

Planning Committee Meeting

**Moot Hall, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 08 July 2021 at 18:00**

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling 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 (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. At Planning Committee meetings, other than in exceptional circumstances, only one person is permitted to speak in support of an application and one person in opposition to an application. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

<https://colchester.cmis.uk.com/colchester/HaveYourSay/HYSPlanning.aspx>.

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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

Facilities

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Covid 19

Please could attendees note the following:-

- Hand sanitiser, wipes and masks will be available.
- Do not attend if you feel unwell with a temperature or cough, or you have come in to contact with someone who is unwell with a temperature or cough.
- Masks should be worn whilst arriving and moving round the meeting room, unless you have a medical exemption.
- All seating will be socially distanced with 2 metres between each seat. Please do not move the chairs. Masks can be removed when seated.
- Please follow any floor signs and any queue markers.
- Try to arrive at the meeting slightly early to avoid a last minute rush.
- A risk assessment, including Covid 19 risks, has been undertaken for this meeting.

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 08 July 2021 at 18:00

The Planning Committee Members are:

Pauline Hazell	Chairman
Robert Davidson	Deputy Chairman
Lyn Barton	
Helen Chuah	
Michael Lilley	
Jackie Maclean	
Roger Mannion	
Beverley Oxford	
Martyn Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

Kevin Bentley	Tina Bourne	Roger Buston	Nigel Chapman
Peter Chillingworth	Nick Cope	Pam Cox	Simon Crow
Paul Dundas	Andrew Ellis	Adam Fox	Jeremy Hagon
Dave Harris	Mike Hogg	Sue Lissimore	Derek Loveland
A. Luxford Vaughan	Sam McCarthy	Patricia Moore	Beverley Oxford
Gerard Oxford	Chris Pearson	Lee Scordis	Lesley Scott-Boutell
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 2 are normally dealt with briefly.

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Live Broadcast

Please follow this link to watch the meeting live on YouTube:

[\(107\) ColchesterCBC - YouTube](#)

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their

microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves.

2 Substitutions

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

3 Urgent Items

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

4 Declarations of Interest

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

5 Have Your Say (Hybrid Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Council via Zoom. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make representations in support of each planning application. Each representation may be no longer than three minutes(500 words). Members of the public wishing to address the Committee either in person or remotely need to register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date. In addition for those who wish to address the committee online we advise that a written copy of the representation be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each

6 Minutes of Previous Meeting

There are no minutes of previous meetings to approve at this time.

7 Planning Applications

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

7.1 THIS ITEM HAS BEEN WITHDRAWN. 210088 Former Museum Resource Centre, 14 Ryegate Road Colchester

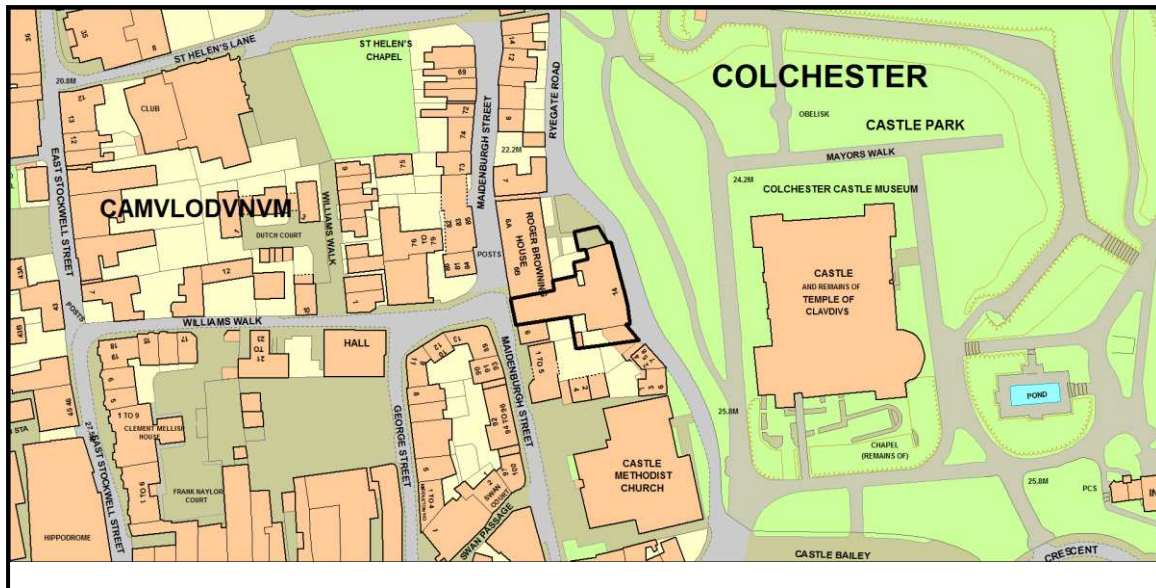
9 - 40

THIS ITEM HAS BEEN WITHDRAWN.

Application for the conversion of the building from Class D1 (Museum) to Residential Use (Class C3): 29 units comprising 23 HMO rooms & 6 s/c flats; with cycling provision and bin storage.

- | | | |
|-----|--|--------------|
| 7.2 | 211117 Land adjacent to 3 Highfield Drive, Colchester
Erection of four bedroom detached house. | 41 - 64 |
| 7.3 | 211240 Holy Trinity Church, Trinity Street, Colchester
Listed Building Application to paint a permanent art mural on the external side of the church graveyard wall. | 65 - 76 |
| 7.4 | 210847 Church House, Church Road Wormingford
Conversion and extension of an existing single storey outbuilding range to form a single three bedroom dwelling. | 77 - 92 |
| 7.5 | 202242 2 Delamere Road, Colchester
Outline application for a proposed four-bedroom bungalow. | 93 - 110 |
| 7.6 | 211259 Land to the rear of The Retreat, Wood Lane, Fordham Heath
Application for a lawful development certificate to erect a summerhouse of 2.5m octagonal base, that is having an area less than 50% of the area of the house, and not exceeding 2.5m in height, and sited within 2m of the boundary of the curtilage. | 111 -
116 |
| 7.7 | 211237/211324 Brook Street, Colchester
Installation of environmental 'Switch off' signage. Revisions to application previously approved under 201799. | 117 -
124 |
| 7.8 | 211519 Hythe House, 142 Hythe Hill Colchester
Replace existing timber and render cladding with cedar panels; replace windows with identical UPVC units in black; replace existing aluminium front doors with similar doors finished in black. | 125 -
132 |
| | Planning Committee Information Pages v2 | 133 -
144 |
| 8 | Exclusion of the Public (not Scrutiny or Executive)
In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). | |

Part B
(not open to the public including the press)



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Item No: 7.1

Application: 210088

Applicant: Lpb Homes

Agent: Miss Carolyn Mace, ADG Architects

Proposal: Application for the conversion of the building from Class D1 (Museum) to Residential Use (Class C3): 29 units comprising 23 HMO rooms & 6 s/c flats; with cycling provision and bin storage.

Location: Former Museum Resource Centre, 14 Ryegate Road, Colchester, CO1 1YG

Ward: Castle

Officer: Chris Harden

Recommendation: Approve subject to Completion of a Legal Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is deemed as a Major item and there have been objections to the scheme.

2.0 Synopsis

- 2.1 The key issues for consideration are the policy principle, impact on Heritage assets, residential amenity, highway safety, wildlife, contamination, archaeology, drainage and flooding. These matters are explored in the report.
- 2.2 The application is subsequently recommended for approval. The application site is located in a predominantly residential area that is well linked to existing services and facilities and is thus in a highly accessible and sustainable location. The change of use would assist towards meeting the Council's housing needs requirement, whilst being consistent with the Local Plan policy approach of focusing new dwellings within the existing urban area on previously developed land. There has already been an approval for residential use (182869 - nine apartments) and the current proposal is an alternative to that scheme. The scheme would represent the sustainable re-use of a redundant historic building and would also help support the existing town centre uses. It would not represent an overdevelopment of the site. The proposal is therefore considered to comply with the abovementioned settlement policies of the Local Plan and NPPF.
- 2.3 It is considered the proposal would preserve the character and appearance of the Conservation Area and re-use a Locally Listed Building and would not have any significant impact upon the setting of the grade I listed abd scheduled Castle opposite. The scheme is considered acceptable in terms of the residential amenity of the future occupiers and neighbouring residents. It is not considered parking provision is required owing to the highly sustainable Town Centre location and the provision of cycle parking. There are also no concerns in terms of wildlife impact, contamination, archaeology, drainage or flooding.

3.0 Site Description and Context

- 3.1 The site lies within the Colchester Conservation Area No.1 (Town Centre) and defined settlement limits boundary. It is located between Ryegate Road and Maidenburgh Street, within Colchester's historic town centre and Dutch Quarter. It is surrounded by predominantly residential properties along Maidenburgh Street and Ryegate Road. Colchester's High Street is located approximately 100m away to the south of the site. To the east of the site is Colchester Castle, a Grade I listed building and Castle Park, a Grade II registered park and garden.
- 3.2 The existing building to be converted dates from the later nineteenth century and is included in the Local List of buildings of architectural and historic interest and is an undesignated heritage asset. It is a part five storey, former factory building constructed mainly in facing red brick with large 'Crittall' steel and

some cast iron C19 windows, under a pitch tiled roof with a later added concrete extension. The building is 'T' shaped in plan form and has had several structural additions since it was originally built in the 19th century.

4.0 Description of the Proposal

- 4.1 The application is for the conversion of the building from Class D1 (Museum) to Residential Use (Class C3): 29 units comprising 23 HMO rooms & 6 s/c flats; with cycling provision and bin storage.
- 4.2 The development includes secure storage for 40 No. bicycles for use by apartment occupants and a bin stores both accessed from Ryegate Road. Access for the emergency services will also be from both Ryegate Road and the lift is located at this entrance. The agent has confirmed that there would be no external changes beyond those previously approved on application 182869 which was also for conversion and that existing windows would be retained with the exception of replacement windows on the North elevation, as previously agreed.
- 4.3 The works involved include the following (as per previous approval):
- Some replacement windows on the northern elevation (as before).
 - Removal and replacement of roof lantern;
 - Minor chimney works and
 - Internal works to accommodate the new units.
- 4.4 In the interests of clarity, the **works no longer required** compared to the previous approval owing to no parking provision are:
- Demolition of single storey extension on the southern elevation
 - Removal and infill of existing doors on eastern elevation;
 - Insertion of new painted timber sliding doors at ground floor level on northern elevation;
 - Replacement of masonry wall structure along the eastern boundary; **creation of new access** on southern elevation.

4.5 The schedule of proposed accommodation is as follows:

Schedule of proposed accommodation		
Floor Level	Apartments	Area GIA m ²
Ground	3 Apt.	282
First	2 Prof. Apt 6 Student Studio 4 Student Apt.	287
Second	2 Prof. Apt. 4 Student Apt. 2 Student Studio	287
Third	7 Student Apt. 1 Student Studio	193
Fourth	8 Student Apt. 1 Student Studio	193
	Total	1242

5.0 Land Use Allocation

5.1 Settlement Limits
Conservation Area
UAD Monument

6.0 Relevant Planning History

78/1552 Change of use from warehouse to museum purposes. Approved (01/02/79)

F/COL/04/1423 Disabled access via a new opening and lift at street level and disabled WC. Approved (20/08/2004)

182869 Full planning application for the conversion of the building from Class D1 (museum) to residential use (Class C3) (nine apartments) with associated demolition works; internal and external alternations; car/cycle parking and bin storage areas and infrastructure works. Approved 26/7/19

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2a - Town Centre
- CE3 - Employment Zones
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR2 - People-friendly Streets
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP6 Colchester Town Centre Uses
- DP10 Tourism, Leisure and Culture
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- 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 Documents (SPD):

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
Community Facilities
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
Planning Out Crime
Town Centre Public Realm Strategy
Air Quality Management Guidance Note, Areas & Order

- 7.5 Neighbourhood Plan: Not applicable.

- 7.6 Submission Colchester Borough Local Plan 2017-2033:

Adopted Local Plan and Emerging Local Plan Status – March 2021

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan has been examined during April 2021. The Inspector's report is awaited. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

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

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

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

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision

and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

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

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

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

Emerging Section 2 Local Plan

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

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

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

Section 2 will be afforded some weight due to its advanced stage. However, as the Inspector's report is awaited, the exact level of weight to be afforded will be considered on a policy by policy and site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

5 Year Housing Land Supply

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

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

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements which has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings (5 x 920 + 5%).

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

Further Emerging Local Plan policy information is contained in Appendix 1.

8.0 Consultations

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

8.2 Highways Authority states:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions: (full conditions in conditions section):

- Residential Travel Information Packs
- Displaying Public Transport Info for HMOs
- Provision of bicycle parking facilities
- Construction Management Plan
- Standard informatives.

8.3 Anglian Water states that it has waste water a sewerage capacity and suggests a surface water drainage condition.

8.4 Essex County Fire and Rescue Service have raised no objections and state that more detailed comments will be made at the Building Regulations stage.

8.5 Contaminated Land Officer states:

That an updated the Conceptual Site Model (CSM) for the proposed use has been provided and “has confirmed that there have been no additional potentially contaminative uses of the site since the previous assessment. The revised risk assessment concludes that the CSM remains as previously assessed for Planning Reference 182869 by MLM in their ‘*Phase 1 Contamination Assessment*’, *Museum Resource Centre, Colchester, Rev C01, Status S2, Ref. 775712-MLM-ZZ-XX-RP-J-0001, dated 4/12/17*, when it was concluded that, due to the nature of the redevelopment, the lack of significant pollutant linkages and the restricted access for intrusive investigation due to the building constraints, no further assessment was proposed in relation to contaminated land.

Consequently, should this application be approved, Environmental Protection would recommend inclusion of the same precautionary condition as for 182869:

Reporting of Unexpected Contamination

Given the assumed age of the existing building, the applicant should also be advised that an appropriate asbestos survey (in accordance with all of the applicant’s duties under The Control of Asbestos Regulations 2012) must be undertaken for any buildings/part buildings that are to be refurbished or demolished, to prevent creation of any new contamination pathways.

