

Planning Committee Meeting

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

Thursday, 21 January 2016 at 18:00

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

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

Information for Members of the Public

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Access

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www.colchester.gov.uk

Material Planning Considerations

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

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

- (a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,
- (b) as a crèche, day nursery or day centre,
- (c) for the provision of education,
- (d) for the display of works of art (otherwise than for sale or hire),
- (e) as a museum,
- (f) as a public library or public reading room,
- (g) as a public hall or exhibition hall,
- (h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

- (a) a cinema,
- (b) a concert hall, (c) a bingo hall or casino,
- (d) a dance hall,
- (e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 21 January 2016 at 18:00

Member:

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

Chairman
Deputy Chairman

Substitutes:

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

Councillors Christopher Arnold, Lyn Barton, Tina Bourne, Roger Buston, Nigel Chapman, Barrie Cook, Nick Cope, Robert Davidson, Beverly Davies, John Elliott, Annie Feltham, Bill Frame, Dominic Graham, Annesley Hardy, Marcus Harrington, Dave Harris, Julia Havis, Theresa Higgins, Darius Laws, Cyril Liddy, Sue Lissimore, Ben Locker, Fiona Maclean, Kim Naish, Nigel Offen, Gerard Oxford, Philip Oxford, Chris Pearson, Will Quince, Peter Sheane, Paul Smith, Dennis Willetts, Julie Young and Tim Young.

AGENDA - Part A

(open to the public including the press)

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

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

1 Welcome and Announcements

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

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

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

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

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

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

6 Minutes

There are no minutes for confirmation at this meeting.

7 Planning Applications

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

7.1 151379 Wickhams, Bures Road, West Bergholt 17 - 24

Proposed replacement dwelling, associated parking, car port and garaging, hard and soft landscaping

7.2 152042 39 Harvey Crescent, Stanway 25 - 34

Erection of detached 3 bedroom dwelling and parking

7.3 152700 19a Belle Vue Road, Wivenhoe 35 - 42

Proposed alterations and extension

7.4 152438 40 Boadicea Way, Colchester 43 - 50

To retain additional windows, repositioning of side door and window in newly built garage

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)



Application No: 151379

Location: Wickhams, Bures Road, West Bergholt, Colchester, CO6 3DW

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **21st January 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Carl Allen

MINOR

Site: Wickhams, Bures Road, West Bergholt, Colchester, CO6 3DW

Application No: 151379

Date Received: 9 July 2015

Agent: Mr James Firth, Strutt & Parker LLP

Applicant: Mr & Mrs D Watts

Development: Proposed replacement dwelling, associated parking, car port and garaging, hard and soft landscaping.

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Cllr Harrington has called it in for the following reasons:

- 'Location will be returned to agricultural use and therefore there is no gain of residential land and no loss of agricultural land.
- The proposal does not conflict with Policy DP13
- The new proposed location for the dwelling represents the optimum location solution to siting in line with Policy DP13.
- The wider landscaping and biodiversity enhancements proposed will be an improvement as noted by the landscape officer consultation response.
- Lack of harm to landscape character or countryside

- The proposals do not change the use of the applicant's land surrounding the dwelling which remain outside of the application red line and will continue in use as agricultural paddocks
- The landscape officer has not objected to the proposal
- The parish council raise no objection to the proposal.
- The development is supported by detailed landscape reports setting out the particular circumstances of the site and does not set a precedent for other development within the Borough'.

2.0 Synopsis

- 2.1 The key issue explored below concerns the principle of repositioning the dwelling with a new curtilage outside of the existing curtilage. It is considered that this would not respect the pattern of development along Colchester Road which is all positioned close to the highway, would push a house and residential curtilage deep into the countryside, contrary to national guidance and local policy and would set a precedent for neighbours. The recommendation is therefore for refusal.

3.0 Site Description and Context

- 3.1 The proposed site is remotely located in open countryside. To the east is agricultural land, in separate ownership, which runs towards Nayland Road, whilst the other sides are currently given over to paddock (all in the ownership of the applicant). All of these are open aspect although there are some trees and hedging to the boundaries.
- 3.2 The site is 900 metres outside of the West Bergholt settlement boundary. There are no residential neighbours adjoining the site. Opposite are Dunedin Cottages. Other than this, the nearest properties are 200 metres distant.
- 3.3 The dwelling "Wickhams" was a fairly large detached dwelling set back from Bures Road (B1508) to the west. Permission was granted to replace it with a larger dwelling under application 144681. The original dwelling has now been demolished.

4.0 Description of the Proposal

- 4.1 This proposal seeks to reposition the new dwelling some way outside of the current curtilage into unallocated open countryside to the east.
- 4.2 This house was largely accepted under application 144681 and has been very slightly modified including the addition of a studio. Also included are a four bay carport and shed/store (as before) and an additional four bay garage plus a shed. Excluded on this application is the swimming pool which accompanied 144681.
- 4.3 The scheme also comes with a landscaping scheme including an avenue of trees to the front aspect.

5.0 Land Use Allocation

- 5.1 The land where it is proposed to reposition the dwelling is unallocated countryside.

6.0 Relevant Planning History

- 6.1 144681 – Proposed replacement dwelling, associated parking, car port and hard and soft landscaping. Approved 24th June 2014.

7.0 Principal Policies

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

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

UR2 - Built Design and Character
ENV2 - Rural Communities

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

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

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

N/A

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

- The Essex Design Guide
- External Materials in New Developments
- West Bergholt Village Design Statement

8.0 Consultations

- 8.1 Landscape Officer – no objection, make comments on details (which the agent has clarified).
- 8.2 Arboricultural Officer – Arboricultural report needs updating (this has been amended).

