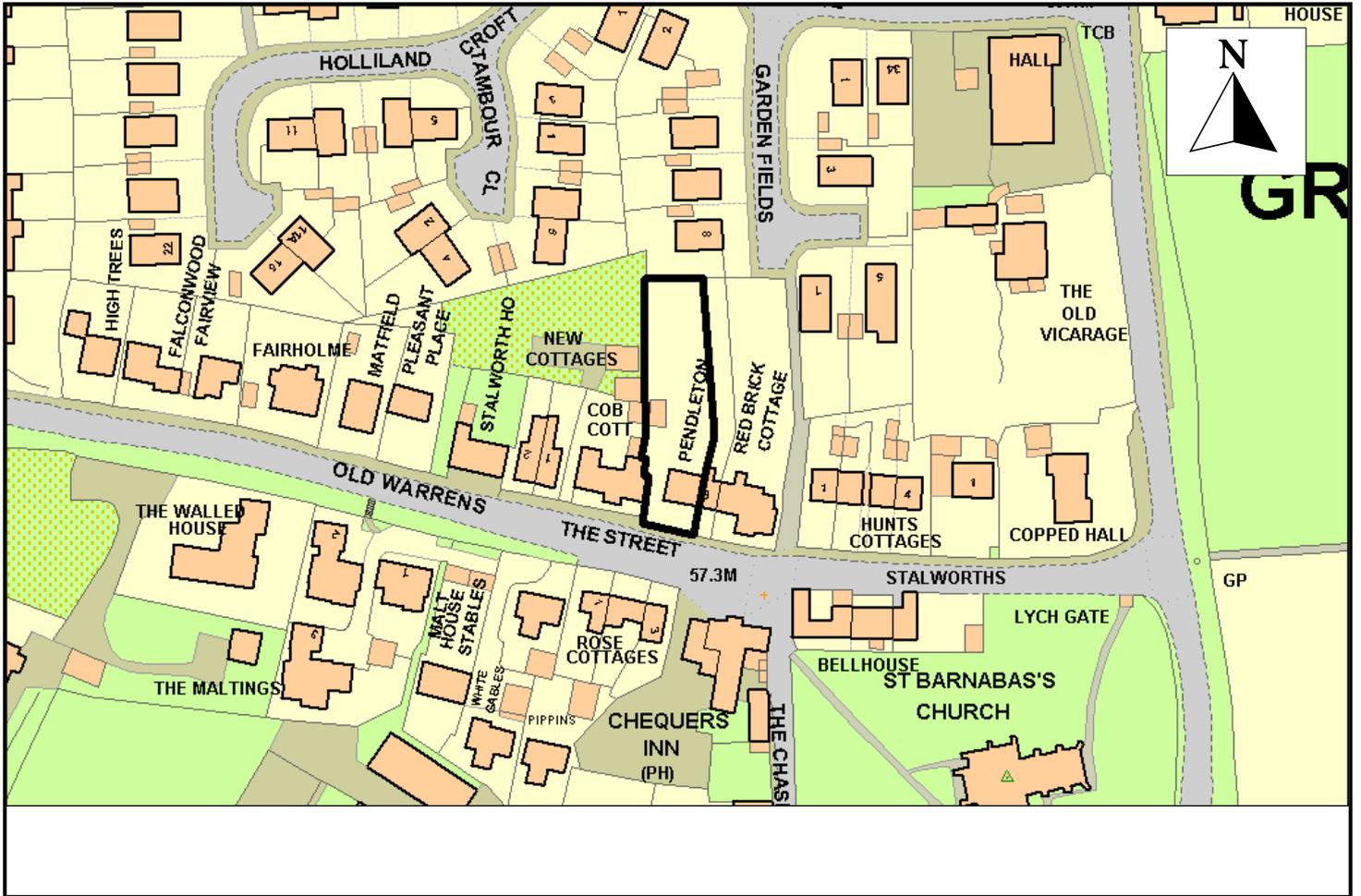
No development shall take place in pursuance of this planning approval until such time as highway rights over the present vehicular turning head have been formally extinguished.

Reason: To ensure legal highway rights have been removed by due process prior to development commencing.

8 – Any condition(s) recommended by the Highway Authority.

20.0 Positivity Statement

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



Application No: 121803

Location: Pendleton, The Street, Great Tey, Colchester CO6 1JX

Scale (approx): 1:1250

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7.6 Case Officer: Mr David Whybrow

MINOR

Site: Pendleton, The Street, Great Tey, Colchester CO6 1JX

Application No: 121803

Date Received: 22 October 2012

Agent: Gordon Parker

Applicant: Mr & Mrs Cooney

Development: Construction of new two bedroom detached property.

Ward: Great Tey

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application has been called in by Councillor Chillingworth with the following explanation:

This application is causing concern because of its perceived effect on the conservation area and neighbouring listed buildings.

2.0 Synopsis

2.1 The following report will provide a description of the site, its setting and the proposed development and will then consider the representations and consultation responses received. A previous decision for a similar proposal, and subsequent appeal decision, will be taken into account. Analysis of the proposal's merits will lead to a recommendation of refusal on grounds of inappropriate backland development.