8.6 Historic England “...does not wish to offer any comments.”

8.7 Essex SUDS states

In providing advice this Council, and their appointed consultants, looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council’s (ECC’s) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the documents which accompanied the planning application, we would recommend the issuing of a holding objection on the basis of the following:

The information provided does not allow us to assess the development. Please provide information as required within the new ECC SUDS design guide:

<https://www.essexdesignguide.co.uk/suds/what-we-expect/>

8.8 Environmental Protection recommend the following conditions:

ZPD - Limits to Hours of Work

ZCG - Communal Storage Areas

8.9 Colchester Civic Society state: (precised)

- Make a general observation: relieved to see a new application and proposed use for this important site in the Dutch Quarter conservation area.
- No objection to students living in the town centre in modest numbers in such a building. Mixing students with private apartments does not seem so bizarre when the separate entrances to both areas are appreciated.
- Aware that permission already exists for a plan to convert the building to apartments with the necessary provisions for disabled access.
- Primary concern is with the understated plans for alterations to the windows to all elevations of the buildings. Unfortunate that the significant elevation to Maidenburgh Street has been omitted as this is the most iconic and familiar to those who visit the Dutch Quarter.
- Window design and materials define the visual impact of the building in the historic street scape of both Ryegate Road and Maidenburgh Street and a contemporary solution of replacement would be both injurious and historically inappropriate to this Locally Listed site.
- Steel strapwork design is very much a reflection of the building's history and usage and defines the visual as much as a timber sash to a Victorian terrace.
- Replacement aluminium powder coated windows to a modern Methodist Church or to Council housing are hardly comparable and are hardly justification for potential loss and damage.
- Aware that suitable window manufacturing solutions exist to resolve the needs of comfortable living and the strong local desire for historic retention.
- Re-emphasize concerns with any proposals to replace the "cristal" type steel band widows that are the particularly important feature of this building on the west elevation. These reflect the "Arclight Works heritage. Of equal importance are the original windows of the other sides that date from the original Daniels brewery.
- This building and its original detail form an important position in the Dutch Quarter Conservation Area and justify its significance as a Locally Listed Building.

8.10 Archaeologist states: "I note that previous permission 182869 attracted a condition requiring a programme of historic building recording and analysis prior to any conversion (Condition 12, but Condition 13 also seems to say much the same). Such a survey has not been undertaken or submitted in support of the current application, and it would be appropriate to carry this condition over to any new consent."

8.11 Transport and Sustainability Officer: Confirms that "there is level access to the cycle parking from Maidenburgh Street and two-step access from Ryegate

Road. The level access has been provided from Maidenburgh Street as this is the primary entrance for the Student Accommodation which are the majority occupiers of the building. The visitor cycle parking has been included in this area.”

8.12 Natural England comment that the site is in a Zone of Influence and that RAMs mitigation needs to be considered and a Habitat Regulations Assessment undertaken.

8.13 Dutch Quarter Association makes the following points:

- Important to retain as many architectural features as possible.
- Previous application had provision for parking. Currently there are 3 spaces and these should be retained for service provision.
- Surrounding area is a Controlled Zone with no on street parking.
The adjacent Dutch Quarter Residents Parking Scheme has provision for only **111** cars and is vastly over subscribed with **172** permits currently issued which causes many problems. Expect condition that excludes participation in the Scheme.
- Should avoid noise and disturbance during construction works in this quiet residential area.

8.14 Urban Design Officer has made comments about accuracy of plan, light levels for ground floor accommodation, elevation missing, replacement glazing to match, details of window materials required.

8.15 Conservation Officer has raised no objections (external alterations as per previously agreed by Conservation Officer).

8.16 Private Sector Housing have raised no objections and state in an update “Thanks for addressing and considering all the points raised”, namely (precised)

“These comments are passed direct to the developer because they may fall out of the scope of Planning considerations. However, the comments are made based on possible increased hazards under the Housing Health and Safety Rating System (HHSRS) and action that the Private Sector Housing team could enforce against under Part 1 of the Housing Act 2004.

Alongside meeting all requirements of current Building Regulations in terms of ventilation, energy efficiency, heating, sound insulation, fire detection & protection, Private Sector Housing have the following specific comments;

Flat / Room Sizes

-Each ‘whole’ flat/dwelling must meet the attached DCLG National Space Standards.

-The proposed student flats/dwellings will be used as Houses in Multiple Occupation (HMOs) and therefore all bedrooms and shared living rooms/kitchens must meet the attached Essex HMO space and amenity standards.

Fire Safety Standards

-As well as meeting the requirements of building control for fire protection / detection between flats and the common escape route. (i.e 60 minutes fire resistance between each dwelling, suitable fire doors and compartmentation) the attached LACORS Fire Safety Guidance alongside the Essex HMO standards documents must be met for each individual HMO unit.

HMO Licensing

Any flat/dwelling used by 5 or more persons, with shared WC/personal washing or shared cooking facilities, requires a Mandatory HMO licence.

Excess Cold, Ventilation and Natural Light

The property has solid, non-cavity walls with very large single glazed windows to the front and side facades. The property will therefore need to be upgraded efficiently in order to provide suitable residential accommodation.... In line with building regulations, appropriate internal wall insulation, minimum double glazing, and an efficient, cost effective heating system will be required to each flat/dwelling. As part of upgrading the windows, you must ensure that each habitable room is provided with adequate natural light and an openable window for natural ventilation. “

- 8.17 Tree Officer states he is in agreement with the proposed development and the tree report provided: “I am satisfied with the arboricultural content of the proposal...agreement to the landscape aspect of the application subject to condition.”

9.0 Parish Council Response

- 9.1 Non-Parished.

10.0 Representations from Notified Parties

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

- 10.2 10 letters of objection have been received, raising concerns about the following issues:

- Plans indicate a substantial alteration to the historic facade of the building. In Conservation Area and Dutch Quarter and should be refused unless facade is retained.
- Colchester does not have need for student accommodation. Should show statistical analysis for need.
- Should have plan of West facade to see how window impacted.
- Opportunity for non- transient accommodation.
- No evidence of wonderful windows and heritage being kept.
- Entirely altering the important, characterful and historical front facade with its huge Victorian arched topped windows.
- Please specify that the external appearance of this locally-listed building, with its distinctive glass windows, must be retained.

- Such flats meet lower standards than would be tolerated for permanent residents. Demand for new student accommodation is already met by existing schemes, including that at Magdalen Street and (if it goes ahead) the Alumno development.
- Please therefore ask the applicants to redesign their scheme so that all flats meet the minimum standards for space, etc, required for long-term tenants.
- Room sizes.
- If approved, should condition student accommodation retained for that use.
- Partitions abut windows.

10.3 Two letters state:

- Hope at least the facade with its impressive large windows will be kept to preserve part of Colchester's architectural heritage/interest.
- Design & Access statement ambiguous.
- Should supply full details of the design and materials of the proposed Maidenburgh Street frontage for assessment, or it should be a condition of planning approval that this elevation is not altered in any way.

11.0 Parking Provision

11.1 40 cycle spaces

12.0 Accessibility

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

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission are outlined below.

Community - £27,038.55*

Parks & Recreation – £54,360.79*

Borough Projects 35% = £19,026.27*

Housing –

No onsite affordable housing being requested.

Requesting affordable housing commuted sum equivalent to 20% of the market apartments which would be 1.2%.

***Projects agreed; however, the contributions for the 23 HMO unit to be adjusted (to reflect the same pro-rata rate as that used for student accommodation).**

Case Officer to liaise with the relevant Development Team Members to agree a revised contributions. Planning **Cttee members to be updated.**

Affordable housing commuted sum as £98,526.

This is based on the following calculation:-

Unit type	No. Dwellings	Market Value per unit	Capitalised Value per unit to an RP (5.5% yield)	Commuted Sum (Market Value less Capitalised Value)	Capitalised Value all units	20% affordable housing
One bed flat	4	£175,000	£91,630	£83,370	£333,480	
Two bed flat	2	£200,000	£120,426	£79,574	£159,148	
Total					£492,628	£98,526

16.0 Report

The Principle of Development and sustainability

16.1 The site lies within the Central Area of the town limits and is in an area defined as Primarily Residential in the Local Plan (Dutch Quarter). The site is within a highly accessible and sustainable location. Accordingly, the proposal is considered acceptable in principle in terms of compliance with adopted local and national planning policy. Policy SD1 aims to support sustainable development, as does emerging Local Plan policy SP1. The proposal also complies with Policy DP6 which aims to maintain a balance between retail and non-retail uses in the Town Centre, including Outer Core. Policy DP6 also states that within the Town Centre, support will be given to bringing upper floors back into use, particularly

for C3 residential purposes and B1 business use. The principle of the conversion of the building has also previously been agreed under application 182869. The latest scheme is somewhat different by introducing HMO units but nevertheless this is again a residential use.

16.2 In terms of National Policies, at the heart of the NPPF is a presumption in favour of sustainable development as outlined in NPPF Para 11.

16.3 A change of use to residential use has previously been agreed. As indicated before, in terms of the loss of the existing use, the planning history indicates that the lawful use of the building is as a museum (Class D1). Whilst it is acknowledged that Local Plan Core Strategy Policy SD3 supports the delivery, retention and enhancement of key community facilities in the Borough in accessible locations, the change of use is considered justified on the basis that the conversion to residential use would bring a redundant building back into a viable use in a sustainable location and would also help to preserve this non-designated asset. In addition, the building has not historically been used as a public museum but was instead to store and conserve items owned by the Colchester and Ipswich Museum Service and as such, it was not open for community use. The previous occupier, the Colchester Museum Resource Centre has relocated to alternative premises within the Borough (in Severalls Business Park), so the use has not been lost, but rather relocated within the Borough. Accordingly, it is not considered the proposal would result in the loss of employment opportunities in the Borough, as concluded on the previous application.

16.4 In conclusion, the proposed 29 units (23 HMO & 6 sc flats) lie in a predominantly residential area that is well linked to existing services and facilities. The change of use would assist towards meeting the Council's housing requirement, whilst being consistent with the Local Plan policy approach of focussing new dwellings within the existing urban area. The scheme would also help support the existing town centre uses. The proposal is therefore considered to comply with the abovementioned settlement Policies of the Local Plan and NPPF.

Number of Units and Residential Amenity

16.5 It is not considered that the proposed number of units represents the overdevelopment of the site. Policy DP11 refers to various issues that need to be considered and Paragraph 5.3 lends further support to the principle:

Policy DP11 states that 'Proposals for the conversion and sub-division of existing premises into flats and other self-contained residential units will be considered having regard to the intensity of the use proposed and the accessibility of the location to shops and other services.' The current proposal is considered to be of an appropriate intensity in this central location in very close proximity to a wide range of services. Whilst there are a greater number of units compared to the previous approval, overall floor areas are similar and the building is not proposed to be extended.

- 16.6 Paragraph 5.3 adds to this statement and is of some background relevance by stating that ‘The residential conversion of upper floors over shops and offices within the town centre can increase the stock of small dwellings within a highly sustainable location and may be supported even where the Council’s standard parking and amenity space requirements are not met.’ The proposal does indeed add to the stock of small dwellings. Parking matters are considered below at 16.14.
- 16.7 Whilst there would not be external private amenity space (Policy DP16) this is not unusual for a town centre location. There is public space very nearby in Castle Park. An appropriate living environment can be provided for the occupants of the units and Environmental Protection have raised no objections to the scheme. Private Sector Housing has confirmed that the developer has addressed all the queries relating to room sizes, fire safety and HMO and has not raised objections. The proposal will of course have to comply with the relevant Building Regulations including room sizes, insulation levels, light levels and fire escape. An informative will be applied to confirm all relevant legislation will need to be complied with. Overall, it is therefore considered the proposal would not be contrary to the provisions of Policy DP11.
- 16.8 It is not considered there would be any significant detriment to neighbouring residential amenity from the use, including from noise and disturbance or overlooking. Environmental Protection have raised no objections in this respect. This is a Town centre location with a mixture of uses and HMO accommodation, including potential student use is appropriate for such an area. Conditions can be applied to protect the amenity of occupiers of the new apartments.

Impact upon Conservation Area, Locally Listed Building and Nearby Listed Buildings

- 16.9 The building to be converted is a Locally Listed Building that lies within the Conservation Area and is close to the Grade 1 listed Castle (although there is significant intervening vegetation). Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires *special regard* to be paid to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires *special attention* to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant adopted Local Plan policies are Local Plan policies ENV1 and DP 14.

- 16.10 Paragraph 194 of the NPPF (2018) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 195 and 196 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. It is considered that the works proposed within this application constitute less than substantial harm, including in terms of impact upon the Character of the Conservation Area and the setting of Listed Building for the reasons as outlined below.
- 16.11 The proposed alterations are proposed to accord with the previously agreed plans on 182869 that had been amended to omit the originally proposed openings on the main North gable of the building and to retain the majority of the chimney and the existing Crittall and other windows will be retained. As before, the proposed internal alterations are acceptable. Accordingly, the proposal would now preserve the character and appearance of the Conservation Area and the intrinsic significance of the Locally Listed Building itself. As before, external alterations are relatively minimal and, given the distance from the Castle opposite and intervening features including vegetation, there would be no adverse impact of any significance upon the setting of the Castle opposite.
- 16.12 As before, there will need to be a condition applied to ensure that the replacement four windows on the North elevation and the one new window proposed have additional glazing bars in order to ensure they relate satisfactorily to the character of this elevation.
- 16.13 Overall, subject to appropriate conditions, it is considered the proposal complies with Policy DP1 as it respects the character of the surroundings and with Policy DP14 as the character of the Locally Listed Building and Conservation Area will be preserved (and potentially improved) and the setting of the Listed Castle opposite will be unaffected. The proposal will therefore accord with the abovementioned aims and provisions of the NPPF.

Highway Issues

- 16.14 Whilst there is no car parking proposed on the site, a significant level of cycling storage provision is shown and the Highways Authority have raised no objections. This is a highly sustainable Town centre location and it is not considered parking provision can be insisted upon, particularly given the nature of the accommodation proposed which includes smaller units than previously approved. The conditions suggested by the Highways Authority can be included, namely the submission of residential travel Information packs, public transport details, bicycle storage provision and a construction management plan. As outline above and of some background relevance, Paragraph 5.3 of the Local Plan states that 'The residential conversion of upper floors over shops and offices within the town centre can increase the stock of small dwellings within a

highly sustainable location and may be supported even where the Council's standard parking {DP19} and amenity space requirements are not met.'

Wildlife Impact

- 16.15 With regard to the wildlife impact of the scheme, bat surveys were submitted on the original scheme dating from June 2019 and these are considered to be adequately up to date, being only 18 months old when this latest application was submitted. The survey confirmed the 'likely absence of a bat roost'. Accordingly, no significant impact upon bat roosts is anticipated. Due to the urban location of the site, the lack of any field signs and the general lack of access to suitable nesting areas, it is considered unlikely that barn owls make any use of the building. It is not considered that other protected species will be affected in any significant way. Wildlife enhancement in terms of provision of bat boxes can be conditioned as before. Accordingly, the scheme complies with Policy DP21 which provides that development proposals should conserve or enhance biodiversity. An appropriate Habitat Regulations assessment has been undertaken.
- 16.16 The site is within a zone of influence of a European designated site and in order to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of recreational impact will be required in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This equates to a financial payment which will need to be made before granting of permission.

Trees and Vegetation

- 16.17 As before, an Arboricultural Impact Assessment has been submitted. This indicates that a total of five trees were surveyed. No surveyed trees were considered to be high quality (Category A) with an anticipated useful life expectancy of in the region of 40+ years. Three surveyed trees were considered to be moderate quality (Category B) with an anticipated useful life expectancy of in the region of 20+ years. Two surveyed trees were considered to be low quality (Category C) with an anticipated useful life expectancy of in the region of 10-20+ years. No surveyed trees were considered unsuitable for retention (Category U).
- 16.18 The AIA concludes that of the five trees surveyed, all will be retained and will be protected during the proposed demolition and construction works. Temporary protection measures and briefing for site operatives can be put in place prior to construction on site and the tree officer has raised no objections. Accordingly, it is considered that, subject to appropriate conditions, impact upon vegetation is unlikely to be significant. However, it is considered a condition is required to ensure details of the provision of services is submitted to ensure any impact upon Root Protection Areas is minimised.