8.3 Highway Authority – No comments.

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

9.0 Parish Council Response

9.1 No comments to make.

10.0 Representations

10.1 No comments have been received.

11.0 Parking Provision

11.1 Eight car parking spaces would be provided.

12.0 Open Space Provisions

12.1 N/A.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 The overall design of the proposed dwelling is very similar to the approved replacement dwelling and as such the design changes to the dwelling do not raise any concern. The design is modern and it is considered to be an exemplar. That the Parish did not object to the original application or the current proposal means that the Parish must be satisfied that the design of the dwelling raises no conflict with the West Bergholt Village Design Statement. There are no neighbours close enough to the site that could be overshadowed or overlooked. Likewise, the parking provision does not raise any issues.

15.2 The area for concern is that whereas the dwelling approved under 144681 kept the replacement dwelling in the existing curtilage of Wickhams, the current proposal moves the dwelling some distance outside the existing curtilage and into the paddock/field to the east. The proposal would actually push the new dwelling 45 metres away from the previously approved location and some 30 metres outside of the existing curtilage. The existing curtilage would then be utilised as a 90 metre long driveway to the new dwelling as well as being landscaped. The justification for this change, given in the Planning Statement, is that the amended siting would better

accord with the emerging landscaping work for the site. The applicant owns large areas of land to the north, east and south of the site and they are proposing some substantial planting and landscaping works outside of the red line, but inside the blue line. In their landscaping scheme they would reinstate hedges and plant woodland as well as having flower meadows, paddocks and parkland. It is noted that the Council's Landscape Officer has not raised an objection to the proposal and given the amount of planting proposed to an area which has only boundary trees and hedges this is unsurprising.

- 15.3 However, the view of Planning Officers is that the landscaping being proposed could be undertaken without the need to reposition the dwelling and by keeping the dwelling in its already approved location – within the existing curtilage. In addition, much of the landscaping would take many years to establish. By pushing the dwelling further away (110 metres) from Colchester Road the dwelling would jut out into the countryside and this would be contrary to the (albeit very limited) pattern of development along Colchester Road – which is all closely located beside the road – with none having such long drives to reach the residence.
- 15.4 It is considered that pushing/repositioning the residential curtilage further into the countryside is undesirable and could well set a precedent for other dwellings along Colchester Road to do the same. For these reasons the proposal is considered to be contrary to Policy DP1 as it does not respect the pattern of development in the area which is all linear to the highway. Policy DP13 does not specifically refer to extensions of domestic curtilages into the country but the explanation to the policy does (at paragraph 5.15). The explanation states that 'proposals for extension of a domestic garden into open countryside will not be permitted if they have a material adverse impact on the surrounding countryside.....or would set a precedent for unacceptable extensions to gardens at one or more neighbouring properties'. As it is considered that the proposal would not respect the pattern of development along Colchester Road and could well set a precedent for other neighbours, the proposal is contrary to DP13. That the proposal would not respect the pattern of development it would fail to harmonise with the local character and therefore also be contrary to Policy ENV2.

16.0 Conclusion

- 16.1 It is concluded that the design of the dwelling itself is acceptable but the intrusion of the curtilage into the open countryside is unacceptable as it would be contrary to the pattern of development in the area which is all linear to the highway and it would set a precedent for neighbours.

17.0 Recommendation

- 17.1 REFUSE planning permission for the reasons set out below.