3.0 Site Description and Context

3.1 This site of approximate dimensions 34m x 13m is currently part of the rear garden of the end-terraced property "Pendleton" with access from The Street, alongside Cob Cottage. Cob Cottage has a brick, timber and pantiled outbuilding to the rear which lies immediately to the west of the application site. To the east are generous sized rear gardens of 3 The Street and Great Yard Cottage, while to the north-east and north-west are bungalows in the culs de sac at Garden Fields and Tambour Close. The latter are generally well screened by fencing, trees and evergreen hedging on the application site's northern boundary.

4.0 Description of the Proposal

- 4.1 The proposal is for a cottage style dwelling in colour-washed render and clay plain tile roofing set behind a double garage with 2 associated parking spaces and vehicular turning space to be shared between the new dwelling and Pendleton.
- 4.2 A Design and Access Statement and additional supporting information is submitted with the application in which the agent suggests that this submission addresses matters raised by the earlier appeal decision. In particular, he indicates that support for the use of the existing access to serve the dwelling is evident from the correspondence with the County Council's Highway Authority and the original Inspector's decision. In any event, he goes on to argue that the amount of traffic generated by the proposed access need be no greater than that derived from a form of permitted development involving garages and storage buildings as illustrated on one of the submitted drawings.

5.0 Land Use Allocation

- 5.1 Within Great Tey settlement boundary. Pendleton and other frontage properties fall within the Conservation Area while Cob Cottage and Great Yard Cottage are grade 2 listed.

6.0 Relevant Planning History

- 6.1 081538 – Erection of one and half storey dwelling with integral garage – Withdrawn October 2008.
- 6.2 081923 – Resubmission of 9081538 – Refused; Appeal dismissed August 2009.

7.0 Principal Policies

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
H2 - Housing Density
H3 - Housing Diversity

H4 - Affordable Housing
UR2 - Built Design and Character
PR1 - Open Space
ENV2 - Rural Communities

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP15 Retention of Open Space and Indoor Sports Facilities
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

8.0 Consultations

- 8.1 The Highway Authority do not raise objection to the proposal and recommend permission be granted subject to conditions.

In addition to the details reported above, the full text the Highway Authority's response is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 Great Tey Parish Council comment as follows:-

"We refuse this application on the basis that it is not in keeping with the existing listed buildings that surround it. It is in a Conservation Area which as a Parish Council we wish to protect for future generations. The design of a modern building is not appropriate in any way to the existing structures. This application is for a larger building than the building that was refused on the previous application number 081923. These views were shared by the Inspector when the application was refused on appeal number APP/A1530/A/09/2099994."

10.0 Representations

- 10.1 Representations have been received from 4 local residents. Their objections are summarised as follows:-

1. Upstairs window of 2 storey house will overlook my property. Only bungalows should be considered on land to the rear of The Street as part of a comprehensive development. Other properties will be affected by loss of sunlight.
2. The proposal is detrimental to neighbouring listed buildings and the Conservation Area.
3. The cramped parking design will lead to congestion in The Street.
4. Traffic hazards due to insufficient sight splays.

5. Contrary to the prevailing form of frontage development and a damaging intrusion along this part of The Street, as concluded by the Inspector. He also considered that the loss of garden space would be detrimental to the setting of adjacent listed buildings and create a cramped appearance.
6. The proposed materials are not sympathetic to existing development in The Street.
7. Additional traffic movements into and from the site would potentially lead to traffic conflicts, both in curtilage and on the highway.

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

11.0 Parking Provision

- 11.1 The allocation of 1 garage space and 1 parking space per dwelling satisfies your adopted parking standards.

12.0 Open Space Provisions

- 12.1 The application is submitted with a Unilateral Undertaking securing the usual open space/recreation/community facilities contributions.

13.0 Air Quality

- 13.1 N/A

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 The 2009 appeal decision is a material consideration in the determination of this application and key elements of that decision were:-
 - The presence of a dwelling on this backland site would be contrary to the prevailing form of frontage development and constitute a damaging intrusion into the open setting of (adjacent) listed buildings.
 - The narrow garden permits only a limited space between the proposed dwelling and the common boundaries of other dwellings, creating a cramped form of development and draw attention to the damage visited on the setting of the listed buildings.
 - The development would be sited for the most part behind Pendleton and the prevailing pattern of linear frontage development but would be seen from the public highway down its long access. The effect of this would neither protect or enhance the character or appearance of the Conservation Area.

15.2 The Inspector considered these factors decisive although he acknowledged:-

“The proposal does have its merits, especially in its reuse of well-located previously-developed (garden) land. It would provide an additional dwelling, and so make a contribution towards the Borough’s housing requirements. It would not have a materially harmful effect upon living conditions or cause serious inconvenience or danger on the public highway.”

15.3 The main difference between the present proposal and that determined in 2009 is the addition of a double garage block which has the effect of further closing down the space available to the rear of these dwellings and dominating the view into the site from The Street and Conservation Area.