Flood Risk and Drainage

- 16.19 The site lies within a Flood Zone 1 area and this is the lowest flood risk area. Accordingly, it is not considered there is an objection on flood risk grounds. Conditions can be applied to secure an appropriate surface water drainage scheme. Subject to compliance with this condition, the proposal would not contravene the provisions of Policy DP20 which covers flood risk and sustainable drainage issues. Whilst the Essex County Council SUDs team have put in a holding objection on the basis that more information is considered to be required to allow assessment, it is considered that a surface water drainage condition is adequate to cover this issue given that this is an existing building within a constrained site and no extension works are proposed. A surface water drainage condition was applied when the previous proposal was approved and that too was for a scheme for residential purposes.

Other matters

- 16.20 The scheme is considered acceptable from an archaeological point of view subject to conditions relating to historic building recording. The proposal would therefore comply with Policy DP14 in this respect which aims to protect the Historic Environment.
- 16.21 The contaminated land officer has raised no objections to the scheme subject to the application of an unexpected contaminated land condition.

17.0 Conclusion

- 17.1 To summarise, the proposed residential accommodation lies in a predominantly residential area that is well related to existing services and facilities and is thus in a sustainable location. The change of use would assist towards meeting the Council's housing requirement, whilst being consistent with the Local Plan policy approach of focusing new dwellings within the existing urban area. This is considered to be an appropriate location for the introduction of HMOs and is not considered to represent an overdevelopment of the site. The scheme would represent an appropriate re-use of a redundant building and would also help support the existing town centre uses. The proposal is therefore considered to comply with the abovementioned settlement Policies of the Local Plan and NPPF.
- 17.2 It is considered the proposal would preserve the character of the Conservation Area and Locally Listed Building and would not have any significant impact upon the setting of the Listed Castle opposite. The alterations proposed will essentially be the same as previously approved (albeit fewer in extent), including the retention of the existing important windows. The scheme is acceptable in terms of the residential amenity of the future occupiers and neighbouring occupiers. It is not considered that parking provision is required in this highly sustainable Town Centre location and a significant level of cycle provision is proposed. There are also no concerns in terms of wildlife impact, contamination, archaeology, drainage or flooding subject to appropriate conditions.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

Authority to APPROVE subject to Completion of a Legal Agreement relating to contributions and receipt of RAMs payment and subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Development To Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: to be confirmed plus Arboricultural Impact Assessment.

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

3. Non Standard condition - Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

4. Non Standard Condition- Bicycle Parking

The bicycle parking facilities as shown on the approved plans are to be provided prior to the first occupation of the development. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

5. Non Standard Condition- Construction Method Statement

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

6. Non Standard Condition- Travel Information Packs

Prior to first occupation of the proposed private development, the Developer shall be responsible for the provision and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

7. Non Standard Condition- Public transport Information

The HMO development shall not be occupied until such time as details of public transport facilities (timetables and locations of bus stops etc), walking and cycling being prominently displayed and regularly updated and maintained in perpetuity in public areas within the site including precise detailed programme for such, have been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

8. Non Standard Condition - Window retention

The existing windows on the building shall be retained unless otherwise shown (annotated) to be replaced/removed on the approved drawings.

Reason: For the avoidance of doubt as to what has been considered and approved and in order to preserve the character of the Conservation Area and Locally Listed Building.

9. Non Standard Condition - External Joinery Details

Notwithstanding the submitted details, precise details (scale 1:20) of all new and replacement windows, doors and other joinery (including materials and finishes) shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to preserve the character of the Conservation Area and Locally Listed Building and as the glazing detail on a number of replacement windows shown on the North elevation will need improvement.

10. ZLR – Works of Making Good

Within 2 MONTH(S) of the works being carried out, all adjoining surfaces which have been disturbed by the works (including brickwork, plaster and floor tiles) shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

Reason: In order to preserve the character of the Conservation Area and Locally Listed Building.

11. Non Standard Condition - Historic Building Recording

No works shall take place until the implementation of a programme of historic building recording has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
 - b. The programme for post investigation assessment.
 - c. Provision to be made for analysis of the site investigation and recording.
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation.
 - f. Nomination of a competent person or persons/organisation to undertake the works.
- The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

12. Non Standard Condition - Building Recording

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

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works. In this case, a historic building survey should be carried out, by an historic buildings specialist.

13. Non Standard Condition - Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. 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: The site lies on or in the vicinity of a former brewery and engine house, warehouse, museum storage and preservation, printing works, where there is the possibility of contamination.

14. Non Standard Condition – Asbestos Survey

Prior to commencement of development, a survey for the presence of asbestos shall be undertaken and the findings and potential mitigation works shall be submitted to and agreed in writing by the Local Planning Authority. The mitigation works shall be undertaken in accordance with the submitted details throughout the lifetime of the development works

Reason: There is the possibility of asbestos being present on site.

15. Z00 – Surface Water Drainage

Prior to the commencement of the development details, of the surface water drainage scheme including surface water management strategy to serve the development based on sustainable drainage principles, shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. No hard-standing areas shall be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the provision of an appropriate surface water drainage scheme.

16. Non Standard Condition – Drainage Maintenance

Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing, by the local planning authority. The maintenance plan shall thereafter be complied with.

Reason: To ensure the satisfactory maintenance of the surface water drainage system.

17. Non Standard Condition – Refuse and Recycling Storage

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with the submitted details. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

18. Non Standard Condition – Service Details

Prior to their implementation, precise details of the provision of ground or below ground level services, including locations, shall be submitted to and agreed in writing by the Local Planning Authority. Only the approved details shall be implemented.

Reason: To ensure trees and vegetation is adequately protected.

19. Non Standard Condition – Tree Protection

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans 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.

20. Non Standard Condition - Wildlife Mitigation and Enhancements

Prior to commencement of development, precise details of Wildlife Mitigation and Enhancement shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be complied with during the lifetime of the development works, and the Wildlife Enhancements shall be implemented within two months of completion of the development works and thereafter retained as such.

Reason: In the interests of the protection of protected species and to ensure adequate wildlife enhancement.

21. Non Standard Condition- Communal Storage

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

19.0 Informatives

19.1 The following informatives are also recommended:

1. Highway Informative

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

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

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester

2. Building regulations/Fire Safety Access informative

The applicant should note that the proposal will need to comply with the relevant Building Regulations, including Fire safety access.

Flat / Room Sizes

-Each 'whole' flat/dwelling must meet the attached DCLG National Space Standards.

-The proposed student flats/dwellings will be used as Houses in Multiple Occupation (HMOs) and therefore all bedrooms and shared living rooms/kitchens must meet the attached Essex HMO space and amenity standards.

Fire Safety Standards

-As well as meeting the requirements of building control for fire protection / detection between flats and the common escape route. (i.e 60 minutes fire resistance between each dwelling, suitable fire doors and compartmentation) the attached LACORS Fire Safety Guidance alongside the Essex HMO standards documents must be met for each individual HMO unit.

HMO Licensing

Any flat/dwelling used by 5 or more persons, with shared WC/personal washing or shared cooking facilities, requires a Mandatory HMO licence.

Excess Cold, Ventilation and Natural Light

The property will need to be upgraded efficiently in order to provide suitable residential accommodation. In line with building regulations, appropriate internal wall insulation, minimum double glazing, and an efficient, cost effective heating system will be required to each flat/dwelling. As part of upgrading the windows, you must ensure that each habitable room is provided with adequate natural light and an openable window for natural ventilation.

*****It should be noted that the above requirements will need to be met whilst retaining the existing windows in the property.*****

3. Anglian Water Informative

The applicant's attention is drawn to the contents of the Anglian Water letter dated 27.1.21.

4. 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.

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

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

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

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

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

General Local Plan Status

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

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

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

Policy SD2 – Full

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

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

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

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

Is replaced by SP6.

Policy SD2 is no longer relevant.

Policy SD1 – In Part

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

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

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

Is replaced by SP1.

All other parts of SD1 remain relevant.

Policy H1 – In Part

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

Is replaced by SP3 and SP4.

All other parts of H1 remain relevant.

Policy CE1- In part

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

Is replaced by SP5.

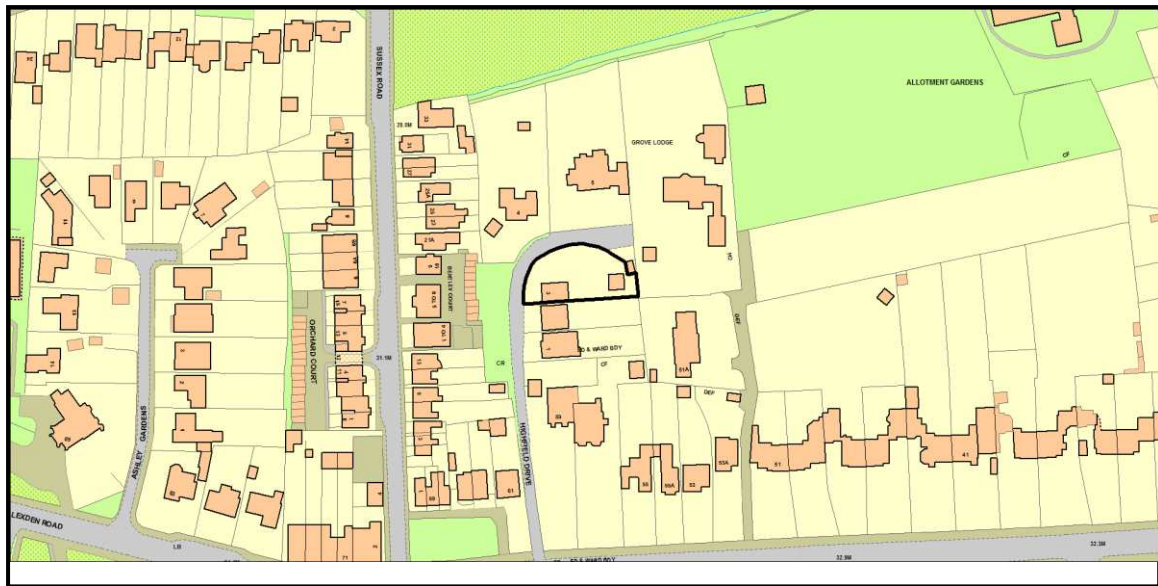
All over parts of CE1 remain relevant.

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

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

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

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



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Item No: 7.2

Application: 211117

Applicant: Mrs Marguerite Haddrell

Proposal: Erection of four bedroom detached house

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

Ward: Lexden & Braiswick

Officer: Chris Harden

Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

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

3.0 Site Description and Context

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

4.0 Description of the Proposal

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

5.0 Land Use Allocation

- 5.1 Within settlement limits.

6.0 Relevant Planning History

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

Inspector's comments for dismissed appeals 145426 & 146416:

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

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

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

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

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

10. There have also been a number of applications refused for a new dwelling and one appeal for the erection of one detached three bedroom house and replacement garages was dismissed in 2011¹. Although this decision predates the Framework I consider the Inspector's conclusions regarding the effect of a new dwelling on the site still to be relevant. **I consider the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area.**

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

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

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

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

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

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

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

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

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

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

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

7.0 Principal Policies

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

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

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

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

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

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

7.5 Neighbourhood Plan: Not applicable.

7.6 Submission Colchester Borough Local Plan 2017-2033:

Adopted Local Plan and Emerging Local Plan Status – March 2021

Overview

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

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

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

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

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

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

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

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

Emerging Section 2 Local Plan

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

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

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

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

5 Year Housing Land Supply

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

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

Further Local Plan information is outlined in Appendix 1

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

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

8.0 Consultations

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

8.2 Cllr Lewis Barber has stated:

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

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

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

8.3 Highways Authority states:

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

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

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

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

8.4 Archaeologist states:

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

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

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

The following archaeological condition (Z00) is recommended:

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

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

and:

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

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

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

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

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

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

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

8.5 Colchester Cycling Campaign state:

Reason for comment: Object to the proposal

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

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

9.0 Parish Council Response

9.1 Non-Parished.

10.0 Representations from Notified Parties

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

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

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

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

11.0 Parking Provision

11.1 2 spaces.

12.0 Accessibility

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

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle:

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

Impact upon surroundings:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 year land supply

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

Impact upon neighbouring residential amenity:

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

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

Highway Issues

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

Other:

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

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

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

17.0 Conclusion

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

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

REFUSAL of planning permission for the reasons set out below:

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

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

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

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

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

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

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

General Local Plan Status

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

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

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

Policy SD2 – Full

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

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

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

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

Is replaced by SP6.

Policy SD2 is no longer relevant.

Policy SD1 – In Part

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

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

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

Is replaced by SP1.

All other parts of SD1 remain relevant.

Policy H1 – In Part

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

Is replaced by SP3 and SP4.

All other parts of H1 remain relevant.

Policy CE1- In part

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

Is replaced by SP5.

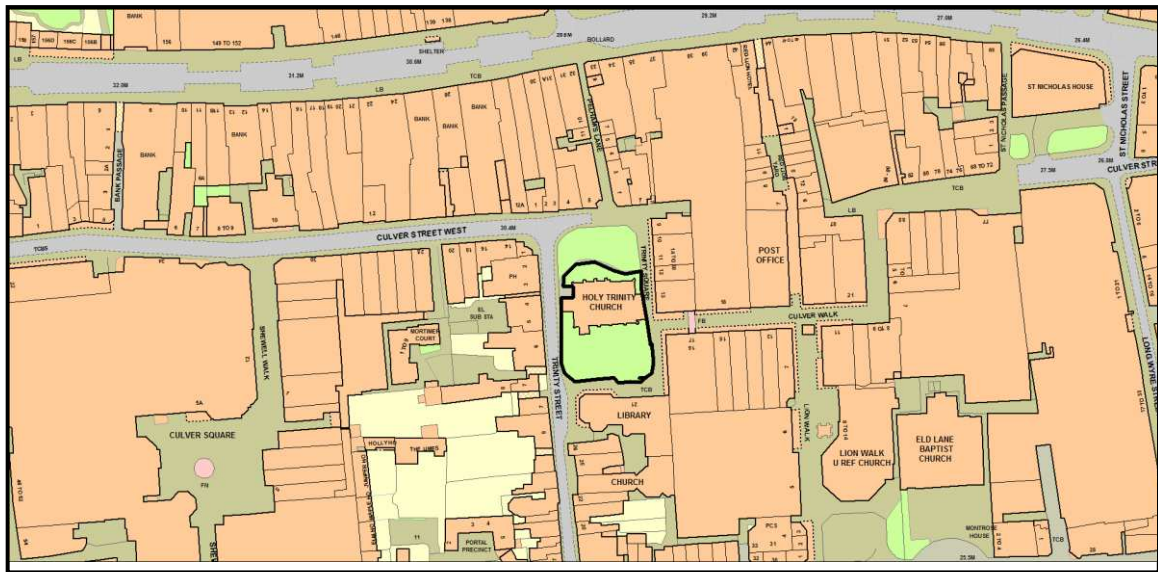
All over parts of CE1 remain relevant.