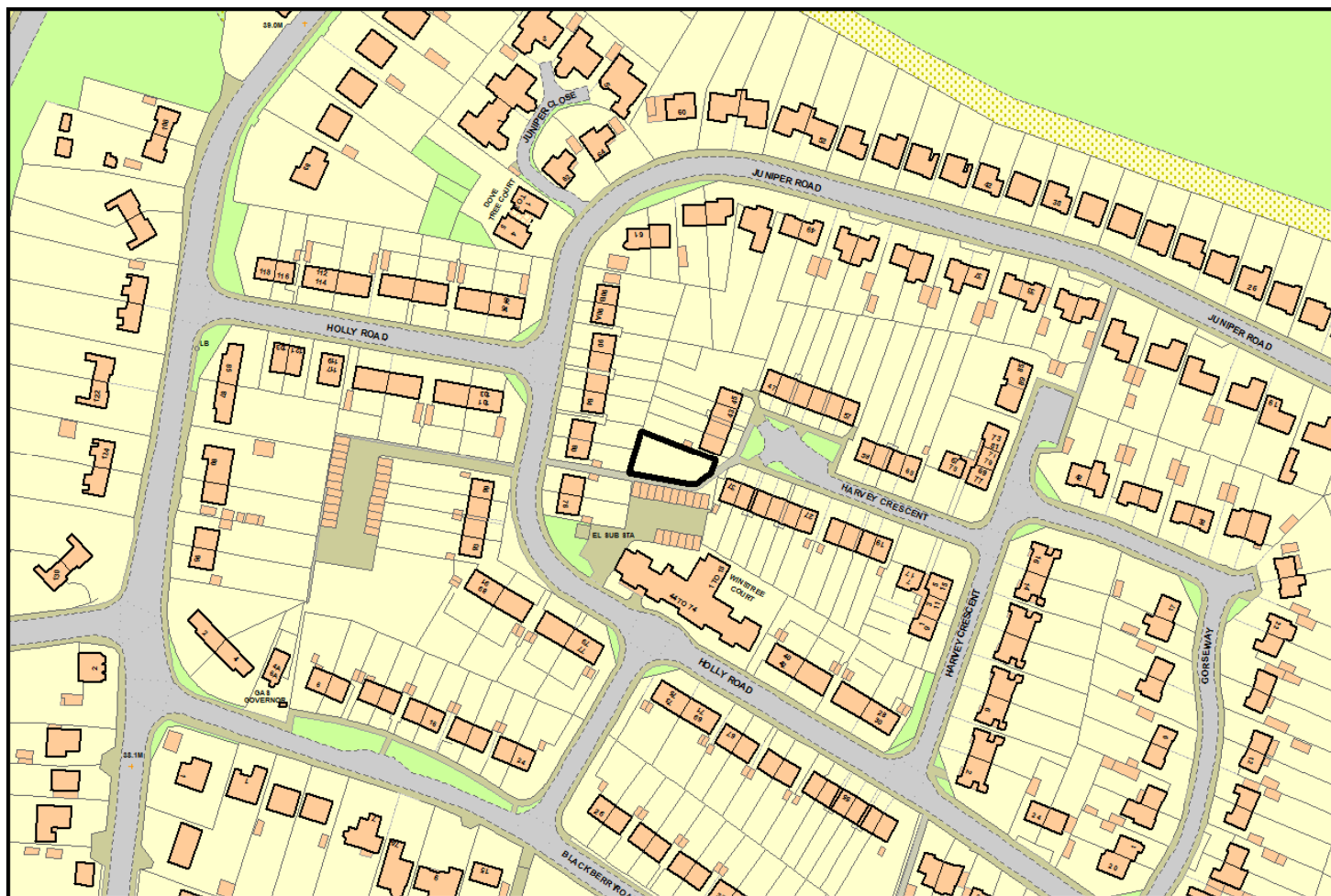
1 - Non-Standard Refusal Reason

The proposal for a replacement dwelling and its curtilage to be relocated further away from the existing residential curtilage and into the countryside is unacceptable as it would result in the dwelling and curtilage being contrary to the pattern of development in the local area, would push a residential curtilage into the open countryside and would set a dangerous precedent for neighbouring properties. Policies DP1 (Design and Amenity) and DP13 (Dwelling Alterations, Extensions and Replacement Dwellings) of Colchester Borough

Council;s Local Development Framework Development Policies (adopted October and revised July 2014) and Policy ENV2 (Rural Communities) of the Council's Core Strategy (adopted December 2008 and revised July 2014) support development that respects patterns of development, harmonise with the local character and in regards to extending residential curtilages into the countryside would not set a precedent for unacceptable extensions at neighbouring properties. In these regards the proposal fails to meet the policy criteria.

18.0 Positivity Statement

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



Application No: 152042

Location: Land Adjacent to, 39 Harvey Crescent, Stanway, Colchester, CO3 0QW

Scale (approx): 1:1250

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Site: **39 Harvey Crescent, Stanway, Colchester, CO3 0QW**

Application No: **152042**

Date Received: 24 September 2015

Agent: Mr Robert Pomery

Applicant: Mr Lee Holohan

Development: Erection of detached 3 bedroom dwelling and parking.

Ward: Stanway

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee following a deferral on Thursday 5th November 2015 in order to allow the applicant to produce a better a better design for the proposal.
- 1.2 The application was originally called in to Committee by Councilor Sykes on the grounds of the potential impact on the street scene and the previous planning history in relation to the site.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of a new residential dwelling upon the street scene of Harvey Crescent and residential amenity.
- 2.2 It is explained that this application follows an earlier deferral to a similar scheme, however the issues still remain from the previous applications and the scheme Members considered at Planning Committee dated 5th November 2015.

3.0 Site Description and Context

- 3.1 The site is a plot of land that appears to have been the garden of 39 Harvey Crescent. The site is currently open and rough grassed. To the north is the rear garden of number 39, to the east a grassed verge and the highway of Harvey Crescent. To the south is a footpath that links Harvey Crescent with a garage block and Holly Road. To the west are the wooden panel fences that form the boundaries with the rear gardens of dwellings in Holly Road.

4.0 Description of the Proposal

- 4.1 This application seeks planning permission for the erection of a three bedroom detached dwelling within Harvey Crescent.

5.0 Land Use Allocation

5.1 Residential

6.0 Relevant Planning History

6.1 The application site has been subject to two recent planning applications:

145104 - 2 new dwellings (apartments) and parking spaces, with an improvement to the access road and existing parking Refused 17th September 2014;

146304 – Erection of 1no. 3 bedroom dwelling to the land adj 39 Harvey Crescent. Resubmission of 145104. Refused

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

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

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

N/A

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

- Backland and Infill
- Vehicle Parking Standards
- The Essex Design Guide
- External Materials in New Developments

8.0 Consultations

8.1 ECC Highway Authority – No objection

8.2 Environmental Control had suggested informatives relating to Demolition and Construction and Contaminated Land.

8.3 Urban Designer – Objection:

Unfortunately, the latest scheme, like those before does not convince that it would not be unreasonably detrimental to the area and I would therefore have to recommend refusal. Whilst I would support the principle of a new property given the site area, I am sceptical as to whether a suitable scheme can be designed in practice given site constraints. In this respect an extension might provide a suitable fall-back position. A key constraint is car parking. The cul-de-sac already has parking related issues, including limited parking provision, front of plot and on-street parking over-dominating the street scene and awkward access into the corner plots (including to No.39). The proposal might unreasonably exasperate the problem. Another key issue is the potential overbearing, overshadowing and overlooking impact on immediate neighbours, primarily nos. 37, 39 and 41 Harvey Crescent and 80, 82 and 84 Holly Road, having regard to the Essex Design Guide (pp.69-75) and Colchester's Extending Your Home SPD (pp.7-13). Colchester's Backland and Infill Development SPD also provides policy guidance. The alleyway currently presents a visual constraint to the site's development, though a suitable development could help improve its outlook and self-policing. Another issue is the site's pre-existing character. Various proposals have sought to address the above issues, each offering pros and cons. This might not be considered wasted effort as these now act as options offering the ability to now reasonably assess the most acceptable solution. On reflection, I would have to object to options where the principal (long) elevation faces Crescent given this would result in car parking unreasonably dominating to the front of the property and further eroding the street's garden character, i.e. it would look a mess.