15.4 In addition, Colchester Borough Council have, since December 2010, adopted Backland and Infill Development SPD to ensure:-

- Backland and infill development respects and reflects the character of the area and the existing street scene.
- Comprehensive development is planned.
- Safe and attractive residential layouts are promoted.
- Local distinctiveness and identity are promoted.
- Environmental impacts are minimised.

15.5 This requires backland sites to be considered in relation to the potential for comprehensive development of adjoining land, their context in terms of the scale and form of existing development and plot size. Access and parking should be convenient and visually subordinate, and, in combination with the design of the proposed housing, should not cause an adverse effect on the amenity of adjacent residents in the form of noise, vibration and visual impacts. Specifically, this part of the SPD suggests a protection zone each side of a new entrance of 3m width in order to provide the necessary safeguarding of neighbours’ amenity. Here the gap between dwellings is only about 3.5 metres.

15.6 While it is accepted that the issue of the impact of the access on adjoining residents was not considered decisive by the Inspector in 2009 this remains a key plank of your adopted policy, as does the need to avoid visually dominant car parking arrangements. Both are features of the current submission and lead your officers to the conclusion that the scheme before you is again unacceptable and in clear conflict with your policies. Members will note that a previous “highway” objection applied to 081923 no longer applies in the light of the Highway Authority’s comments (as reported above).

16.0 Conclusion

16.1 The proposed scheme fails to address fully the concerns of the previous Inspector and is in conflict with more recently adopted guidance in respect of backland development and the recommendation is therefore for refusal.

17.0 Recommendation - Refusal

18.0 Reasons for Refusal

1 - Non-Standard Refusal Reason

Policies SD1 and ENV2 of the Adopted Core Strategy (ACS) and Policy DP1 in the adopted Development Policies Document (DPD) require that any new development is of a high standard of design and is compatible with the character of the area in which it is to be located. In addition, the Council has adopted SPD in respect of Backland and Infill Development which reinforces these policies and introduces guidelines that promote safe and attractive layouts, encourage local distinctiveness and identify and minimise environmental impacts, including deleterious effects on neighbouring residents. In this case the prevailing pattern of development along The Street, in the vicinity of the application site, is frontage development. In the opinion of the Local Planning Authority the positioning of a dwelling to the rear of Pendleton would introduce undesirable tandem development, which would appear cramped and bulky and would have an adverse impact in views into the site from The Street. Accordingly, the development would have a detrimental impact on the character and visual amenity of the area and would be contrary to the aforementioned policies.

2 - Non-Standard Refusal Reason

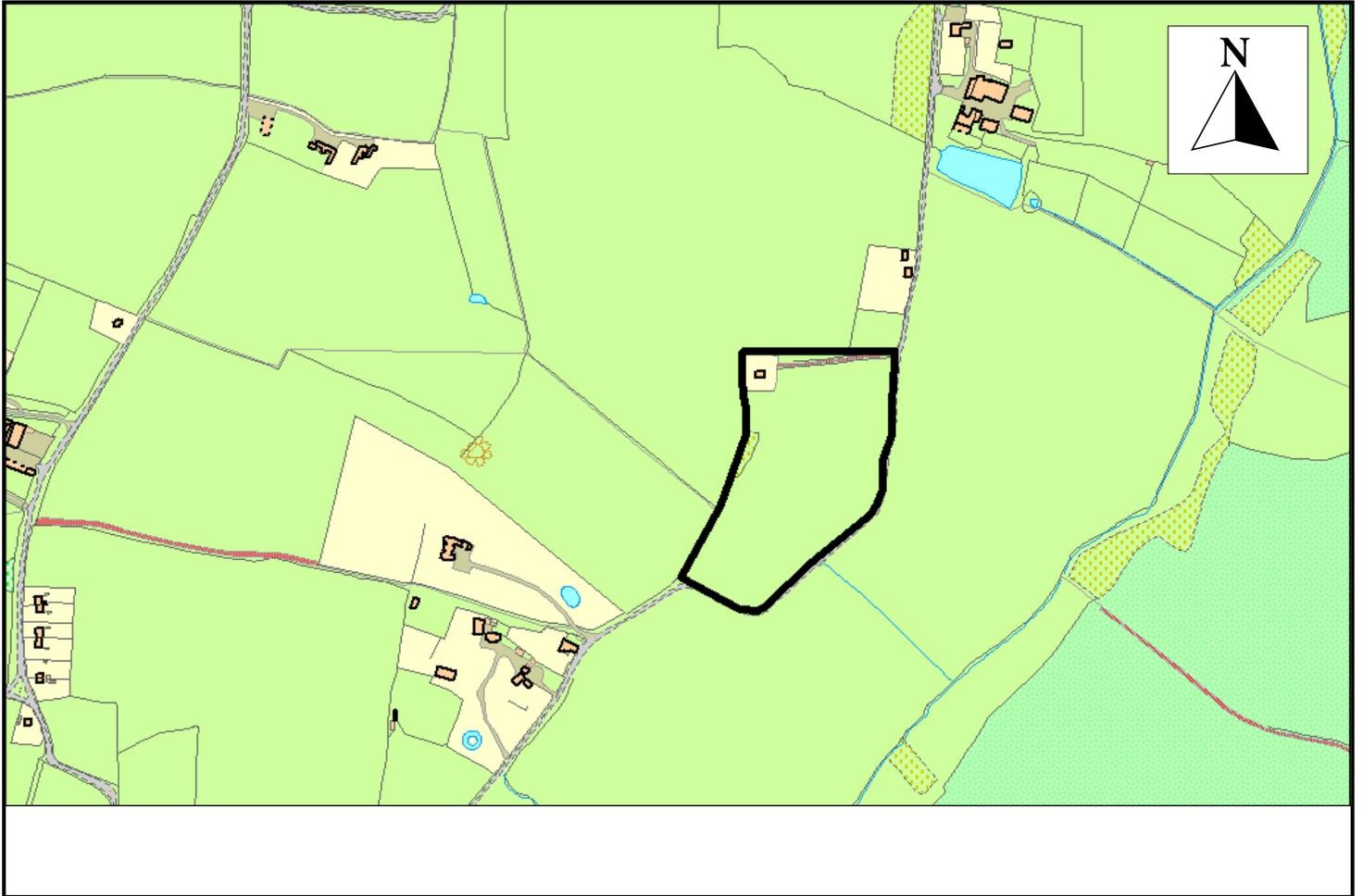
Policies UER2 in the ACS and DP14 of the DPD seek to ensure that development within Conservation Areas respects the character of the area by: retaining existing buildings lines and the rhythm of streets; is in harmony with adjoining buildings, and has architectural detail which contributes to the Conservation Area's character or appearance. In addition, these policies resist developments which will have an adverse impact on the setting of Listed Buildings. Part of the site is within the Great Tey Conservation Area and any new building will be visible from the Conservation Area. The character of Great Tey Conservation Area is made up, typically, of distinctive two-storey, predominantly frontage, buildings. The immediately adjacent dwelling is a Listed Building as are others in close proximity to the application site. The introduction of a dwelling to the rear of the frontage development, which does not respect the existing pattern of development and creates garden areas of lesser dimensions than those adjacent, will have an adverse impact on the Conservation Area and the setting of the Listed Buildings. This is compounded by the layout of the scheme which has a prominently located garage and parking arrangements which visually dominate views into the site. The development is, therefore, contrary to the previously detailed policies.