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

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

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

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



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Item No: 7.3

Application: 211240

Applicant: Lion Walk Shopp, Martin Leatherdale

Agent: Miss Iona Hodgson, Art Eat Invent

Proposal: Listed Building Application to paint a permanent art mural on the external side of the church graveyard wall.

Location: Holy Trinity Church, Trinity Street, Colchester, CO1 1JN

Ward: Castle

Officer: Eirini Dimerouki

Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Cllr Goacher for the following reason: *“Significant concerns about the impact and design of this mural. Will impact negatively on this heritage site as the design is not in keeping with the setting.”*. Moreover, the applicant is Cllr Leatherdale on behalf of Lion Walk Shopping Centre.

2.0 Synopsis

- 2.1 The application seeks consent to the painting of a permanent art mural on the external wall of the Vestry at the former Holy Trinity Church. The former Church is listed at Grade I and is situated within the designated Colchester Conservation Area 1.
- 2.2 The key issue of consideration is the impact of the proposal on the special interest of the listed building. An additional consideration is the impact of the mural on the character of the Conservation Area.
- 2.3 Material planning considerations are taken into account in accordance with National and Local Planning Policy, along with consultation comments and local representations. The application is subsequently recommended for refusal.

3.0 Site Description and Context

- 3.1 The application site is situated on the northern end of Trinity Street, one of the most attractive and picturesque streets in the historic town centre which comprises a high number of listed buildings. To the north, the site is bound by Culver Street West, a secondary commercial street that runs parallel to High Street; Pelham Lane which has been retained as a pedestrian link between the two commercial axes ends onto Trinity Square. Lion Walk Shopping Centre and Colchester Library, both erected in the 1970s, are located to the east and the south of the site respectively.
- 3.2 The site comprises the former Church and its churchyard that includes several trees and many tombs and monuments. The churchyard is enclosed by iron railings on top of a brick dwarf wall; to the east side, the enclosure is interrupted by the Vestry wall which is the subject of this application.
- 3.3 The former Holy Trinity Church is listed at Grade I (NHLE List Entry Number 1169575). Grade I listed buildings are of exceptional interest and only 2.5% of listed buildings are Grade I. The site was first listed on 25 February 1950 and its list entry describes it as follows: *“Particularly interesting for its fine pre-Conquest west tower, probably built mid C11, largely in Roman brick, 3 stages, pyramidal tiled roof; the west doorway has a triangular head and the windows are round-headed. This tower was built on to an earlier Church of circa 1000, of which only the west wall remains. The rest of the building is largely C14 and C15, much restored in 1886. There is an interesting monument - a mural alabaster monument to William Gilbert 1544-1603 famous for his researches into electricity.”*

- 3.4 A detailed description of the building is included in the “Inventory of the Historical Monuments in Essex, Volume 3, North East” of the Royal Commission on Historical Monuments of England, published in 1922. According to the account of the site’s development, the Vestry was added to the east side of the Church when Holy Trinity was restored and extended with the addition of the North Aisle and North Chapel in the second half of the Nineteenth Century.
- 3.5 Holy Trinity was made redundant in 1956 and was briefly a museum and later, an arts centre and café. At present, it is vacant and not accessible to the public. Despite its vacant status, the historic site makes a very positive contribution to the Conservation Area. It is a green space between the busy commercial zones of Lion Walk Shopping Centre and Culver Street that contributes positively to the area by virtue of the aesthetic qualities of the historic church and the tranquil character of the churchyard.

4.0 Description of the Proposal

- 4.1 The application seeks consent to the painting of a permanent art mural on the east elevation of the Vestry that fronts onto the Lion Walk Shopping Centre. The wall measures approximately 9.50m in length and 3.00m in height and includes a blind brick arch to the southernmost half. The vestry brick gable wall is currently rendered and painted in a dark red colour.
- 4.2 The Vestry which accommodates toilet and kitchen facilities dating from when the site was in use, suffers from increased levels of damp which are evident in the interior but also manifest on the east elevation as well in the form of flaking and blistering of the painted finish.
- 4.3 The proposed mural would cover the entire surface of the wall. Its content includes sites and personalities that relate to the history of Colchester. The mural would be painted with household paints, applied directly on the surface of the wall, and then covered by anti-graffiti coating.

5.0 Land Use Allocation

- 5.1 DP6 Town Centre Uses

6.0 Relevant Planning History

- 6.1 The recent planning history of the site includes Planning Permission 110030 and Listed Building Consent 110031 for the “*Change of use from former museum to a cafe with occasional music events and church services. General refurbishment and decoration to main church hall, addition of gate and railings to prevent access into tower. Refurbishment of kitchen and WC facilities including creation of new disabled WC.*”, granted on 23 March 2011. Advertisement Consent was granted in 2016 for the interpretation panel on the railings on Trinity Street.

- 6.2 An application was made in 1996 in respect of the eastern wall of the Vestry (LB/COL/96/1630). The application sought consent for the addition of a mosaic mural. The proposal was regarded inappropriate for the site and the application was withdrawn.

7.0 Principal Legislation and Policies

- 7.1 Planning law requires that applications for Listed Building Consent must be determined in accordance with Section 16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990, having special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Regard is also given to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The National Planning Policy Framework (NPPF 2019) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. The NPPF's Section 16 "Conserving and enhancing the historic environment" provides the guidelines for the protection and conservation of heritage assets, including listed buildings and Conservation Areas. Paragraph 193 determines that 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 (and the more important the asset, the greater the weight should be). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraphs 195 and 196 identify and deal with two levels of harm respectively: substantial and less than substantial harm linking their justification to the public benefits that can potentially outweigh them.
- 7.3 Moreover, planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise. Continuing the themes of the NPPF, Colchester Local Plan 2001-2021 includes the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) which adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
- ENV1- Environment, which states that the Borough Council will conserve and enhance the historic environment and safeguard the Borough's history through the protection of and enhancement of sites of national, regional and local importance.
 - UR2 - Built Design and Character, which sets out that developments which are discordant with their context and fail to enhance the character, quality and function of an area will not be supported.

- 7.4 In addition, also relevant are the adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
- DP1 - Design and Amenity, which requires that development proposals must respect and enhance the character of the site, its context and surroundings in terms of material and detailed design features.
 - DP14 - Historic Environment Assets, which stresses that development will not be permitted that will adversely affect a listed building or a Conservation Area.
- 7.5 Further to the above, the Historic England Good Practice Advice Notes 1-3 (March 2015) should also be taken into account in the decision-making process for applications affecting listed buildings or the historic environment generally.

8.0 Consultations

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

- 8.2 Environmental Protection
No comments.

- 8.3 Highway Authority
The Highway Authority does not object to the proposals as submitted.

- 8.4 Historic England
*"We consider the level and quality of information submitted with the application to be completely inadequate, particularly in relation to the assessment of the proposed mural's impact on the setting of the church and the Vestry Wall itself, which are entirely in the ownership of your authority.
Notwithstanding the lack of information, in our view the proposed mural would be wholly inappropriate in this highly sensitive location on Trinity Square within the Colchester Town Centre Conservation Area due to its scale, subject matter and its permanence.
The Vestry to the former church dates from 1840 and the wall that forms the subject of the application is listed by attachment to the church. In this instance we would stress that the former Holy Trinity Church is grade I listed and so is within the top 2.2% of listed buildings nationally.
We acknowledge that the applicants, Lion Walk Shopping Centre are keen to create an artwork... "that reflects Colchester as a whole which will help the public to interpret and understand the significance of the location and of Colchester town."
However, had we been approached for comments at pre-application stage, we would have clearly stated that a mural painted in this specific location would be an extremely prominent, contextually inappropriate feature in the streetscape, that would cause harm to the significance of the adjacent grade I listed church as a result of the detrimental impact on its setting.*

Recommendation

Historic England objects to the application on heritage grounds.

We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 194 and 196.

The mural would be contextually inappropriate in this highly sensitive location, due to its scale and detailed design and we urge you to refuse the application.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

You should also bear in mind section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.”.

9.0 Parish Council Response

9.1 Not Parished.

10.0 Representations from Notified Parties

10.1 The application resulted in a number responses from interested third parties The full text of all of the representations received is available to view on the Council's website. However, a summary of the comments is given below.

10.2 At the time of writing, seven (7) comments in support of the proposal had been received. The commentators note that:

- The Victorian wall is not as significant as the rest of the Church;
- The wall looks unremarkable and drab and the mural would brighten it up;
- The mural would not cause material harm to the wall which is already painted;
- The project would have a positive impact in the current COVID climate.

10.3 Forty-four (44) comments of objection have been lodged. The main points made by the commentators are as follows:

- The proposed mural is inappropriate for the Grade I listed site (in terms of style and design);
- The proposed mural is inappropriate for the Conservation Area (in terms of style and design) and does not have the potential to enhance it;
- The proposed mural is inappropriate for the site but could be acceptable on a non-designated site within the Lion Walk Centre or another location in the Conservation Area;
- The eastern wall of the Vestry is equally significant as any other part of the Church and should be repaired and remain free of any additions;
- The wall could accommodate an artwork but it would have to be of better quality and in keeping with the character of the site;
- The use of unsuitable materials for works could result in material harm to the wall;
- It is unclear who would maintain the mural or repair it in case of vandalism (concerns about costs and impact on the street scene if the mural is defaced

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- and not repaired);
- There are concerns about the content (inaccuracies, omissions e.t.c.);
- It is a commercial project that utilizes a heritage asset without securing direct benefits for the site.

10.4 Colchester Civic Society

“Grade I listing is defined as a building of ” exceptional national architectural or historical importance” . The site is the high point of Trinity Street , the most historically significant street in Colchester.

We would also consider it to be at the very heart of the Town Centre Conservation Area . These areas are created specifically ”to protect their special character and appearance “ (Colchester.gov.uk)

With the clarity of these definitions we would question the application by a neighbouring commercial organisation, the Lion Walk Shopping Centre to paint on the vestry wall. This addition to the church of the vestry dates to 1840 and the wall itself forms a part of the curtilage of the site. As such, the wall is deemed to be listed at the same level as the Saxon Tower. It is plainly not to be considered a part of the shopping centre.

We remain unconvinced of the need for this wall to be anything but redecorated appropriately.

Our particular concern is with the design of the mural itself. It touches only marginally on the history of the local area, ignores much including the military and is quite inaccurate to include “ Humpty Dumpty “ as any part of the town’s history. It does little to inform the visitor except at the most trivial level . It remains a highly coloured piece in the style of children’s illustration with a suitably significant reference to the applicant. It is probably a suitable design for a quite different part of Lion Walk other than the wall of this Grade I treasure. It is hard to argue that is a suitable enhancement to the Conservation Area or a acceptable treatment for an exceptional building.

We would draw attention to the proposed paint materials. We would suggest that it would be wise not to use anything but micro porous paints as the masonry is likely to be solid. It would also be wise to check the stability of the existing paint and render layers. The issues of the peeling of paint through a lack of adhesion and failures of renders which have lost strength through the leeching of lime should be considered.

We would also advise a check that the internal masonry is dry so that should any damp occur due to a change in the outer paint surface ,this would become the responsibility of the promoters rather than the owners.

We note a possible proposal for an anti vandal surface to the mural but are mindful that should the application succeed , a condition should be required for repair and maintenance by the applicants. In particular ,a requirement might be considered necessary to insist on an artist repainting and repairing within a suggested 48 hour time period to remove any damage or offensive additions.”

11.0 Parking Provision

11.1 N/A.

12.0 Accessibility

12.1 N/A.

13.0 Open Space Provisions

13.1 N/A.

14.0 Air Quality

14.1 N/A.

15.0 Planning Obligations

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

16.0 Report

16.1 The main issue in this case is the impact of the proposed mural on the special interest of the Grade I listed site of the former Holy Trinity Church. The impact of the proposal on the designated Conservation Area is an additional material statutory consideration.

16.2 The application seeks consent to the painting a mural on the east wall of the Vestry which fronts onto Lion Walk Centre. The former Holy Trinity Church comprises the pre-Conquest Tower, the main body of the Church that was rebuilt in the Fourteenth and the Fifteenth Century and the Nineteenth Century additions that include the North Aisle, North Chapel and East Vestry. Although the Anglo-Saxon Tower and the medieval part of the building make the highest contribution to its architectural and historic value, the Nineteenth Century additions, built in Gothic Style to match the medieval Church, contribute to its aesthetic value and provide evidence of the site’s development. At present, the east wall of the Vestry is painted in a dark red colour which does not assist its legibility as an integral element of the Church; the wall is often mistaken as a section of the site’s enclosure rather than an external wall of the Grade I listed building. Moreover and despite the dark paint and its poor state of repair, the monochromatic surface of the wall remains a neutral feature of the site that leaves the East elevation of the Church as the focal point of the views of Trinity Square when seen from the East.

16.3 The proposed mural includes a representation of various sites and personalities that relate to the history of Colchester. The design comprises striking colours and the style is reminiscent of graffiti works or children’s book illustrations. This artistic approach is regarded inappropriate for a site of such high heritage significance. By virtue of its busy content, intense colours and frivolous style, the mural would fail to integrate harmoniously into the site of the historic Church and would have an adverse impact on its tranquil and picturesque character. The polychromatic representation would compete visually with the east elevation of Holy Trinity to the backdrop and would shift the visual focus from the Church to the wall.

- 16.4 The mural would be painted with household paints and covered by anti-graffiti coating. The application does not include enough technical details for the execution of the work. Given the present condition of the wall, painting directly on its surface does not seem feasible; a preparation of the substrate should be necessary, but the application does not include any information on the matter. At the same time, the use of household paints and anti-graffiti coating generates concerns for the impact on the Vestry wall which suffers from damp. The proposed materials could affect the breathability of the historic fabric, exacerbating the existing problem and accelerate the deterioration of the stonework.
- 16.5 The detrimental impact of the mural on the character and appearance of the listed building, as discussed in Par. 16.5, would reflect poorly on the Conservation Area as well. At present, there is a striking contrast between the busy Lion Walk Shopping Centre and the tranquil churchyard of Holy Trinity which is particularly evident when the application site is viewed for the north or the south. The addition of the mural on the Vestry wall would add further visual clutter in an area which is already cluttered by the shops' signage, shopfront representations, banners, street furniture and external seating, causing the commercial character of the Shopping precinct to encroach into the historic site.
- 16.6 Some commentators argued that the cheerful character of the mural could be a positive addition to the Conservation Area if painted on another surface in the Shopping Centre. This is a valid point that takes into account the desirability to enhance the vitality of the Conservation Area, while protecting its most sensitive areas and heritage assets.
- 16.7 For the reasons set out above, the proposed mural would result in a level of harm to the special interest of the Grade I listed site through material impact to historic fabric and adverse impact to its character and appearance. The detrimental impact on the historic site would reflect poorly on the Conservation Area, while additional harm to the historic town centre would result from the addition of visual clutter in the location. This harm would be classified as less than substantial, according to the definitions of the National Planning Policy Framework.
- 16.8 The Framework gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. The Framework also states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm requires clear and convincing justification and should be weighed against the public benefits of the proposal. However, the application includes insufficient material for the justification of the proposal (such as the selection criteria for the location, the concept and the style of the mural etc.). Moreover, the project which is an initiative of the Lion Walk Shopping Centre, would not secure any benefits or 'dividend' for the Grade I listed building. In the proposed location it would also fail to benefit and enhance the Conservation Area, whereas it could have a positive impact if added in another location without heritage constraints identified.