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

9.0 Parish Council Response

9.1 The Parish Council has raised no objections to the scheme.

10.0 Representations

10.1 Letters of support have been submitted from five parties in respect of this scheme, these are summarised as follows:

- The site would be transform from an unsightly patch of land
- A new dwelling could only add value to area
- Provide an additional home within a time of shortage of homes for a deserving family
- No concerns regarding parking as during the day Monday to Friday there are few cars parked within Harvey Crescent
- New design fits the area better
- Compliant with all policies for new development

10.2 One letter of objection was received; the comments are summarised as follows:

- Whilst the current application does represent amended proposals, these proposals are not sufficiently different to address the reasons from the previous two refusals
- The proposal is still non-compliant with a number of national and local planning policies
- The parking does not allow for egress from the site in forward gear
- Will raise the risk of conflict with pedestrians using the public footpath
- The 45 degree line, when measured from the window nearest to the boundary, would be infringed and therefore non-compliant
- The proposal will create a loss of light to neighbouring gardens
- Will impact upon the visual amenity of the neighbouring properties

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

11.0 Parking Provision

11.1 The application provides car parking spaces which comply with car parking standards

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Background:

- 15.1 Members are reminded that applications 145104 and 146304 were both refused. The first of these was for two apartments, the second for a three bedroom dwelling, slightly larger and pushed back further than the proposal at hand.
- 15.2 These applications were dismissed out of hand for being entirely inappropriate, stating that it was fundamentally wrong to fill this corner site with a building.
- 15.3 Further pre-application advice was then sought on two occasions via the Council's pre-application procedure. On both occasions Your Officers advised against the proposals. The most recent of these (our reference 151242) showed an arrangement very similar to the one at hand (with some differences, such as the parking layout) and your Officers gave a firm view that:

"I consider that the development of this site, despite being located within the defined development boundary, is unacceptable as the principle of erecting any new dwelling, regardless of its size or design would be likely to harm the character, nature and appearance of the area."

- 15.4 The position of your Officers was made clear at the Planning Committee dated 5th November 2015, in that they will not support any dwelling in this location. This position has been reached after many hours of consideration and discussion, following which it has become obvious that no satisfactory development is achievable here. Following on from the deferral, it was advised that revised drawings should be produced which reflected members comments, preferably multiple options to allow members to decide if an option is acceptable to them. Officers have not seen a design which is satisfactory and therefore refusal is still recommended.

Design, Layout and impact on surrounding area

- 15.5 Harvey Crescent contains strong, uniform rows of terraced houses, the majority of which are of the same age, design and materials. The most noticeable dwelling that is out of character with the cul-de-sac is number 39 itself due to it being of render construction. There is, however, a strong building line within the area which all of the plots comply with. Plot sizes are also identical, all of the properties are of equal size and characterised by long narrow rear gardens. The cul-de-sac is thus characterised by traditional dwellings and their uniform, mirrored, intimate layout. Positioned adjacent to numbers 39 and 45 are deliberately undeveloped areas and these are mirrored, thus creating two corner open spaces, which penetrate the otherwise tight development pattern to give views out and a contrast to the sense of enclosure which is created by the dwellings.
- 15.6 The application site concerns the open space adjacent to number 39. Although the proposed two storey dwelling appears to be fairly modest in size, the proposed dwelling and hardstanding would fill a large part of the site adjacent to the boundary and behind the strong building line. The proposed dwelling and hardstanding would fill a large part of the site adjacent to the boundary, especially as revised plans indicate that the widest part of the dwelling would be occupying the plot facing directly into the

Crescent. Although it is acknowledged that the revised scheme has attempted to resolve issues of the previous attempts, the proposed dwelling would be dominant, bulky and would create an impractical parking situation. The car parking would be unreasonably dominant to the front of the property, further eroding the street's garden character. The design of the detached dwelling would appear incongruous in the context of the traditional design so characteristic of the area. The proposal is thus contrary to Policy DP1: Design and Amenity (i) which requires new development to respect and enhance the character of the site, its context and surroundings and this is also reflected within the NPPF which requires development to have a strong sense of place. Furthermore, the Council's adopted Supplementary Planning Document (SPD) 'Backland and Infill' states that 'all infill development should reflect the character of the surrounding area and protect the amenity of neighbours. It should reinforce the uniformity of the street by reflecting the scale, mass, height, form, materials, fenestration and architectural details of its neighbours.' This is important in reinforcing local character and ensuring the context of the street scene is not adversely affected.'

- 15.7 The SPD goes on to state that 'the proposed building plot(s) should be of similar dimensions in size and shape to the existing plots in the immediate locality. Proposals that would lead to over-development of a site or the appearance of cramming will be resisted.' Furthermore, the SPD sets out that 'the layout should create a sense of place and integrate well with existing development. The site layout should reflect the original development of the area.' This is particularly important in older, established residential areas where there is a uniform plot layout and street scene.' Policy UR2 of the Colchester Core Strategy and Policy DP1 of the Development Policies seek, amongst other things, to ensure development is of a high quality, relates well to its surrounding context and enhances the character of an area. In these respects they are consistent with the NPPF.
- 15.8 In this instance, a key constraint is car parking. Harvey Crescent already has parking-related issues, including limited parking provision, front of plot and on-street parking over-dominating the street-scene and awkward access into the corner plots (including to No.39). The proposal would unreasonably exacerbate the problem, and therefore result in an objection from the Urban Designer. There would be very little scope to enter and exit the plot adjacent to 39 Harvey Crescent within forward gear when accessing the site in private motor vehicle (or emergency and service vehicle), therefore resulting in an awkward relationship with the centre of the Crescent and potential risk issues to persons accessing the footpath (particularly at night). Although a number of parking layouts have been provided, it is not considered that any of these provide a suitable solution due to the existing constraints of the site. Another key issue is the potential overbearing, overshadowing and overlooking impact on immediate neighbours, primarily Nos. 37, 39 and 41 Harvey Crescent and 80, 82 and 84 Holly Road, having regard to the Essex Design Guide (pp.69-75) and Colchester's Extending Your House? publication (pp.7-13). As a result of the limited size and awkward shape of the resulting plot, the provision of a two-storey dwelling on this plot would result in a visually cramped appearance which is considered to lead to overdevelopment of this site.