3 - Non-Standard Refusal Reason

The policies outlined above, and specifically the adopted guidance in respect of backland and infill development indicates that such development does not cause a loss of amenity to the occupiers of adjacent residential properties. The development here would introduce additional traffic and pedestrian movements within a narrow gap to the side and rear of the dwellings known as Cob Cottage and Pendleton which would result in a level of noise and disturbance which is inappropriate in a village location. The Local Planning Authority, therefore, is of the view that the development would not accord with the above policy and adopted guidance.

20.0 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.



Application No: 121457

Location: Moss Farm, Penlan Hall Lane, Fordham, Colchester CO6 3LR

Scale (approx): NOT TO SCALE

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7.7 Case Officer: Lucy Mondon

HOUSEHOLDER

Site: Moss Farm, Penlan Hall Lane, Fordham, Colchester CO6 3LR

Application No: 121457

Date Received: 28 August 2012

Agent: Mr P Tyler

Applicant: Mr P Richardson

Development: Listed building application for single storey garden room extension.

Ward: Fordham & Stour

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application was deferred by the Planning Committee at its meeting on 11th October 2012 in order to re-negotiate the size and design of the garden room. The original committee report, together with the minutes, is set out in Appendix 1.

2.0 Synopsis

2.1 Following the deferment of the application, negotiations have taken place with the Applicant to achieve an acceptable scheme. The Applicant has amended the proposal by reducing the width and depth of the extension by one metre and reducing the height of the brick plinth. The modest alterations to the scheme are not considered to outweigh the original concerns regarding the harm to the original character and form of the building.

8.0 Consultations

8.1 Conservation Officer:

Further to my previous advice in regard to this proposal I can confirm that I recommend the scheme be approved. The justification is:

- the building has already been dramatically remodelled to the point that it is in my opinion, no longer of special architectural or historic interest.
- the proposed extension will be largely, transparent allowing the front wall of the cottage to remain visible.

I recommend that conditions are attached (were you mindful to approve) as follows:

1. Any rainwater gutters and downpipes fixed to the extension shall be of cast iron.
2. Notwithstanding the approved drawings, the ridge tile shall be a red triangular type bed in lime-rich mortar.

3. The flashing between the house and the roof of the approved extension shall be executed in a lime mortar fillet.
4. The existing front door shall be retained insitu.

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

9.0 Parish Council Response

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

10.0 Representations

- 10.1 No comments have been received.