16.9 The proposal would thus fail to comply with the statutory requirements and the national and local policies for the protection of designated heritage assets and Conservation Areas and is consequently recommended for refusal.

17.0 Conclusion

17.1 By virtue of its design and style, the mural would be inappropriate for the highly significant historic site and would detract from its appearance and character. The materials to be used could exacerbate the poor condition of the wall by reducing its breathability and aggravating the existing issue of damp. The addition of the mural would affect the tranquil character of the churchyard and add visual clutter in the location, having thus an adverse impact on the Conservation Area as well. Therefore, the proposal would result in less than substantial harm to the special interest of the Grade I listed site and the Conservation Area. However, the project would fail to secure any benefits for the designated heritage assets that could outweigh the anticipated harm. Since the application would not comply with the legislation and the national and local policies for the protection of designated heritage assets and Conservation Areas, it is recommended for refusal.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

REFUSAL of Listed Building Consent for the reasons set out below:

1. The planning application relates to the East wall of the Vestry of the former Holy Trinity Church. The site is listed at Grade I for its exceptional special interest and is situated within the designated Colchester Conservation Area 1. The application seeks consent to the painting of mural that includes reference to sites and personalities associated to the history of Colchester. The mural would be painted directly on the surface of the wall with the use of household paints with a finish of anti-graffiti coat.

Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant listed building consent, special regard is given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Additionally, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications are determined in accordance with the local development plan unless material considerations indicate otherwise.

The National Planning Policy Framework (2019) states that 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, noting that the more important the asset, the greater the weight should be; any harm to its significance should require clear and convincing justification (Section 16, Paragraphs 193 and 194). Paragraph 196 of the Framework notes that where a proposed development would result in less than substantial harm to a

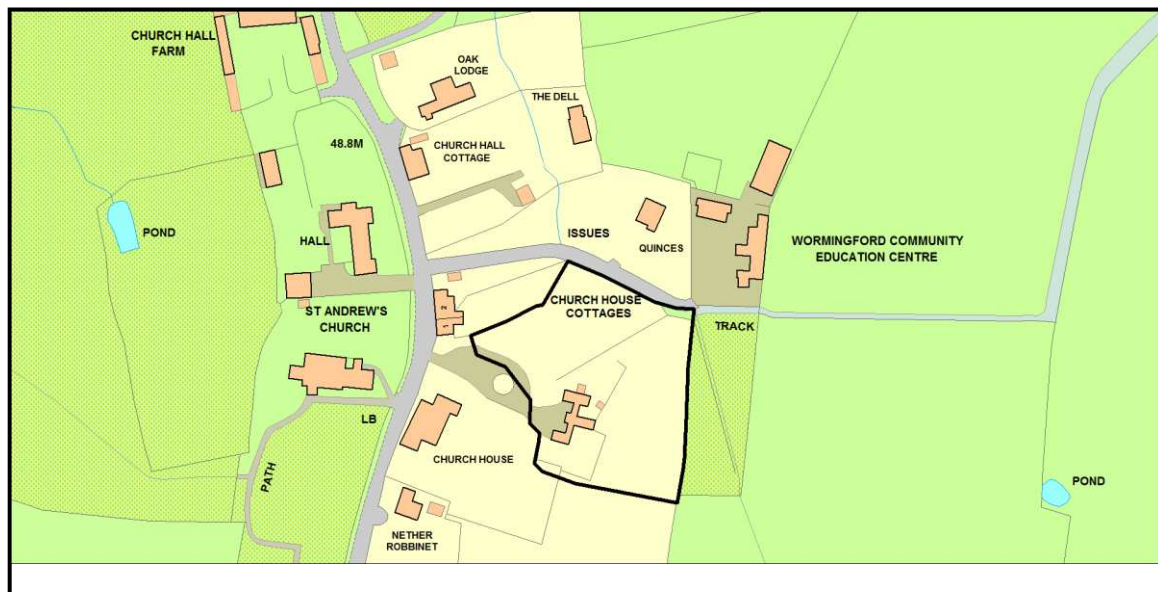
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designated heritage asset , the relevant balancing exercise is to weigh-up the harm caused against the public benefits of the proposal.

The relevant adopted Local Plan Policies in respect of the protection of the heritage assets and Conservation Areas include Core Strategy Policies ENV1 and UR2 and Development Policies DP1 and DP14. Policy ENV1 (Environment) of the Core Strategy (adopted December 2008, updated 2014) states that the Borough Council will conserve and enhance the historic environment and will safeguard the Borough's history through the protection of and enhancement of sites of national, regional and local importance. Core Strategy Policy UR2 (Built Design and Character) sets out that developments which are discordant with their context and fail to enhance the character, quality and function of an area will not be supported. Planning Policy DP1 (Design and Amenity, revised July 2014) of the Development Policies (Adopted October 2010, revised July 2014) requires that development proposals must respect and enhance the character of the site , its context and surroundings in terms of material and detailed design features. Development Policy DP14 (Historic Environment Assets) stresses that development will not be permitted that will adversely affect a listed building or a Conservation Area.

By virtue of its design and style, the mural would be inappropriate for the highly significant historic site and would detract from its appearance and character. The materials to be used could exacerbate the poor condition of the wall by reducing its breathability and aggravate the existing issue of damp. The addition of the mural would affect the tranquil character of the churchyard and add visual clutter in the location, having thus an adverse impact on the Conservation Area as well. Therefore, the proposal would result in less than substantial harm to the special interest of the Grade I listed site and the Conservation Area. The application does not provide sufficient information for the justification of the proposal, while the project would fail to secure any benefits for the designated heritage assets that could outweigh the anticipated harm.

Therefore, the proposal is considered contrary to the aforementioned adopted Local Planning Policies and the provisions of the National Planning Policy Framework and allied Practice Planning Guidance (PPG) . By failing to protect the special interest of the Grade I listed Holy Trinity Church and preserve or enhance Colchester Conservation Area 1, the application also fails to accord with the statutory requirements that are set out by Sections 16(1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.



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Item No: 7.4

Application: 210847

Applicant: Mr & Mrs Eden

Agent: Karen Fardell, Plater Claiborne Architecture and Design

Proposal: Conversion and extension of an existing single storey outbuilding range to form a single three bedroom dwelling.

Location: Church House, Church Road, Wormingford, CO6 3AZ

Ward: Rural North

Officer: Nadine Calder

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it represents a departure from the Local Plan as the site is situated outside an adopted settlement boundary in open countryside for policy purposes within the Dedham Vale AONB.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of residential development outside the defined settlement limits, the proposed development's impact on nearby designated heritage assets, its wider impact on the surrounding area, neighbouring amenities and highway safety as well as the personal circumstances of the applicant.
- 2.2 It is considered that the proposed development is appropriately designed and based on the personal circumstances would not cause any material harm to designated heritage assets or landscape character. On balance, it is held that the unique personal circumstances justify the proposed development despite its conflict with adopted policies that seek to avoid unsustainable residential development in the countryside.
- 2.3 The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The site relates to land to the rear (north east) of Church House which is listed at Grade II for its special historic and architectural interest (List UID 1225424) and comprises a group of outbuildings with an outdoor swimming pool that lie to the east of Church House.
- 3.2 The site lies outside any defined settlement limits, within the Dedham Vale Area of Outstanding Natural Beauty (AONB) and for the most part within the designated Wormingford Conservation Area. The Conservation Area covers approximately 4 ha and comprises a small group of dwellings, most of them listed, arranged in a linear form adjacent to the Church of St Andrew. The character of the area is one of detached houses set within large gardens fronting directly onto the road and within the designated landscape of the AONB. The application site comprises existing residential curtilage with most of the development consisting of the conversion of existing outbuildings in ancillary use (pool house).

4.0 Description of the Proposal

- 4.1 This application seeks planning permission for the conversion and extension of an existing single storey outbuilding range to the north east of Church House to form a three bedroom dwelling. The proposal also includes a cartlodge for Church House to the north east of Church House and west of the proposed dwelling.

5.0 Land Use Allocation

- 5.1 The site lies within the Wormingford Conservation Area and the Dedham Vale AONB.

6.0 Relevant Planning History

- 6.1 There is no planning history that is particularly relevant to this current proposal. This application however follows a pre-application enquiry which sought advice on the principle of providing a residential dwelling in the grounds of Church House in August 2020 (reference 201827).

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
ENV1 - Environment
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP21 Nature Conservation and Protected Lanes
DP22 Dedham Vale Area of Outstanding Natural Beauty

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

n/a

- 7.5 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to be examined, with hearing sessions having taken place for two weeks between 20 and 30 April 2021. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

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

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

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

Section 2 will be afforded some weight due to its advanced stage. However, as the Inspector’s report is awaited following completion of the examination. The exact level of weight to be afforded will be considered on a site-by-site and policy by policy basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Community Facilities
Open Space, Sport and Recreation
Managing Archaeology in Development.
Dedham Vale AONB Management Plan

8.0 Consultations

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

- 8.2 The Archaeological Officer raises no objection to the proposal subject to a condition.
- 8.3 Environmental Protection raise no objection to the proposal subject to a condition restricting the hours of work.
- 8.4 The Landscape Officer raised no objection to the proposal on landscape grounds.
- 8.5 Following some small revisions to the scheme, the Historic Buildings and Areas Officer raises no objection to the scheme.
- 8.6 The AONB Planning Officer raises no objection to the proposal.
- 8.7 The Highway Authority raises no objection to the proposal.
- 8.8 Natural England have not objected to the proposal.

9.0 Parish Council Response

- 9.1 The Parish Council support the application for the following reasons:
- The overall impact of the proposed development is minimal and complimentary to the existing structures.
 - It will have minimal impact on surrounding buildings and countryside.
 - It will have a minimal impact on traffic using School Lane.
 - It will enable the applicants who contribute significantly to village life to remain in residence.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 Councillor Chapman requested the application to be referred to the Planning Committee should a recommendation for refusal be made. This for the following reason:

"I am impressed by the detailed consideration for landscape, environment and design that has been shown in this application for a site that is in the Dedham Vale Area of Outstanding Natural Beauty and also in a Conservation Area. Bearing in mind the personal circumstances of the Applicant I believe it deserves the full scrutiny of the planning process, and I am, therefore, requesting this Application is taken to Committee if the recommendation is refusal."

- 10.3 27 letters of support (from the immediate area, the Borough as a whole and well outside the Borough) were received, mainly providing support to the proposal due to the personal circumstances of the applicant.

11.0 Parking Provision

11.1 The proposal would provide policy compliant parking provision for the proposed new dwelling and Church House.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of discrimination; at the heart of the proposal lie the personal circumstances of the applicant which would ensure the development would be accessible for their needs and protected characteristics.

13.0 Open Space Provisions

13.1 The proposed development includes adequate private amenity space and there is no need for any public open space to be provided.

14.0 Air Quality

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

15.0 Planning Obligations

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

15.2 A signed and sealed Unilateral Undertaking supports this application, providing the relevant developer contributions for minor development proposals in order to minimise the impact of new developments and other buildings which create extra demands on local facilities.

16.0 Report

16.1 This application seeks planning permission for the conversion and extension of an existing single storey vernacular outbuilding range to the north east of Church House (grade II) to form a three bedroom dwelling. The proposal also includes a cart lodge for Church House to the north east of Church House and west of the proposed dwelling. The main considerations in the determination of this application are the principle of the proposed development, its impact on the surrounding (designated) area and its impact on designated heritage assets.

Principle of Development

16.2 The site lies outside the defined settlement limits for Wormingford and therefore within the countryside where new residential development is strictly

controlled in the interests of sustainability and protection of the countryside. The proposal is therefore contrary to adopted policies which seek to direct growth to the most accessible and sustainable locations. To gain support to the principle of a new residential dwelling, any proposed development would have to demonstrate very special circumstances.

- 16.3 The application submission states that the proposed dwelling is required due to the applicant's personal circumstances. These are fully explained in the Personal Statement that supports this application and will not be repeated within this report in compliance with GDPR requirements to protect personal data. In summary however, it is understood that the applicant, for health reasons now relies on the support of their family. They require a place they are familiar with, has level access and offers opportunity for prescribed hydrotherapy, physiotherapy and gym exercises to enable a decent quality of life. The applicant currently lives in Church House which is not suitable for their needs, and it was explained that the applicant is actively engaged in the local community life.
- 16.4 It is up to the decision maker to decide how much weight should be given to the personal circumstances of applicants as part of a planning application. Based on the information submitted in support of this application, it is accepted that this application is concentrated around the special personal circumstances of the applicant. Therefore, this matter can be given weight in the planning balance.
- 16.5 Notwithstanding the above, it needs to be noted that paragraph 79 of the National Planning Policy Framework (the Framework) lists special circumstances which may allow the creation of new isolated homes in the countryside. Whilst none of these circumstances directly apply to this proposal and in strict policy terms, the creation of a new dwelling in this location would therefore technically represent unsustainable development and a departure from the Local Plan. Nevertheless, the NPPF para. 79 does cite circumstances where a relaxation of normally restrictive countryside policies may be justified including: the conversion of redundant buildings to enhance the immediate setting or where the proposal represents the subdivision of an existing dwelling. The proposal does approximately satisfy these criteria; if not achieving an exact fit as the buildings may not be functionally redundant and the scheme includes a new build element. The scheme does involve the subdivision of an existing residential property by severing the pool and pool house from the main dwelling together with associated garden area.
- 16.6 It will be important to assess, in the planning balance, whether the personal circumstances that have been put forward as part of this application significantly and demonstrably outweigh the conflict with adopted policies relating to new dwellings in the countryside.

Impact on the Dedham Vale AONB and Surrounding Area

- 16.7 The site falls wholly within the Dedham Vale AONB, which is a nationally designated landscape. Furthermore, the site sits just within the B5 Rochfords Farmland Plateau Landscape Character Type (LCT) as defined in the

Colchester Landscape Character Assessment (CBA, 2005). The enclosure pattern within the LCT is of small to medium sized irregular and regular fields. Field boundaries consist of hedges, with some small deciduous woodland belts. The settlement pattern is mixed, combining linear (Fordham) and nucleated (Little Horkesley) forms and there are a number of small hamlets scattered across the landscape. The most relevant landscape management guidelines for this LCT regarding this application are to i) conserve the landscape setting of existing small settlements such as Rochfords, Wormingford and Wakes Colne Green, ii) conserve the setting to villages, e.g. Wormingford, by control of expansions to these settlements and iii) ensure that any appropriate new development responds to historic settlement pattern and uses materials, which are appropriate to local landscape character.