- 15.9 Although landscaping has been proposed to soften the appearance of the dominating dwelling, amount of front garden space is realistically workable on site. The front of the site will be dominated by parking and therefore there is very little potential to create any landscaping which will enhance the site as at least a metre is required to plant hedging. It would be realistic to assume that the front of the site would be a sea of concrete to provide for parking.
- 15.10 It is argued that the erection of a dwelling would be better use of the land rather than it currently stands. The erection of a dwelling would create a dominance of car parking to the front of the site in order to tick the boxes for car parking standards. There are many other avenues which could be explored in order to create a more pleasant corner, as the other corners of this cul-de-sac have achieved. The erection of a dwelling would create paraphernalia such as bins, cars, storage sheds, washing lines and so on rather than the proposed landscaping, which is in any case unworkable and does not outweigh the harm of the proposal. Although the proposals include a very small area of landscaping to the front of the site, it is not considered that any scheme of landscaping would reduce the harm caused by a dwelling.
- 15.11 Consequently, the proposed house would not be well related to existing dwellings or the prevailing pattern of development. The proposal creates development which is car parking dominant and would create a negative and harmful impact upon the street scene. Furthermore, the proposed dwelling would be prominent within the street scene, it would be seen through gaps between the existing houses, including along the proposed access, and would also be evident from Harvey Crescent and the public footpath to the site boundary. The proposal would appear incongruous and at odds with the surrounding area.
- 15.12 On the basis of the above, it is considered that the development of this site, despite being located within the defined development boundary, is unacceptable as the principle of erecting any new dwelling, regardless of its size or design would be likely to harm the character, nature and appearance of the area.

16.0 Conclusion

- 16.1 It is considered that the development of this site, despite being located within the defined development boundary, is unacceptable as the principle of erecting any new dwelling, regardless of its size or design would be likely to harm the character, nature and appearance of the area.

17.0 Recommendation

- 17.1 Refused planning permission for the reasons set out below:-

1 - Non-Standard Refusal Reason

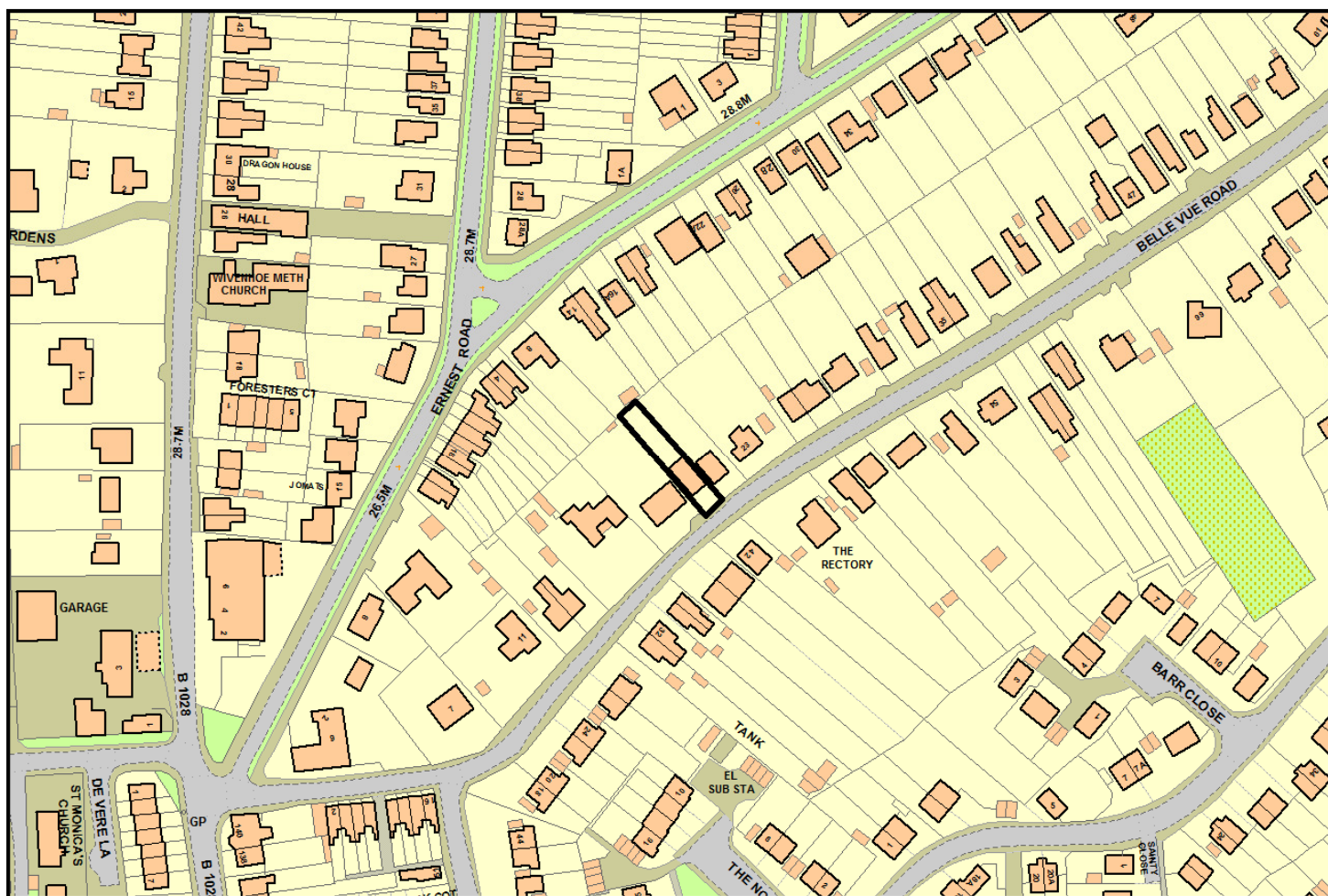
The National Planning Policy Framework (NPPF) requires that developments '...establish a strong sense of place (and) are visually attractive as a result of good Architecture and appropriate landscaping'. It goes on to state that '...permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area'. The National Planning Practice Guidance states 'Good quality design is an integral part of sustainable development' and goes on to state 'Local