15.0 Report

- 15.1 The main planning considerations relevant to this listed building consent application are set out in the original committee report; this supplementary report considers the revised proposal that has been submitted at the request of the Planning Committee.
- 15.2 Moss Farm is a Grade II Listed Building and is classified as a Designated Heritage Asset by virtue of the National Planning Policy Framework (NPPF). The NPPF states that, in determining applications, the Local Planning Authority should identify and assess the particular significance of any heritage asset that may be affected by a proposal and take this assessment into account when considering the impact of a proposal on a heritage asset to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Moss Farm has been heavily extended to what was originally the rear of the property (now the front). The existing extension is large, but still allows the original linear form of the building to be appreciated, as well as the simple appearance of the original front elevation. The original front elevation has been altered in terms of modern render and windows, but its modest character, in terms of its proportions and simple appearance, remains. Therefore, the special interest and significance of Moss Farm relies on the ability to appreciate the original form of the building and its modest appearance in the form of the original front elevation.
- 15.3 Following consultation, the Conservation Officer considered that the revised proposal is acceptable due to its reduced scale, having had regard to the existing alterations to the building. The original assessment of the application concluded that an extension centrally placed over the original front entrance of the building would undermine the proper interpretation of the building and its original relationship with its surroundings. An extension to this elevation of the building was therefore considered to be unacceptable in principle. This assessment of the proposal is still considered relevant despite the amendments submitted. The size of the extension (width and depth) has been reduced by only one metre which is not considered to detract from the fact that the proposal remains a large extension to the original front elevation of the building, being out of character to its nature and appearance. The amendments proposed do not, therefore, satisfactorily address the previous concerns regarding the principle of an extension in this position.

- 15.4 Some works may seem individually to be of little importance but can cumulatively be destructive of a heritage asset's significance. Although the proposal may appear to be modest in its own right, its impact on the significance of the building is considerable when considered in terms of its relationship to the building and its context with the existing extensions that have already taken place. Should the proposal be permitted, it would result in the majority of the building being obscured by modern extension. The understanding of the building would be lost by virtue of an extension that would be an uncharacteristic and incongruous feature on the original front elevation of the building. The proposal would, therefore, have a significant impact on the character of the property and would represent an unacceptable evolution of form of the building.
- 15.5 Due to its significant impact on the character and special interest of the property, an additional consideration is that it would be highly undesirable to approve an extension to the property that could potentially contribute to its loss of significance and 'de-listing'. A large extension to the original front elevation of the property would disrupt the original layout of the building and would eradicate its modest appearance, therefore, undermining the proper understanding of the building. The special interest of the property would, therefore, be lost if the extension were granted consent.

16.0 Conclusion

- 16.1 The proposal, for a single-storey garden room, would be detrimental to the character and appearance of Moss Farm by virtue of its siting and size. The proposal would result in a large extension positioned over the original front entrance of the property which would disrupt the balance and simple appearance of the elevation and would be detrimental to the original character and form of the property, thereby undermining the proper interpretation of the property and the understanding of its historic significance as a simple rural building. Further, the proposal would, in addition to the existing extensions to the property, represent an overdevelopment of the property which would be increasingly detrimental to its original character and form.

17.0 Recommendation

REFUSE planning permission for the reasons set out below.

1 - Non-Standard Refusal Reason

The National Planning Policy Framework (NPPF) was issued in March 2012 and sets out the Government's national planning policies on the conservation of the historic environment. The Government's overarching aim is that the historic environment and its heritage assets should be sustained and enhanced. In considering the impact of a proposal on any heritage asset, local planning authorities should assess the particular significance of the heritage asset. There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated asset, the greater the presumption in favour of its conservation should be. Significance can be harmed through alteration and the NPPF provides that, where a proposal has a harmful impact on the significance of a designated heritage asset, local planning authorities should weigh the public benefit of the proposal against the harm, and recognise that the greater the harm to the significance of the heritage asset the greater is the justification that will be needed. At a local level the Colchester Borough Council Development Policies document was adopted by the Council

in October 2010 and states, in policy DP14, that proposals that adversely affect a listed building will not be permitted. The policy goes on to state that development affecting the historic environment should seek to preserve or enhance heritage assets, with an expectation that any new development will enhance the historic environment in the first instance.

Moss Farm is a grade II listed dwelling. The dwelling is modest in form and appearance, being one-and-a-half storey in height and linear in plan, with a plain tile steeply pitched roof, rendered walls and painted timber joinery. The simple form and character of the property contributes to its historic significance as a modest rural building. There is a large modern one-and-a-half storey extension to the front of the property which has altered its layout to that of a 'T' shape as opposed to its original linear form. The orientation of the property has changed over the years and the proposal is for a single-storey rear extension that would project from the original front elevation of the property. The proposal would result in a large room perpendicular to the axis of the property and centrally placed over the original front entrance. In doing so, the proposal would disrupt the simple balance and appearance of the elevation and would significantly alter the character of the property by undermining its original form as the appreciation of the original front elevation of the property would be lost. Further, the proposal, in addition to the existing extension, would result in a property that is near engulfed by modern extensions which would further obscure the original form of the property. The proposed extension would therefore result in an incongruous addition to the property that appears alien to its historic character and appearance and prevents the proper understanding and appreciation of a property of historic significance.

Informatives

Non Standard Informative

In the interests of clarity the applicant/agent is herewith advised that the drawings/plans which form the subject of this refusal are 'Ground Floor Plan and Section' and 'Elevations as Proposed', received on the 22nd November 2012.

Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

planning officer reaffirmed that all advice from other bodies and this council's Environmental Control team had assessed the application and deemed it acceptable, and as no objections had been received by those relevant bodies any refusal would be on uncertain grounds.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report.

49. 121457 Moss Farm, Penlan Hall Lane, Fordham

Councillor Chillingworth (in respect of his business relationship with the applicant) declared a pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(12) and left the meeting during its consideration and determination.

The Committee considered a listed building application for a single storey garden room extension. The Committee had before it a report in which all information was set out.

Lucy Mondon, Planning Officer, attended to assist the Committee in its deliberations.

Mr Richardson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had acquired Moss Farm 6 years ago, prior to that it had been a tied house during which no repairs had been undertaken. They had completely renovated the property in keeping and now wanted a garden room to sit in and enjoy the countryside. The original character of the property would remain and be visible from the gable end because the garden room would be all glass. He confirmed that the lane on the west side was no longer in existence and he could not see how the extension would impact that view on as no-one would be using the lane. As the refusal was on the basis of size and siting he asked that the Committee consider a smaller garden room extension.

The planning officer confirmed that the lane along the west side no longer existed but drew attention to the need to consider whether proposals would cause harm to a listed building and to take into account the public benefit. In this case the benefit was personal to the applicant and therefore did not outweigh the harm to the listed building.

Some members of the Committee supported the proposal, some opposed the proposal and some were in favour of a deferral for discussion to take place between the applicant and officers on a revised design to minimise the impact. There were concerns that the proposal might spoil the listed building whilst others were mindful of the amount of work the applicant had put into renovating a run down building and considered that he should be allowed to improve the property to benefit his quality of life. Other members wanted to explore possible variations on design and materials to minimise the harm to the building.

The planning officer cautioned the Committee that if the proposal was deemed to cause harm to the building, a householder wanting to enlarge such a property would not outweigh the harm. The principal planning officer stated that with a listed building the

only consideration was the effect that the proposed alteration works would have on the special architectural or historic interest of the building. The Council's Conservation Consultant's comments were set out in the report which noted that Moss Farm was a small vernacular cottage which had been extended to its limit. Central Government guidance stated that the layout and plan form of a building were fundamental to the special interest of a listed building and that extensions should not be dominant in terms of their size, scale, design and siting. The proposed extension was located on the original front façade and would fail to respect the historic plan form of the cottage. Officers were clear that the form of extension was unacceptable and the application should be determined on what had been submitted. However, there was no objection to the officer meeting the applicant and agent to discuss alternative design solutions. A fresh application could be submitted thereafter. He confirmed that there was no fee for listed building applications.

RESOLVED (MAJORITY voted FOR) that –

- (a) Consideration of the application be deferred for re-negotiate the size/design of the garden room.
- (b) The application to come back to the Committee for determination.

7.2 Case Officer: Lucy Mondon

Due Date: 23/10/2012

HOUSEHOLDER

Site: Moss Farm, Penlan Hall Lane, Fordham, Colchester CO6 3LR

Application No: 121457

Date Received: 28 August 2012

Agent: Mr P Tyler

Applicant: Mr P Richardson

Development: Listed building application for single storey garden room extension.

Ward: Fordham & Stour

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the Agent is a recent employee of the Council.

2.0 Synopsis

2.1 The application seeks Listed Building Consent for the erection of a single-storey rear garden room extension (full planning permission not being required).

2.2 The following report considers the material planning matters together with issues raised in representations. The report describes the site and its setting, the proposal itself, and the consultation responses received.

2.3 The planning matters of the case will be assessed leading to the conclusion that the proposal is unacceptable and that refusal of consent is recommended.

3.0 Site Description and Context

3.1 Moss Farm is a detached dwelling located in the countryside. The property is located on a hill and is openly visible from the protected Penlan Hall Lane to the east and south-east of the site. The character of the area is distinctly rural, with isolated dwellings surrounded by open fields.

3.2 The property was listed as Grade II in 1982. The listing description for the property is as follows:

'C17-C18 house. Timber-framed with rendered elevations. One storey with attics and ridged and gabled roof pegtiled having square plan red brick chimney stack at centre on ridge. Sets of 3 casements left and right of front door, full length lean-to at rear.'

4.0 Description of the Proposal

4.1 The application seeks Listed Building Consent for the erection of a single-storey garden room. The garden room would project 4 metres from the existing dwelling and would be 3.7 metres high. The garden room would have a brick plinth, oak joinery, and a plain tile roof.

5.0 Land Use Allocation

5.1 N/A

6.0 Relevant Planning History

6.1 Planning Permission and Listed Building Consent were granted for the erection of a 1½ storey extension in 2007 (ref: F/COL/06/1949 and LB/COL/06/1951). The renewal of the sole plate, including raising the plinth, and the replacement of metal windows with timber casements were also granted consent.