- 16.8 The materials and colour palette proposed for the proposed development are considered appropriate for the location. The choice of materials (black and cedar timber cladding, the clay tiles, the zinc roof) and how they have been used to define different parts of the dwelling helps break up the mass of the new building. The timber louvres to be fitted over new window openings are a welcome design feature to help manage light spill. Collectively these measures when considered together would enable this new dwelling to sit sympathetically within the AONB and in the local landscape.
- 16.9 The proposed hard and soft landscape proposals are supported. The mix of fencing types proposed are considered appropriate for this rural location and the more open type fences and soft borders would be penetrable and beneficial for wildlife. The established trees on site and the proposed new planting would help ensure that the new dwelling integrates well within the local landscape and AONB. This approach would also help conserve the defined landscape quality of this part of the AONB.
- 16.10 The site's position set back behind Church House and Church Cottages (when viewed from Church Road) coupled with its modest scale, sensitive choice and use of materials and colour and the presence of established mature vegetation on site, would allow the new dwelling to sit sympathetically within the landscape and AONB.
- 16.11 As such, it is considered that the proposed development complies with the aims of Development Policy DP22 and supports the objectives in section 3.2.7 of the Dedham Vale AONB and Stour Valley Management Plan 2016-2021 as well as the management guidelines in the Colchester Landscape Character Assessment for Wormingford. The proposal would also comply with the aims of Core Strategy Policy ENV1 which seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline. No objection is therefore raised to the proposed development with regards to its impact on the landscape and surrounding area.

Impact on Neighbouring Amenities

- 16.12 The proposed development comprises mainly of the conversion of existing outbuildings with a modest, single storey extension proposed. The proposed dwelling and additional built form is positioned far enough from its nearest neighbouring properties so as to not cause any materially harmful impact on their amenities in terms of appearing overbearing on their outlook or causing loss of light or privacy. The additional vehicle movements down School Lane from where the dwelling would be accessed are also not considered to be so detrimental as to cause undue noise or disturbance given the existing use of the outbuildings for garaging purposes (amongst others).
- 16.13 With regards to the cart lodge for Church House, this is also considered to be a reasonable distance from the neighbouring dwelling to the east with the structure being enclosed where it faces that neighbouring property. The driveway is existing and the cart lodge in itself is therefore not considered to create any such noise or disturbance to existing neighbouring occupiers that would be unacceptable. As such, the proposed development as a whole is considered to be acceptable with regards to its impact on existing neighbours and their amenities.

Heritage Impacts

- 16.14 The proposed development does not include works to the listed Church House and therefore, the main heritage consideration with regards to this proposal is the impact of the proposed development on the setting of the listed building, its impact on the character and quality of the Wormingford Conservation Area and the impact on the setting of the nearby designated properties (which include Nos 1 and 2 Church Cottages, Church Road, Wormingford).
- 16.15 When providing advice on the principle of the proposed development as part of the preliminary enquiry in 2020, a number of issues that were held to be fundamental from a heritage perspective were raised, including the impact a new dwelling would have on the setting of the listed Church House by way of the addition of further development within its setting as well as from the fragmentation of its curtilage.
- 16.16 These concerns have not been addressed by the proposed development, which merely includes a small reduction of the proposed extension's footprint compared to the original proposal which was the subject of the pre-application enquiry. The fundamental concerns with regards to the proposed development's impact on the setting of the listed building therefore remain.
- 16.17 Notwithstanding this, by virtue of its form, materials and details, it is considered that the design of the proposed development achieves some mitigation with regards to its impact on the setting of the listed building and the Conservation Area.

- 16.18 In order to maximise this mitigation, it was requested that the roof be kept free of reflective surfaces, such as the rooflight on the north elevation (above the dining room) and the solar panels on the south elevation. As the Framework places equal significance on the requirement to protect the natural and historic environment, the renewable energy strategy for the new dwelling cannot be implemented at the expense of the area's character. The roofscape of the historic settlement is free of features such as solar panels and their introduction to this site would set an unwelcome precedent that could encourage applications for their use on other sites which would then erode the character of this very sensitive Conservation Area. A more sympathetic solution would be the replacement of the existing slate roofs with PV slate tiles that would preserve their appearance while hopefully achieving the same energy gain as the solar panels. Moreover, the configuration of the flat-roofed sections as green roofs is an environmental-friendly option and adds some interest to these less-sympathetic roof sections. The agent accepted this request and has since removed the solar panels from the proposed scheme and reduced (albeit not removed) the size of the rooflight above the dining room.
- 16.19 The use of louvres in order to mitigate the impact of the glazed openings is a commendable solution but there were also concerns about the amount of glazing on the west elevation. It was recommended that the glazed half of the gable end be replaced by a solid, weatherboarded section. The adjacent louvres and the louvres over the opening of the gable end to the north, as well as the louvres of the opening to the master bathroom, should be permanently fixed features, rather than sliding or opening panels, to limit the light spillage towards Church House and Church Road and preserve the existing impression of the outbuildings. The glazed door to the corridor was also asked to be reduced in width. These changes were again accepted by the agent and fully incorporated into an amended scheme.
- 16.20 The proposal also includes two new outbuildings: a detached garage to serve the proposed new dwelling and a new detached cartlodge for Church House. The size, scale, form, design and materials of these structures are considered to be appropriate for the site and the location, thus not causing any significant concerns with regards to their impact on the setting of any designated heritage asset.
- 16.21 Taking into account the above, the proposed development is expected to result in a modest degree of harm to the special interest of the listed Church House through adverse impact to its setting; this impact would reflect to a certain degree on the designated Conservation Area as well. This harm would be classified as less-than substantial, according to the classification of the Framework. The mitigation by design and reduction of the extension's scale (compared to the extension proposed as part of the preliminary enquiry) reduces the level of less-than substantial harm towards the lower spectrum, while the recommended changes as set out above, which have since been implemented, further assist in mitigating

and addressing the specific concerns with regards to the proposed development.

- 16.22 Although paragraph 196 of the Framework requires public benefits and benefits that are associated to the use of the listed building in order to outweigh the anticipated harm, paragraph 194 stresses that any harm to the special interest of a designated heritage asset from development within its setting requires robust and convincing justification. In this case, this justification is provided by the personal circumstances of the applicant. It is also noted that the application has received a lot of support from the locality based on the applicant's personal circumstances. Whilst this does not translate into any public benefits, it shows that the community is not opposed to the proposed development and would support this development due to the applicant's personal circumstances which form an integral part of this application. It is on that basis, that the Historic Building and Areas Officer raises no objections to the application on heritage grounds.

Archaeology

- 16.23 The proposed development is situated within the area of archaeological interest that has been defined in the Colchester Historic Environment Record (HER), being situated immediately opposite the medieval church of St Andrew (MCC7183). Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist. Any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. This was agreed with the agent. Subject to this condition, the proposal is not held to cause any concerns in this regard.

Highway Matters

- 16.24 Access to the site would be gained via School Road which is an existing access road leading to Church House. The Highway Authority has not raised any objection to the proposed development on highway safety or efficiency grounds and the proposal would result in adequate parking facilities and turning space to enable both occupiers (i.e. those of the proposed development and Church House) to enter and leave the site in a forward gear. There are therefore no concerns with regards to the impact of the proposed development on highway matters.

Other Matters

- 16.25 The outbuildings which are proposed to be converted and/or demolished are currently in use and are therefore not vacant or neglected. As such, it is not considered that they offer any opportunities for bats to roost. The agent has confirmed that no evidence of bats (droppings etc.) was found within the outbuildings. There is therefore no need for an ecological/bat survey.

- 16.26 The application is supported by a signed and sealed Unilateral Undertaking which provides the relevant developer contributions for minor development proposals in order to minimise the impact of new developments and other buildings which create extra demands on local facilities.
- 16.27 The proposed development therefore complies with Core Strategy Policy SD2 and Development Policy DP3 as well as the Supplementary Planning Documents 'Community Facilities' and 'Open Space, Sport and Recreation'.
- 16.28 In addition to the above, a Habitat Regulation Assessment has been carried out and is attached to this report. This finds that subject to the relevant financial contribution towards RAMS (which has already been paid), the proposal would comply with Development Policy DP21.

Planning Balance and Conclusion

- 16.29 The above assessment has concluded that the proposed development would not cause any visual or material harm on the Dedham Vale AONB, neighbouring amenities or highway safety while less than substantial harm, which is outweighed by the personal circumstances of the applicant, would be caused to the setting of the listed Church House.
- 16.30 It is accepted that this application is concentrated around the personal circumstances of the applicant. These provide that the applicant requires familiar surroundings to ensure they continue to have a good quality of life. They are very familiar with the application site, as they have lived in Church House for a long period. They are familiar with the site and its surroundings. It is also understood that they actively engage in community life. All these matters are important elements in supporting the wellbeing of the applicant. The circumstances are also considered to be unique and therefore warrant a more careful assessment. Consequently, this matter can be given some weight in the planning balance.
- 16.31 The creation of a new dwelling in this sensitive location and outside the settlement limits would have a longer-term impact on the surrounding area as this use, if approved, would continue to exist beyond the need for the applicant to live in this development. As identified above however, the proposed development would not cause any significant or demonstrable harm to the character and appearance of the surrounding area, the setting of the listed building or any other material planning considerations. When combined with the fact that the dwelling would be created by the conversion of existing outbuildings, except for a relatively modest extension, it is considered that in this instance, on balance, the applicant's exceptional and unique personal circumstances that apply to this current application outweigh any harm the development would cause in the longer term.

17.0 Conclusion

17.1 To summarise, the proposed development would be contrary to Local Plan policies which seek to protect the countryside from unsustainable residential development. This application however is based on the very personal circumstances of the applicant, which outweigh the conflict with adopted policies. On balance, it is therefore concluded that the proposed development, given the unique circumstances, is acceptable in this instance.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. Time Limit for Full Permissions

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

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

2. Development to Accord With Approved Plans

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

2005/loc01 (Location Plan)

2005/03 (Site Plan)

2005/05 Rev A (Proposed Floor Plan)

2005/06 Rev A (North Elevations)

2005/07 Rev A (South Elevations)

2005/08 (East Elevations)

2005/09 Rev A (West Elevations)

2005/10 (North Elevations)

2005/11 Rev A (North and South wing elevations)

2020_75 001 Rev D (Landscape & Arboriculture Strategy)

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

3. Landscape

The landscape details as shown on the approved drawing(s) 2020_75 001 Rev D (Landscape & Arboriculture Strategy) shall be carried out in full prior to the end of the first planting/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 and its implementation shall be in compliance with the recommendations set out in the relevant British Standards current at the time of submission. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that the landscape is implemented in accordance with the detail submitted within the application.

4. Archaeology

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

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

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

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

5. Tree and Hedgerow Protection: General

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

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

6. 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) (England) Order 2015 (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.

19.0 Informatives

19.1 The following informatives are also recommended:

1. 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. Informative on Conditions Stating Prior to Commencement/Occupation

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

3. Informative on Any Application With a Site Notice

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

4. Informative on Unilateral Undertaking

PLEASE NOTE: This application is the subject of a Unilateral Undertaking legal agreement and this decision should only be read in conjunction with this agreement.

5. Informative on Archaeology

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

6. Informative on Works affecting a Highway

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

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

SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT



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Item No: 7.5

Application: 202242

Applicant: Mr And Mrs F Mears

Agent: Mr Geoffrey Eaton

Proposal: Outline application for a proposed four-bedroom bungalow

Location: 2 Delamere Road, Colchester, CO4 0NH

Ward: St Anne's & St John's

Officer: Eleanor Moss

Recommendation: Approval subject to recommended conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Hogg called in the application for the following reason:

The proposed site is unsuitable in both size and location particularly as the proposed plot is approximately 50 square metres smaller than the remaining donor site, A 4 bed bungalow and parking would be cramped and out of character in this area.

2.0 Synopsis

- 2.1 The key issues explored below are principle of the scheme, impact upon character and appearance of the area, impact upon residential amenity and traffic and highway implications. The report concludes that subject to appropriate mitigation measures (conditions and a unilateral undertaking), the development is acceptable and is consequently recommended approval.

3.0 Site Description and Context

- 3.1 This site is located on the corner of Delamere Road and St Cyrus Road. The application site is located within an urban area with residential development within the direct vicinity of the application site. The application site currently forms green amenity space for 2 Delamere Road.

4.0 Description of the Proposal

- 4.1 Outline permission with all matters reserved for a bungalow.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 This piece of land has remained undeveloped due to a TPO tree (90/10). In 2011, the Arboricultural Officer granted permission for the felling and replacement of this TPO tree (a sweet chestnut). The replacement of the TPO tree was never undertaken and no enforcement action was taken. The Council sought legal advice on this matter. The Council's Solicitor provided the following legal opinion:

"my understanding is that the requirement to replace a tree protected by a TPO can only be enforced where the breach has occurred within 4 years of the condition having been made. The replanting condition would have been made at the time as the planning decision so the two are inextricably linked. Technically, it can be argued that the breach arose from the time that the decision was issued because the replanting should have occurred shortly thereafter.

“The complication here is that the breach only came to light in 2020, some 9 years after the replanting condition was imposed. The fact that the Council only became aware of the breach after 9 years doesn’t alter the legislation which clearly stipulates that a notice should be served within 4 years. This therefore suggests that a time frame exceeding that would be immune from enforcement action. Moreover, if the Council sought enforcement action after 9 years, the question of whether this is expedient would arise given the lengthy delay.”

- 6.2 Given this legal opinion, the time limits for enforcement action have now passed. The comments from the Arboricultural Officer are provided in the below report.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
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 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA H1 Housing Allocations

- 7.5 Submission Colchester Borough Local Plan 2017-2033:

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan has completed examination, with hearings during April 2021. The Inspectors report is awaited. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

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

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

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

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

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

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

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

Emerging Section 2 Local Plan

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

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and the Inspectors report awaited on Section 2. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, the Inspector's report is awaited following the examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

5 Year Housing Land Supply

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

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

The LPA's 5YHLS has been tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

This position is further improved now the Council has an adopted housing requirement of 920. When the 5% buffer is added the annual target is 966 and the supply of 6,108 provides 6.3 years of supply.

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

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

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

8.0 Consultations

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

8.2 Environmental Protection:

ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: Not at all

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

EV Charging points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking)

8.3 Highway Authority:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1 Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be a continuous extension of the existing vehicular access to No. 90 St Cyrus Road and provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2 No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.⁴

3 Prior to the proposed access being brought into use, vehicular visibility splays of 33m by 2.4m as measured along, from and along the nearside edge of the carriageway, shall be provided eastwards from the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4 Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5 All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

6 Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

7 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

8 No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted

to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

8.4 Arboricultural Officer:

TPO tree felled and no action taken. Suggest replanting is sought as part of planning process

8.5 Contaminated Land Officer:

The proposed use would introduce new residential receptors that would be particularly vulnerable to any contamination, if present on the site. However, no comment on potential contamination risks is included on the planning file.