planning authorities are required to take design into consideration and should refuse permission for development of poor design'. These objectives are reflected in Colchester Borough Council's Local Development Framework, through Policy UR2 of the Core Strategy (December 2008 as revised 2014), and Policy DP1 of the Development Policies (October 2010) all of which require a high standard of design, an appropriate architectural approach and an enhancement in the character of an area. In this instance, Harvey Crescent contains strong, uniform rows of terraced houses, the majority of which are of the same age, design and materials. The most noticeable dwelling that is out of character with the cul-de-sac is number 39 itself due to it being of render construction, however there is a strong building line within the area which all of the plots comply with. Plot sizes are also identical, all of the properties are of equal size and characterised by long narrow rear gardens. The cul-de-sac is thus characterised by traditional dwellings and their uniform, mirrored, intimate layout. Positioned adjacent to numbers 39 and 45 are deliberately undeveloped areas and these are mirrored, thus creating two corner open spaces, which penetrate the otherwise tight development pattern to give views out and a contrast to the sense of enclosure which is created by the dwellings. The application site concerns the open space adjacent to number 39. Although the proposed two storey dwelling appears to be fairly modest in size, the proposed dwelling and hardstanding would fill a large part of the site adjacent to the boundary and behind the strong building line. In addition, the proposed dwelling relates poorly to the traditional terraced houses and would appear alien to the character and layout of Harvey Crescent. The resulting proposed house would not be well related to existing dwellings or the pattern of development. Furthermore, although the dwelling would neither be prominent in the street scene, nor hidden from public view, it would be seen through gaps between the existing houses, from the public realm, including along the proposed access, and would also be evident from Harvey Crescent and the public footpath to the site boundary.

It is considered that the development of this site, despite being located within the defined development boundary, is unacceptable as the principle of erecting any new dwelling, regardless of its size or design would be likely to harm the character, nature and appearance of the area.

19.0 Positivity Statement

- 19.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development through its Preliminary Enquiry service (please refer to the Council's website for details).



Application No: 152700

Location: 19a Belle Vue Road, Wivenhoe, Colchester, CO7 9LD

Scale (approx): 1:1250

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7.3 Case Officer: Chris Harden

Due Date: 28/01/2016

Site: 19a Belle Vue Road, Wivenhoe, Colchester, CO7 9LD

Application No: 152700

Date Received: 3 December 2015

Agent: Mr Kevin Hall, Hall Duncan Associates

Applicant: Mr & Mrs A Scott

Development: Proposed alterations and extension

Ward: Wivenhoe Quay

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Liddy on the grounds of concerns at the size of the extension, its overbearing impact and a loss of light to neighbours either side.

2.0 Synopsis

- 2.1 The key issues explored below are the size, design and appearance of the extension, its impact upon neighbouring residential amenity and whether there would be enough amenity space for the property.
- 2.2 It is concluded that the size, design and appearance of the extension would relate satisfactorily to the character of the existing dwelling and would not have an impact upon the character of the street scene. It is also considered there will not be a significant impact upon neighbouring residential amenity and that adequate amenity space would be retained.

3.0 Site Description and Context

- 3.1 The site contains a two storey dwelling with its gable facing the road and the building was approved in 2005. It was constructed in the side garden of number 21. The overall site has a width of approximately 7.5 metres and a rear garden depth of 18.5 metres. There is a hard surfaced area in front of the dwelling.
- 3.2 To the north-east of the site, approximately 1.3 metres from the side boundary, lies the two-storey detached property of number 21. To the south-west, approximately, 1.4 metres from the side boundary, lies the single-storey detached dwelling of number 19.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of a single-storey, predominantly flat roofed rear extension. It would measure 5.6 metres in width, which is 0.4 metres narrower than the existing dwelling, would project rearwards by 3.7 metres and would have a height to its flat roof of 2.425 metres. (The amended plan has reduced its height marginally by 75 mm). Within the central area of the roof there would be a range of raised rooflights pitched to a ridge height of 3.125 metres above ground level.

5.0 Land Use Allocation

- 5.1 Predominantly residential, within the physical limits of Wivenhoe.

6.0 Relevant Planning History

- 6.1 The dwelling proposed to be extended was approved in April 2005 under application RM/COL/05/0741 following Outline approval O/COL/04/1872 which removed permitted development rights for extensions under Condition 08.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

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

- Vehicle Parking Standards
 - Extending Your House?
 - The Essex Design Guide
 - External Materials in New Developments
- Wivenhoe also has a village design statement.

8.0 Consultations

8.1 Councillor Liddy called in the proposal and has the following concerns: “The proposed extension will increase the size of the dwelling by at least one quarter. The present dwelling overshadows the adjacent dwellings and the proposed extension will be overbearing and will substantially reduce the daylight available to the neighbours on each side. An inspection of the plans suggests that the proposed extension will violate the 45 degree rule.”