6.2 Retrospective Planning Permission was granted for two sheds in 2011 (ref: 102399).

6.3 Retrospective Planning Permission was granted for fencing and two sheds as a resubmission of 102399 (ref: 110700).

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP14 Historic Environment Assets

DP21 Nature Conservation and Protected Lanes

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

The Essex Design Guide

External Materials in New Developments

8.0 Consultations

8.1 Conservation advice:

“This is a very typical, 2 room house that has been substantially altered and extended. The original plan is typical of the C16/C17 period with central entrance opposite central stack with 1 bay each side. The attic floor is a later insertion.

The recent rear extensions have been executed well but represent the limit to which this house could be reasonably enlarged without causing major harm to the preservation of the special interest of the historic asset. The current proposal would place a long room perpendicular to the axis of the house and centrally placed over the original front entrance. In doing so, the extension would undermine the proper interpretation of the form and style of this building and its original relationship with its surroundings.

The building once sat close to and perpendicular to a lane that passed to the west of it. The front façade looked South. The lane no longer exists and the house is now accessed from the east via a long drive.

A large front extension that disguised the original character of the house is unacceptable on principle and I therefore strongly recommend that this application be **refused by virtue of its size and siting.**

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

9.0 Parish Council Response

9.1 No comments have been received from the Parish Council.

10.0 Representations

10.1 No comments have been received.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Report

- 14.1 Moss Farm is a Grade II listed building. Development Policy DP14 states that development will not be permitted that will adversely affect a listed building, a conservation area, historic park or garden or important archaeological remains. The policy goes on to state that development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural or artistic interest. In all cases there will be an expectation that any new development will enhance the historic environment in the first instance, unless there are no identifiable opportunities available.
- 14.2 As a listed building, Moss Farm is classified as a Designated Heritage Asset by virtue of Annex 2 of the National Planning Policy Framework (NPPF). The NPPF states, in Chapter 12 'Conserving and Enhancing the Historic Environment' that, in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.... Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.
- 14.3 An assessment of the significance of Moss Farm has been made having made a site visit to the property as well as taking into account the listing description, historic maps and the Heritage Statement submitted with the application. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 14.4 Moss Farm is a detached property that is modest in form and appearance, being 1½ storey in height and linear in plan, with a plain tile steeply pitched roof, rendered walls and painted timber joinery. The simple form and character of the property contributes to its historic significance as a modest rural building. The orientation of the property has changed over the years: what is now the rear of the property (south elevation) was once the original front elevation of the property, as described in the listing description. The property has been heavily extended with a 1½ storey extension, but the original front elevation of the property remains simple in appearance, with a centrally placed door and a three casement window either side.
- 14.5 The proposal would be a long room centrally positioned over the original front entrance of the property. The siting of the extension would disrupt the simple balance and appearance of the elevation and would significantly alter the character of the property by undermining its original form. The appreciation of the original front elevation of the property would be lost. Further, the proposal, in addition to the existing extension, would result in a property that is near engulfed by modern extensions which would further obscure the original form of the property.

14.6 The property is clearly visible from the protected Penlan Hall Lane and the proposal, by virtue of its siting and size, would be a visually prominent feature when seen from the road. The proposal therefore has a detrimental impact on public views of the property as well as its relationship to its surroundings.

14.7 The proposal would therefore lead to harm to the significance of a designated heritage asset. The NPPF states that where proposals would lead to harm, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The proposal would provide increased living space for the occupants of Moss Farm. However, the benefit that would be gained from this would be of a personal rather than public nature and is not considered to outweigh the harm of the development to the character of the dwelling. Ensuring the survival of the building would be considered a public benefit. However, it is considered that the dwelling does not need the proposed extension in order to survive as a dwelling as there is ample living space within the property and it has been inhabited as a dwelling for a number of years. Therefore, the proposal does not deliver the significant public benefits that outweigh the harm to the building, nor does it prevent the long-term continued use of the building as a residence.

15.0 Conclusion

15.1 The proposal, for a single-storey garden room, would be detrimental to the character and appearance of Moss Farm by virtue of its siting and size. The proposal would result in a long extension positioned over the original front entrance of the property which would disrupt the balance and simple appearance of the elevation and would be detrimental to the original character and form of the property, thereby undermining the proper interpretation of the property and the understanding of its historic significance as a simple rural building. Further, the proposal would, in addition to the existing extensions to the property, represent an overdevelopment of the property which would be increasingly detrimental to its original character and form.

16.0 Recommendation

REFUSE Listed Building Consent for the following reasons:

1 - Non-Standard Refusal Reason

The National Planning Policy Framework (NPPF) was issued in March 2012 and sets out the Government's national planning policies on the conservation of the historic environment. The Government's overarching aim is that the historic environment and its heritage assets should be sustained and enhanced. In considering the impact of a proposal on any heritage asset, local planning authorities should assess the particular significance of the heritage asset. There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated asset, the greater the presumption in favour of its conservation should be. Significance can be harmed through alteration and the NPPF provides that, where a proposal has a harmful impact on the significance of a designated heritage asset, local planning authorities should weigh the public benefit of the proposal against the harm, and recognise that the greater the harm to the significance of the heritage asset the greater is the justification that will be needed. At a local level the Colchester Borough Council Development Policies document was adopted by the Council in October 2010 and states, in policy DP14, that proposals that adversely affect a listed building will not be permitted. The policy goes on to state that development affecting the

historic environment should seek to preserve or enhance heritage assets, with an expectation that any new development will enhance the historic environment in the first instance.