Consequently, should this application be approved, Environmental Protection would recommend inclusion of the following precautionary Condition and Informative:

Condition - Reporting of Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason – Insufficient information has been supplied in support of this application and Environmental Protection wish to ensure that this application only proceeds if it is safe to do so. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

9.0 Parish Council Response

9.1 Non-Parished

10.0 Representations from Notified Parties

10.1 Following the consultation exercise, nine letters of objection have been received. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Overdevelopment
- Additional traffic
- Cramped
- Overlooking
- Not enough parking
- Loss of view
- Loss of trees
- Noise
- Impact upon area
- Loss of property value
- Locality does not require additional housing
- Dangerous road
- Harmful precedent
- Concern the proposal could be for the rental market

11.0 Parking Provision

11.1 An illustrative plan shows four off-road car parking spaces.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. In terms of the proposal, the scheme is capable of providing a step free access. Based on the submitted information, the scheme is not considered to cause discrimination in terms of The Equality Act.

13.0 Open Space Provisions

13.1 The proposal falls below the threshold for requiring open space provisions.

14.0 Air Quality

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

15.0 Planning Obligations

- 15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team. The application has been submitted with a Unilateral Undertaking which secures community and leisure contributions. The application has also provided the required RAMS mitigation contribution.

16.0 Environmental and Carbon Implications

- 16.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that on balance the application is considered to represent sustainable development (see paragraph 17.1 of the main report).

17.0 Report

Principle of Development

- 17.1 In accordance with Core Strategy policies SD1, H1 and ENV1 development within the Borough is directed to sites within existing settlement development boundaries. The application site is identified within the defined settlement boundary of Colchester and is identified in the Site Allocation Plan as predominately residential use. Given this, the proposal is considered to be acceptable in principle.

Design and Appearance

- 17.2 Core Strategy policy ENV1 seeks to conserve and enhance Colchester’s natural and historic environment. Core Strategy policy UR2 seeks to promote and secure high quality design. Development Policies DP1 and DP12 set out design criteria that new development must meet. These require new development to be of a high quality and respect the character of the site and its context.
- 17.3 As noted above, the application is submitted in outline form with all matters for detailed consideration in later application(s).
- 17.4 Nevertheless, illustrative block plans have been submitted to support the application. The submitted information explains the development will form 1 no. four bed dwelling.

- 17.5 Objections have been received to this application claiming the design of the proposed building is inappropriate for this context, it is outside of the building line, cramped and that the proposal constitutes overdevelopment. Objection has also been received alleging, due to the design and layout, that the scheme will have a detrimental impact on the character and appearance of the area.
- 17.6 The concerns raised regarding the impact upon the street scene are appreciated. It is however important to note that the street scene consists of a number of single storey and two storey dwellings, many of which are detached. The proposal for a detached bungalow would therefore be consistent with the existing street scene. The proposed plot is comparable to the surrounding plots and as such is unlikely to appear overly cramped in the context. Concerns have been raised in relation to the building line and these are noted. The proposed bungalow would sit forward of No.2 Delamere (closer to St Cyrus Street), however this would be consistent with the adjacent corner plot of No.1 Delamere Road. It is considered, being a corner plot, it would not be uncommon to position the corner property in the development to both address and turn the corner; this often involves bringing it forward of any notional building line. Given this fact, provided it can be adequately demonstrated at reserved matters stage that the appearance, layout and scale of the proposal reflects the surrounding area, it is not considered that an objection can be sustained due to the location or layout of the proposal. On balance, it is not considered that a bungalow in this urban location would be materially harmful to the character and appearance of the area.
- 17.7 The aforementioned design, scale and layout could be addressed at the reserved matters stage.

Residential Amenity

- 17.8 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.
- 17.9 In this instance, the application is in outline form however the indicative scheme confirms that the proposal would be a bungalow and therefore potential for overlooking and loss of light would be limited. The potential impact that the proposed housing will have on the private amenity of nearby residents would need to be carefully considered at the reserved matters application stage. Proposed buildings, windows and planting would have to be laid out in such a manner that any overbearing impact and undue loss of light or privacy would be limited. In terms of noise due to the construction phase, this could be controlled via a planning condition.

Trees and Landscape

- 17.10 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.
- 17.11 A landscape plan has not been submitted to support the application, however this application is in outline form with detailed landscape considerations to be considered at reserved matters stage. Further to this, the proposal secures a replacement tree on site, details of which would need to be provided at the reserved matters stage.

Ecology and Biodiversity

- 17.12 Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. DPD Policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats. Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Conserving and enhancing the natural environment is also a core principle of the NPPF.
- 17.13 In this instance, the proposal has been considered in line with Natural England's Standing Advice. The application site is not considered to be a suitable habitat for protected species given the urban location and the site already being composed of regularly mown grass, and as such is considered to be acceptable in this regard. The application site does sit within a zone of influence of a European designated site and to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of any recreational impact will be required in accordance with the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This mitigation has been secured via the signed Unilateral Undertaking.
- 17.14 The ecological potential of the site has been carefully considered and the potential for European Protected Species to use the habitats on site assessed. The fauna protected by the Wildlife and Countryside Act 1981 and species listed as of principal importance in Section 41 of the Natural Environment and Rural Communities Act 2006 are material considerations for local planning authorities. Subject to RAMS financial payment (already via a legal agreement), it is considered that the proposed development accords with the relevant statutory provisions, the adopted policy ENV1 and the requirements of the NPPF which seek to minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity.

Parking and Highways Safety

- 17.15 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access.
- 17.16 Given that proposal will provide for the required visibility splays (via planning condition), the proposed scheme is not considered to have a severe impact on the local highway either in terms of highway safety or capacity and accords with planning policies which seek to improve accessibility and changes in travel behaviour. The Highway Authority does not raise any concerns in relation to the proposal, and as such is considered to be acceptable in terms of highways safety.
- 17.17 CS Policy TA5 refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. DPD Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009. Emerging Policy DM22 states that parking should be provided in accordance with the most up to date parking guidance taking into account the following factors:
- i. Levels of local accessibility;
 - ii. Historic and forecast car ownership levels;
 - iii. The size, type, tenure and location of the dwellings; and
 - iv. The appropriate mix of parking types including opportunities for car-sharing (e.g. unallocated, on-street, visitor, car club etc).
- 17.18 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided. In addition to this, provision for visitor parking at a ratio of 0.25 spaces per unit is required. The guidance does however state that in accessible location, such as town centres, a reduction in car parking can be considered.
- 17.19 The illustrative plan details parking in accordance with the aforementioned policy and SPD and as such the proposal is considered to accord with the requirements. Consideration of access is reserved for the reserved matter(s) application/s.

Flood risk

- 17.20 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all

development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures 0.08 hectares and as such a FRA is not required to support the application. Given that the proposal is outside of any flood zone, the proposal is not considered to have a harmful impact upon surface water drainage within the locality.

18.0 Conclusion

18.1 To summarise, the application will deliver a residential unit in a sustainable and accessible location. The development will contribute positively towards the Borough's supply of housing. There would be economic benefits as a result of construction activity. There is sufficient evidence to be confident that overall, the development would not cause significant harm to the street scene, amenity of local residents, ecology, flood risk or would not have a severe impact upon the highway network in terms of capacity.

19.0 Recommendation to the Committee

19.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAC - *Time Limit for Outline Permissions Part 1 of 3*

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the ACCESS, APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

2. ZAD - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. ZAE - Time Limit for Outline Permissions Part 3 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PL01 revision A.

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

5. Non Standard Condition – Highways

Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be a continuous extension of the existing vehicular access to No. 90 St Cyrus Road and provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

6. Non Standard Condition – Highways

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

7. Non Standard Condition – Highways

Prior to the proposed access being brought into use, vehicular visibility splays of 33m by 2.4m as measured along, from and along the nearside edge of the carriageway, shall be provided eastwards from the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

8. Non Standard Condition - Highways

Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

9. Non Standard Condition – Highways

All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

10. Non Standard Condition – Highways

Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety.

11. Non Standard Conditions – Highways

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

12. Non Standard Conditions – Highways

No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

13. ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: Not at all

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

14. Z00 - EV Charging points

Prior to first occupation, one EV charging point shall be provided and retained.

Reason: In the interests of low carbon emissions.

15. ZAO - Dwelling to be Single Storey Only

The dwelling shall not exceed one storey in height and shall not contain any habitable rooms or windows above ground floor level.

Reason: To ensure that the dwelling preserves the character of the area and does not adversely impact on neighbour amenities.

16. ZAN - Site Levels Plan

No works shall take place until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at

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present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

17. ZDC - 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 2015 (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.

18. Non Standard Condition – Unexpected contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: Insufficient information has been supplied in support of this application and Environmental Protection wish to ensure that this application only proceeds if it is safe to do so. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

20.0 Informatives

20.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2.INS – Highways

The applicant is advised that there shall be no additional vehicular access from Delamere Road to serve this site. The existing vehicular access and off street parking and turning facilities for the donor dwelling shall be retained in their present form.

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

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

SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT

3.INS – Contamination

Prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Further advice can be found in the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason – Insufficient information has been supplied in support of this application and Environmental Protection wish to ensure that this application only proceeds if it is safe to do so. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

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

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



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ITEM NO 7.6

Application 211259

Applicant: Mr Dennis Willetts

Proposal: Application for a lawful development certificate to erect a summerhouse of 2.5m octagonal base, that is having an area less than 50% of the area of the house, and not exceeding 2.5m in height, and sited within 2m of the boundary of the curtilage.

Location: Land To The Rear Of, The Retreat, Wood Lane, Fordham Heath, Colchester, CO3 9TR

Ward: Lexden & Braiswick

Officer: Simon Grady

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the Applicant is a current Colchester Borough Council Ward Member.

2.0 Synopsis

- 2.1 This application has been made by the applicant in order to request a formal legal determination as to whether or not the proposed development requires a planning application or can be undertaken via the planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is therefore 'permitted development'.
- 2.2 The detailed assessment of the proposed summerhouse in this application against the relevant terms of the aforementioned Order has confirmed that it would be Permitted Development and the application is therefore recommended for approval.

3.0 Site Description and Context

- 3.1 The Application Site contains a detached dwelling lying inside of the village settlement boundary in Eight Ash Green Parish. The site is not in a Conservation Area or an Area of Outstanding Natural Beauty. Wood Lane is to the front of the dwelling (East) and Beech Grove is adjacent on one side (North) with detached dwellings abutting the Application site to the rear (West) and to the other side (South).

4.0 Description of the Proposal

- 4.1 To erect a summerhouse of 2.5m octagonal base in the rear garden of the Application Site. The overall height of the proposed summerhouse would be 2.5m with an eaves height of approximately 2m.

5.0 Land Use Allocation

- 5.1 N/A.

6.0 Relevant Planning History

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

7.0 Principal Policies

- 7.1 As the proposed development is for householder operations, the relevant part of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is Schedule 2, Part 1, which sets out the criteria for the permitted development applicable to Development Within The Curtilage Of A Dwellinghouse. The relevant class is Class E of Part 1, which

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sets out the criteria for “Buildings etc incidental to the enjoyment of a dwellinghouse”. If these criteria are satisfied then the proposal constitutes permitted development by virtue of that class. Planning permission is not required for ‘permitted development’.

8.0 Consultations

8.1 Neighbour consultation letters were sent out for this Application but no comments were received.

9.0 Parish Council Response

9.1 Eight Ash Green Parish Council did not comment on this Application.

10.0 Representations from Notified Parties

10.1 No representations were received for this application.

11.0 Parking Provision

11.1 N/A.

12.0 Accessibility

12.1 N/A.

13.0 Open Space Provisions

13.1 N/A.

14.0 Air Quality

14.1 N/A.

15.0 Planning Obligations

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

16.0 Report

- 16.1 The only consideration on this application is whether the proposal meets the terms of the relevant class in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – “the Order”. Material planning considerations do not apply to Lawful Development Certificates.
- 16.2 Class E of the Order stipulates that the provision within the curtilage of a dwellinghouse of any building for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to various conditions and exclusions, which are considered below.
- 16.3 The location plan submitted with the application shows that the proposed summerhouse is within the curtilage of The Retreat, Wood Lane, Fordham Heath and it is considered that the proposed summerhouse would be incidental to the enjoyment of the dwellinghouse.
- 16.4 Paragraph E.1 of Class E sets out the exclusions where development would not be permitted under the Order. The Application is assessed under each exclusion below: -
- a) The Retreat did not become a dwellinghouse by virtue of Class M, MA, N, P, PA or Q of Schedule 2, Part 3 of the Order
 - b) The proposed summerhouse would not cover more than 50% of the total curtilage of The Retreat
 - c) The proposed summerhouse would not be located forward of the principal elevation of The Retreat
 - d) The proposed summerhouse would not be more than single storey
 - e) The height of the proposed summerhouse is within the height restrictions set out. Although it is within 2m of the boundary with the neighbour, the height would not exceed 2.5m
 - f) The height of the eaves of the proposed summerhouse would not exceed 2.5m
 - g) The Retreat is not a listed building
 - h) The proposal does not include a verandah, balcony or raised platform
 - i) The proposal does not include a microwave antenna
 - j) Not applicable – the proposal does not include a container used for domestic heating purposes
 - k) The Retreat was not built under Part 20 of the Order.
- 16.5 Paragraphs E.2 and E.3 of Class E do not apply as the Application Site is not located on the land described in those paragraphs (e.g. in a Conservation Area or Area of Outstanding Natural Beauty).

17.0 Conclusion

- 17.1 Following an assessment of the application, the proposed development is permitted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Schedule 2, Part 1, Class E.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for the following certificate to be issued to the Applicant as the proposal constitutes permitted development:

COLCHESTER BOROUGH COUNCIL hereby certifies that on 4 May 2021 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in red on the plan attached to this Certificate, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The proposed erection of a summerhouse of 2.5m octagonal base, that is having an area less than 50% of the area of the house, and not exceeding 2.5m in height, and sited within 2m of the boundary of the curtilage is development permitted by Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in that the Council considers the development would not fall within that described in paragraphs E.1 of the aforementioned Order.

FIRST SCHEDULE

Application for a lawful development certificate to erect a summerhouse of 2.5m octagonal base, that is having an area less than 50% of the area of the house, and not exceeding 2.5m in height, and sited within 2m of the boundary of the curtilage as shown on Drawing Numbers: 1, 2, 3 and 4.

SECOND SCHEDULE

Land To The Rear Of The Retreat, Wood Lane, Fordham Heath, Colchester, CO3 9TR



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Item No: 7.7

Application: 211237 & 211324

Applicant: Mrs Rachel Welch, CBC

Proposal: Installation of environmental 'Switch off' signage. Revisions to application previously approved under 201799

Location: Brook Street, Colchester

Ward: Castle

Officer: Annabel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 The Advertisement Consent applications are referred to the Planning Committee because the applicant is Colchester Borough Council.