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

9.0 Parish Council Response

9.1 The Parish Council has made no observations.

10.0 Representations

10.1 One letter of objection has been received which makes the following points:

- Incredibly concerned about the impact the extension will have on our house and garden. Were led to believe when we bought the property three years ago that the house that had been built on the plot (19a) had been developed with planning conditions and it would not be able to increase in size. With this in mind we built our own extension in line with the existing building so that we would not encroach at all on the plot next door.
- The proposed extension will be highly visible from our kitchen and an imposing brick wall will take up a large part of the view. As we have just installed large patio doors at great expense you can imagine that we find this incredibly worrying.
- We absolutely oppose this planning proposal and will be seeking advice and support from one of our local Councillors.

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

11.0 Parking Provision

11. There is a hard surfaced area at the front of the site which can accommodate two cars.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Design, scale and form

- 15.1 It is considered that the design, scale and form of the rear extension is visually acceptable and would relate satisfactorily to the character of the existing dwelling. The flat roof has kept the height of the extension low and the fenestration, detailing and matching brickwork would tie in satisfactorily with the appearance of the existing dwelling. The extension would also be set in slightly from the existing dwelling on either side so the gable end of the dwelling would still be apparent. The roof windows would also add an appropriate detail to the roof without any detriment to visual amenity. As the extension is to the rear of the property there would be no detrimental impact upon the character of the street scene. Overall, the proposal accords with the Policy aims of the Local Plan and does not conflict with the provisions of the Wivenhoe Design Statement.

Impacts on Neighbouring Properties

- 15.2 It is not considered there would be any significant impact upon the residential amenity of the neighbours either side of the application site. The height of the flat-roofed part of extension has been kept down to 2.425 metres and it is also not located directly on the boundaries on each side. This height and distance will ensure that the extension would not appear overbearing on the outlook of neighbours either side. 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 the proposal satisfies this requirement. Accordingly there are no concerns regarding loss of light to the neighbours either side. 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 and the Extending Your House? publication.

Other Matters

- 15.3 It is considered that adequate amenity space would be retained for the dwelling as the property has a relatively long garden. In addition, parking provision would be unaffected at the front of the property. No vegetation of significance would be affected.

16.0 Conclusion

- 16.1 It is considered that the rear extension would be acceptable in terms of its design, scale and form and it would not have a significant impact upon neighbouring residential amenity.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 2358.01B, 2358.02A, 2358.05A, 2358.06A, 2358.07A received 8.1.16.

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

3 - Materials as Stated in Application

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

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

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

20.0 Positivity Statement

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



Application No: 152438

Location: 40 Boadicea Way, Colchester, CO2 9BE

Scale (approx): 1:1250

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7.4 Case Officer: Nadine Calder**HOUSEHOLDER**

Site: 40 Boadicea Way, Colchester, CO2 9BE

Application No: 152438

Date Received: 2 November 2015

Agent: Mr Steve Dobbs

Applicant: Mr Oris Bojko

Development: To retain additional windows, repositioning of side door and window in newly built garage

Ward: Shrub End

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Councillor Pauline Hazell on grounds of "loss of privacy to neighbouring occupier at No. 38 Boadicea Way" [though it is assumed that this relates to the directly adjacent occupier, i.e. 39 Boadicea Way]. Further comments were made with regards to the potential use of the building as additional living accommodation as well as the location of the garage and its impact on the amenities of the neighbouring occupier at No. 39 Boadicea Way in terms of loss of light, however, these comments are either not relevant planning matters or not relevant to the current application and can therefore not be given any weight.

2.0 Synopsis

- 2.1 The key issues explored below are the impact the proposed development would have on the amenities of neighbouring occupiers as well as the character and appearance of the surrounding area. Having carefully assessed the proposed development, and having had regard to representations received from local residents and Councillors, it is considered that the proposed development would not cause any material or visual harm on either the amenities of neighbouring occupiers or the character and appearance of the wider area. The proposal is therefore found to be satisfactory and is recommended for conditional approval.

3.0 Site Description and Context

- 3.1 The application site relates to a corner plot towards the south eastern end of the residential development on the western side of Boadicea Way. The site comprises an end of terrace dwelling on the north eastern end of the rectangular plot and a detached garage at the bottom of the garden of the application site (towards the south western end). The site is located within the defined settlement limits of Colchester in a predominantly residential area. To the north, the site adjoins its neighbouring property

39 Boadicea Way and associated private rear amenity space, while to the south west of the site (outside of the curtilage of the application site) there are three garages. The north western corner of the application site also shares a boundary with the rear garden of No. 39 Gloucester Avenue.

4.0 Description of the Proposal

- 4.1 Retrospective planning permission is sought for the relocation of an approved window and door in the side elevation of the existing garage (leading into the garden of the application site) and the installation of two windows as well as two rooflights in the rear elevation of the building (facing the neighbouring rear garden to the north).

5.0 Land Use Allocation

- 5.1 The application site is located in a predominantly residential area.

6.0 Relevant Planning History

- 6.1 Planning permission for the detached garage was granted in December 2014 (146125) and this has since been implemented. The residential property itself was granted permission in 2013 (reference 121907).

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

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

8.0 Consultations

- 8.1 n/a

9.0 Parish Council Response

9.1 This area is non-parished.

10.0 Representations

10.1 One letter of objection was received from the directly adjoining neighbour at 39 Boadicea Way. The main reasons for objecting can be summarised as follows:

- Loss of privacy; and
- Speculation with regards to use of the garage as additional habitable accommodation.