Moss Farm is a grade II listed dwelling. The dwelling is modest in form and appearance, being one-and-a-half storey in height and linear in plan, with a plain tile steeply pitched roof, rendered walls and painted timber joinery. The simple form and character of the property contributes to its historic significance as a modest rural building. There is a large modern one-and-a-half storey extension to the front of the property which has altered its layout to that of a 'T' shape as opposed to its original linear form. The orientation of the property has changed over the years and the proposal is for a single-storey rear extension that would project from the original front elevation of the property. The proposal would result in a large room perpendicular to the axis of the property and centrally placed over the original front entrance. In doing so, the proposal would disrupt the simple balance and appearance of the elevation and would significantly alter the character of the property by undermining its original form as the appreciation of the original front elevation of the property would be lost. Further, the proposal, in addition to the existing extension, would result in a property that is near engulfed by modern extensions which would further obscure the original form of the property. The proposed extension would therefore result in an incongruous addition to the property that appears alien to its historic character and appearance and prevents the proper understanding and appreciation of a property of historic significance.

Policy DP21 states that 'Protected Lanes of historic and/or landscape value shown on the Proposals Map will be protected from development that would adversely affect their physical appearance.'

Penall Hall Lane is a Protected Lane, the site in question is next to it, and the proposed development would lead to added visual disappointment.

Informatives

In the interests of clarity the applicant/agent is herewith advised that the drawings/plans which form the subject of this refusal are Location Plan, Elevations as Existing, Ground Floor Plan as Existing, Ground Floor Plan and Section, and Elevations as Proposed, received on the 31st August 2012.

AMENDMENT SHEET

Planning Committee
17 January 2013

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

**LATE AMENDMENTS HAVE BEEN INCORPORATED INTO THIS
AMENDMENT SHEET AND ARE SHOWN AS EMBOLDENED**

7.1 121487 – Garage court adjacent to 64 Stalin Road, Colchester

**Paragraph 14.7 – Last word should be dwellings instead of
bungalows**

7.4 121485 – Garage court off Mason Road, Colchester

**Correction: Paragraphs 3.2; 15.6; 15.12; and 15.25 should read
Eldred Avenue (not Eldred Road as printed)**

7.5 121486 – Land adjacent to 20 Swan Grove, Chappel

Chappel PC maintain their objection in terms of – compromised parking arrangements, highway authority objection, absence of open space contribution and poorly worded application.

Further representations from 8 local residents raise no fresh issues but reiterate concerns over parking, request a proper parking assessment be carried out & no further green space be lost to parking (albeit some is already so used).

Chappel Parish Council comment as follows:-

“Chappel Parish Council does not speak for all the residents of Chappel as stated in their objection. As for the council and Estuary Association having little respect for the village of Chappel, parish council PLEASE! If the Village Design Statement was in force, the parish council would of had prior knowledge of this development

People are speaking of the wildlife being affected 50metres away, yes in the farmland which is not being developed yet. But who knows what the future holds from the landowners. Parking difficulties, people saying they have to park on the dangerous junction of Great Tey Road, yes this is true. Maybe this should be taken into consideration when looking at the illegal

**parking on the village green (which includes the so called hardstanding).
Affordable housing on an existing housing estate?"**

7.6 121803 – Pendleton, The Street, Great Tey

Agent concerned that crucial matters as discussed at pre-submission stage are not included in the report as affecting the principle of development here and its means of success. Specifically,

- Planning officer indicated that development of the same site might be acceptable if access from, and rounding off development at Garden Field. i.e. principle of development acceptable.
- Proposed access is acceptable to Highway Authority and to previous inspector, without a 3m protection zone to either side. A more flexible approach is suggested as at similar cases in Lexden Road conservation area and Darwin Close.
- The design of the development was not raised as an issue in preliminary correspondence.

7.7 121457 – Moss Farm, Penlan Hall Lane, Fordham

Correction: At paragraph 2.1 the amendments to the proposal are: reduction in depth/projection by one metre; increase in width by 0.3 metre; reduction in height of brick plinth.

For clarification:

The comments expressed in paragraph 8.1 of the Report are the views of the Conservation consultant. These views are based upon his belief, following a cursory inspection of the building, that the building no longer possesses sufficient special interest to warrant inclusion on the statutory list due to the level of alterations that have taken place. Notwithstanding the views of the consultant, the building remains listed and the statutory duty of the planning authority remains unchanged (i.e. to consider the impact upon the special character of the building). The original frontage to Moss Farm retains the simple vernacular character of the building and the plan form is easily appreciated. In the light of the other alterations that have taken place, the unaltered frontage has heightened importance in terms of its appearance and historic character. In this regard, the modest reduction in the scale of the proposed extension is not considered to overcome the fundamental objections raised in the previous officer's report. This recommendation was based upon the conservation consultants conclusions that an extension of this scale would significantly harm the character of the listed building.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

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

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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