2.0 Synopsis

- 2.1 The applications have been assessed leading to the conclusion that the proposal is acceptable, and that conditional approval is recommended. It is not considered there would be a detriment to visual or residential amenity and there would be no detriment to public safety, including highway safety.

3.0 Site Description and Context

- 3.1 East Street and Brook Street are located within the Colchester settlement boundary they are both notable for their poor air quality.
- 3.2 Colchester Borough Council (CBC) is undertaking a project to test the effectiveness and impact that signage behaviour messaging has on air quality and idling rates within Colchester's poorest areas of air quality. CBC has been awarded funding from the Department for Environment, Food and Rural Affairs (Defra) for a project to expand on previous studies undertaken on the effectiveness of psychologically based roadside 'switch off' signage messaging. This project will explore whether messaging is effective in reducing engine idling over the longer term, whether messaging requires rotation and whether drivers suffer from signage fatigue after a period of time. The project will take place over a year and a half.
- 3.3 Previous approval for the signage has been granted, reference numbers 201693 & 201799. The approved signage has been erected however, following feedback on the project the text was deemed to be too small. Therefore, the current applications seek permission for signs with larger text.

4.0 Description of the Proposal

- 4.1 The signage is located within two of Colchester's Air Quality Management Areas (AQMAs), Brook Street south junction, Brook Street north junction and East Gates Rail Crossing. The signs will cover the typical queue length during peak congestion.
- 4.2 The proposed signage messaging includes the following variations:
- (1) 'Join other responsible drivers in Colchester. Turn off your engine when the [barriers are down/ traffic lights are red]';
 - (2) 'Turn off your engine when the [barriers are down/ traffic lights are red]. You will improve the air quality in this area.';
 - (3) 'Think about your actions. When the [barriers are down/ traffic lights are red], please turn off your engine'.

5.0 Land Use Allocation

- 5.1 Brook Street - Predominately residential.

5.2 East Street – Mixed Use.

6.0 Relevant Planning History

6.1 None.

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- UR2 - Built Design and Character

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

- DP1 Design and Amenity

7.4 There are no relevant adopted Site Allocations (adopted 2010) policies that should be taken into account in the decision making process.

7.5 There are no relevant Neighbourhood Plans that should be taken into account in the decision making process.

7.6 Adopted Local Plan and Emerging Local Plan Status – March 2021

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

Emerging Section 2 Local Plan

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

1. The stage of preparation of the emerging plan;

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

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

Section 2 will be afforded some weight due to its advanced stage. However, as comments from Planning Inspector has yet to be issued, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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

- The Essex Design Guide

8.0 Consultations

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

8.2 *Highways Authority:*

From a highway and transportation perspective the impact of the proposal is acceptable.

A condition has been recommended to afford a minimum headroom above the footway and an informative is recommended to control works affecting the highway.

8.3 *Environmental Protection:*

No objections.

8.4 *Built Heritage and Conservation (Brook Street only):*

No objections on heritage grounds-Brook Street is not within a CA. One sign will be erected outside the listed 1-2 East Bay but the project has a specific timeframe; the sign's visual impact on the setting of the LB will not be permanent.

8.5 *Network Rail:*

Summary - The applicant must ensure that any construction and subsequent maintenance can be carried will not adversely affecting the safety of/or

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encroaching upon Network Rail. Plant and material for not be capable of impact rail line or infrastructure.

Planning Officer's comment: Due to the nature of the application there is negligible risk to Network Rails operations.

9.0 Parish Council Response

9.1 Non parish.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No representations were received for either application.

11.0 Parking Provision

11.1 N/A

12.0 Accessibility

12.1 N/A

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

14.1 Considered to have the potential to have a positive impact.

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in these cases are:

- Amenity
- Highway Safety

16.2 Paragraph 67 of the NPPF states that "poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts."

- 16.3 In assessing a signs impact on "amenity", regard should be given to the effect on the appearance of visual amenity in the immediate neighbourhood where it is to be displayed and also consideration of any impact upon residential amenity. It is therefore necessary to consider what impact the advertisement, including its cumulative effect, will have on its surroundings. The relevant considerations for this purpose are the local characteristics of the neighbourhood, including scenic, historic, architectural or cultural features, which contribute to the distinctive character of the locality.
- 16.4 The signs have been carefully designed to appear similar to highways signs that deliver information to motorists, with yellow backgrounds and the black text. It is considered that the format and design of the signs will be familiar in an urban environment.
- 16.5 The previously approved signs are 65cm x 40cm the proposed signs are to be 65cm x 91cm. Maintaining the same width but increased in length. It is considered that the increase in size is acceptable.
- 16.6 There is little signage along the proposed signage routes at Brook Street therefore the proposed is not considered to have a cumulative negative impact on the visual amenity of the area.
- 16.7 It is acknowledged that East Street is an area that already has a large amount of signage and advertisement (highways safety and information signs, business advertisements and directional signage). However, whilst the proposed would introduce larger signage to the area it is considered that the additional impact when compared to what has been previously approved is minimal. The signage is also to be time limited and will be conditioned as such. Therefore, the impact on visual amenity is considered to be acceptable.
- 16.8 The Council's Environmental Protection team have not raised any concerns therefore it is not considered that the signs would result in any harm to residential amenity.
- 16.9 In assessing the impact on "public safety", regard should be had to the effect upon the safe use and operation of any form of traffic or transport. In assessing the public safety implications of an advertisement display, one can assume that the primary purpose of an advertisement is to attract people's attention. The vital consideration, in assessing an advertisement's impact, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety.
- 16.10 The proposed signs are not considered to have an adverse impact on the highway safety; this has been confirmed by the Highway Authority. A condition has been recommended to ensure the safe passage of footpath users.

17.0 Conclusion

17.1 To summarise, the proposed alternative signage is not considered to be harmful to visual and residential amenity or to public safety including highway safety. The proposals are therefore considered to comply with the guidance set out in the NPPF and development plan policies which are material considerations in so far as they relate to amenity.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of advertisement consent for both applications subject to the following conditions:

1. Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

2. Removal of Temporary Signs

The signs hereby granted consent shall be removed 18 months after they are first installed.

Reason: Permission is granted to assess the effectiveness of the signs, further consideration would be required for a longer period of time.

3. Approved Documents

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

01 rev A 'Location Plan - East Street' 07/20 **OR** 02 rev B 'Location Plan - Brook Street' 07/20 &
SignPlot v3.25 dated 26.3.2021.

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

4. Headroom

The proposed signs shall afford minimum headroom above the footway of 2.6m. and maintained at that height in perpetuity.

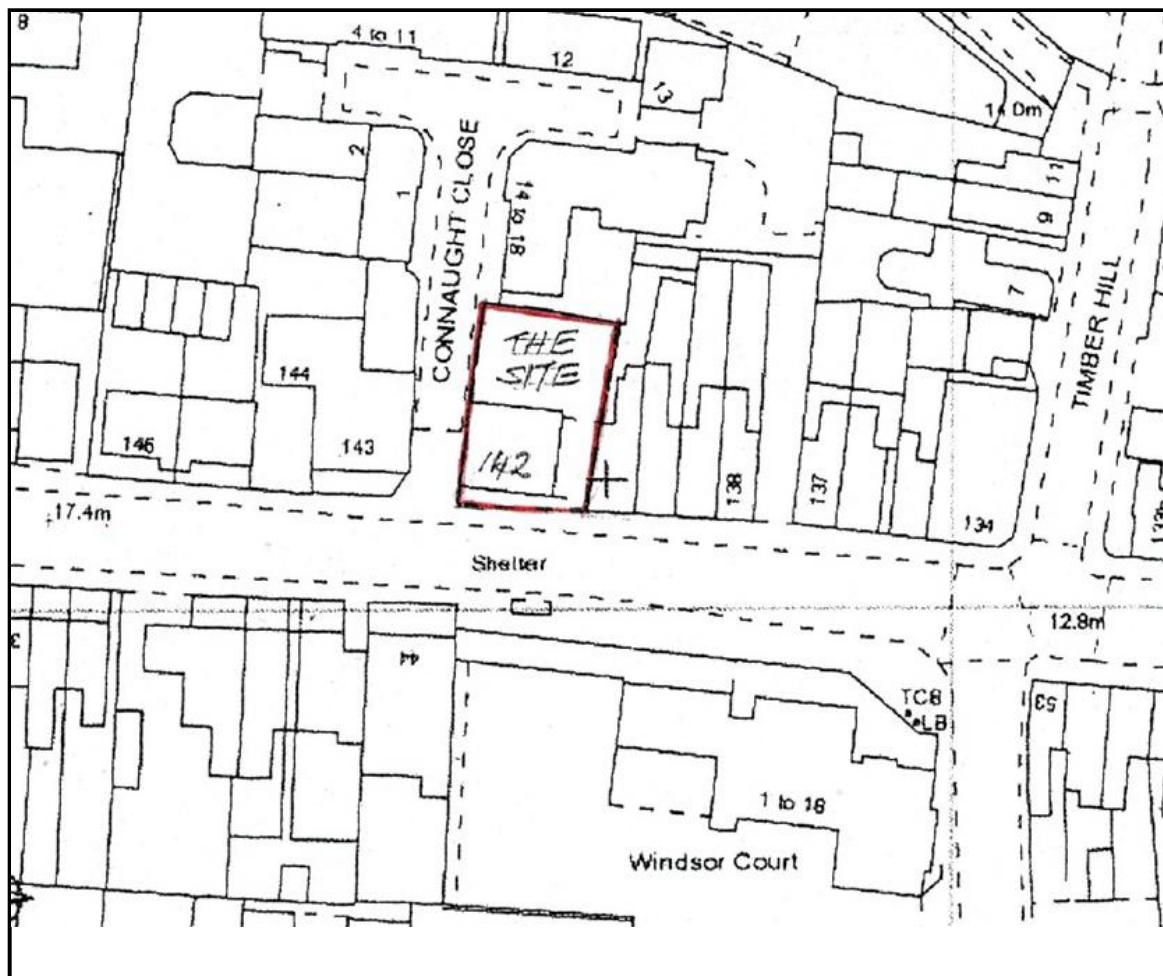
Reason: To ensure the unimpeded passage of pedestrians and cyclists, in the interests of highway safety.

Informatives

1. Highways Informative

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

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:
SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT



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Item No: 7.8

Application: 211519

Applicant: Balcerne Gate Developments Ltd

Agent: Mr Steve Norman

Proposal: Replace existing timber and render cladding with cedar panels; replace windows with identical UPVC units in black; replace existing aluminium front doors with similar doors finished in black

Location: Hythe House, 142 Hythe Hill, Colchester, CO1 2NF

Ward: New Town & Christ Church

Officer: Mr Daniel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is the spouse of a senior manager within the Planning Department. The application has not been formally called in and no objections have been received.

2.0 Synopsis

- 2.1 The key issues for consideration are the suitability of the proposed new external materials, windows and door and their impact on the character and appearance of the Conservation Area and the setting of the adjacent Listed Building.
- 2.2 The application is subsequently recommended for Approval.

3.0 Site Description and Context

- 3.1 The site contains a detached office block built in the early 1970's. The block is located on the junction of Hythe Hill and Connaught Close, Colchester. The site is located within a Conservation Area and there is a Listed Building immediately to the west of the site.
- 3.2 It is noted that there was initial uncertainty regarding the listed nature of this office block subject of this application however, Historic England have confirmed that the listing was for a former Georgian building on the site that has been demolished prior to the erection of this office block. This was established during consideration of the previous application for the conversion of this office block into dwellings under a permitted change of use. The listing is therefore not extant nor relevant to this proposal.

4.0 Description of the Proposal

- 4.1 After obtaining consent for the conversion of this building into dwellings under Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Class O, this application seeks consent for some external alterations by way of new Cedar panels to replace the existing timber and render, replace existing UPVC windows with identical units in black and to replace existing aluminium front doors with similar doors finished in black.

5.0 Land Use Allocation

- 5.1 The current land use is classed as predominantly residential.

6.0 Relevant Planning History

- 6.1 As stated above, planning reference 210635 granted consent under Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Class O for the conversion of the

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office block into dwellings. There is no other relevant planning history relevant to this current application.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets

7.4 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan (ELP) submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 concluded examination hearing sessions in April. Section 1 of the plan now carries full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as the Inspector's report is awaited following the completion of the examination, the exact level of weight to be afforded will be considered on a policy by policy and site-by-site basis reflecting the considerations set out in paragraph 48 of

the NPPF. Proposals will be considered in relation to the adopted Local Plan and the NPPF as a whole pending adoption of Part 2 of the ELP.

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

The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 **Development Manager:** The existing office building is of its time, and albeit unadulterated, serves as a neutral contributor to the character and appearance of the conservation area designation. The building also adjoins grade II listed buildings and forms part of their immediate setting. The building does not contribute positively to their significance. The upgrading of windows and cladding would change the character to reflect a contemporary aesthetic. In my opinion this would have a neutral impact on the character and appearance of the area. The works satisfy the statutory and local plan tests for works in a conservation area subject to detailed approval of replacement window details.

Suggested Condition to be Included:

Non Standard Condition Prior to their implementation/installation, additional drawings that show details of the proposed new windows and doors to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to the window and door detailing to protect the character and appearance of the conservation area in accordance with the requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

9.0 Parish Council Response

- 9.1 The site is not within a parished area.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No comments have been received from any neighbouring properties.

11.0 Parking Provision

11.1 The proposal would not affect the current parking provision.

12.0 Accessibility

12.1 This application is for changes to external materials and would have no impact on the current access arrangements. It is not considered that the proposal would be contrary to the Equalities act.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in this case are:

- Design and appearance;
- Impact on the Surrounding Conservation Area and setting of adjacent listed building.

16.2 Below is an assessment of the proposal against any potential impact on the character and setting of the host building, the Conservation Area and the adjacent Listed Building.

16.3 Below are the submitted existing and proposed elevations for clarification:

Existing



Proposed



16.4 The proposed change of external materials is intended to enhance the appearance and character of the host building within the Conservation Area. As noted by the Development Manager above, the proposed changes will have

a neutral impact on the Conservation Area and the Listed Building adjacent therefore the harm is considered limited and acceptable.

16.5 The proposed change of materials are to replace existing painted timber cladding and white render with cedar panels, replace current white UPVC windows with identical UPVC windows but in black and to replace existing aluminium front doors with similar door but finished in black.

16.6 As stated above and supported by the Development Manager, the proposal will result in no material harm to the character and setting of the Conservation Area and the setting of the adjacent Listed Building.

17.0 Conclusion

17.1 To summarise, The proposal will result in a neutral impact upon the Conservation Area and the setting of the adjacent Listed Building and is therefore considered acceptable.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings labelled Location Plan and Proposed Front Elevation received 27th May 2021.

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

3. ZBB - Materials As Stated in Application

The external 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. Non Standard Condition – Large scale details of windows & doors

Prior to their implementation/installation, additional drawings that show details of all proposed new windows and doors to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and appearance of the conservation area and the setting of the listed building in accordance with the requirements of Section 72(1) and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

19.0 Informatives

19.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard 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

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