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

11.0 Parking Provision

11.1 The proposed development would not impact on the provision of parking which complies with current standards.

12.0 Open Space Provisions

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

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 The current application solely seeks permission for the installation of two windows and two rooflights in the rear elevation of the garage and the relocation of the previously approved door and window in the side elevation (to be positioned more centrally in the same elevation). It is understood that the openings have already been created without planning permission having been sought. It was noted that the original consent for the garage includes a condition that limits the use of the garage to the parking of motor vehicles and for the sole purpose of the occupier of No. 40 Boadicea Way. The desire for more daylight in the garage to 'make it a practical space to work' therefore required further clarification with regards to the use of the garage to ensure that this would not breach the afore-mentioned condition. On this basis, the Agent was requested to confirm the proposed use of the garage. The following clarification was received:

“The garage has been built as part of this domestic dwelling and is purely used for domestic purposes i.e. parking of vehicles. As with any domestic garage built for car storage, my client as a householder inevitably wants to keep his personal motor related supplies in the garage e.g. motor oil and other motor sundries, vehicle tools, battery charger etc. etc. (things that one would not store [in] a house) and also store his personal cycle(s) and his routine garden equipment - no different to any householder who benefits from having a garage or double garage. It is totally understood that permission is not for any other purpose e.g. living accommodation or any commercial use and nor is it intended to be.”

- 15.2 It is acknowledged that the requirement for natural light for a garage is questionable, however, it is not the role of planning to question the need for development but to assess whether this is acceptable in terms of its impact on the surrounding area and neighbouring amenities.
- 15.3 The existing garage is located at the bottom of the garden of the application site, directly adjacent to the neighbouring garden of 39 Boadicea Way. The submitted drawings, however, indicate that the four new openings in the rear elevation, i.e. two ground floor windows and two rooflights, are proposed to be obscure glazed. Whilst this is not considered to be ideal, it would provide the internal space with more daylight as sought by the Applicant while at the same time ensuring that the new openings would cause no material harm to the amenities of neighbouring occupiers in terms of loss of privacy. Furthermore, it should be noted that the garage is located at the very bottom of the garden of the application site and therefore, any impact on neighbouring amenities is considered to be limited as the protected sitting out areas would not be affected. It is acknowledged that the additional openings may result in some perceived overlooking (rather than actual overlooking given that the windows are proposed to be obscure glazed - with the velux rooflights also being non-opening - a detail that could be conditioned). There is usually held to be a lesser degree of privacy at the bottom end of the garden of an application site and, as stated above, even the sense of perceived overlooking would not cause such material or adverse harm to the amenities of the directly adjoining neighbour, or any other neighbours in the vicinity of the application site, that would justify a refusal on that basis. In the absence of any identified material harm, it is concluded that the proposal would be acceptable in terms of its impact on neighbouring amenities.
- 15.4 There are some concerns with regards to the resulting appearance of the outbuilding which would be comparable to a small residential dwelling as a result of the added windows. These are, however, located away from public view and with the exception of the relocation of the previously approved window and door in the side elevation, the proposal would not have any impact on the street scene. The relocation of the two openings in the side elevation is not considered to cause any significant harm to the character and appearance of the application building or that of the surrounding area and there is therefore no objection to this element of the proposal. Similarly, having regard to the above, whilst the proposed openings in the rear elevation are considered to give the garage a more residential appearance, its use for parking purposes only is secured via the condition on the original consent for the garage and this, coupled with the location of the openings to the rear and away from public views, would ensure that the proposed development would not be conspicuous from any vantage point or result in an unacceptable impact on the character and appearance of the surrounding area.

As set out above, the proposal would not cause any materially harmful impact on neighbouring amenities and the number of parking spaces would remain the same, thereby complying with current parking standards.

- 15.5 The comments with regards to the potential use of the garage are noted; however, as stated above, the original consent restricts the use of the garage to the parking of motor vehicles and for the sole purpose of the occupier of 40 Boadicea Way and any other use of the garage would be in breach of this condition. Similarly, the existence of the garage is a matter of fact and the only relevant matters in the determination of this current application are the impact the proposed windows and the relocation of the existing openings have on neighbouring amenities and the character and appearance of the surrounding area. Therefore, no further consideration is given to the location of the garage and its potential impact in terms of loss of light as these are matters that would have been given adequate consideration in the determination of the original application.

16.0 Conclusion

- 16.1 On the basis of the above, it is concluded that, on balance, the proposed development accords with the Council's policy requirements. It is, however, considered necessary to reiterate the fact that the garage shall only be used for the purpose of parking motor vehicles and by the occupiers of 40 Boadicea Way (or their visitors) only, to ensure that the garage is not used for any other purpose which would require a detailed assessment in terms of its acceptability. Given that this condition and the previous consent remain extant, it is not necessary to impose the same condition on the current application and the reminder should therefore take the form of an informative. Furthermore, although the submitted drawings state that the proposed windows would be fitted with obscure glazing, with the velux rooflights also being non-opening, it is considered necessary to reiterate this by way of a condition, to ensure that these windows are retained as such at all times.

17.0 Recommendation

- 17.1 APPROVE subject to conditions and informatives.

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers BOJKO3 Sheets 1 to 3 of 3 dated 29th October 2015.

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

3 - Non-Standard Condition/Reason

The 2no. windows and 2no. rooflights in the northern elevation hereby approved shall be permanently retained in their approved form.

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

4 - Non-Standard Condition/Reason

Notwithstanding the provisions of the The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class A, no windows or openings other than those hereby permitted shall be inserted into any wall or roof-slope of the garage.

Reason: In the interests of residential amenity.

19.0 Informatives

(1) PLEASE NOTE that the original consent for the double garage the subject of this application (reference 146125) conditioned its use to the sole purpose for the parking of motor vehicles and for the sole benefit of the occupants of 40 Boadicea Way or their visitors, and for no other purposes whatsoever. This condition remains extant and should be adhered to at all times.

20.0 Positivity Statement

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

