

Planning Committee Meeting

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

Thursday, 07 July 2022 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.

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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The Council audio records and streams public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

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

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

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www.colchester.gov.uk

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 07 July 2022 at 18:00

The Planning Committee Members are:

Cllr Lilley
Cllr Barton
Cllr Chapman
Cllr Chuah
Cllr Mannion
Cllr McLean
Cllr Maclean
Cllr McCarthy
Cllr Nissen
Cllr Tate
Cllr Warnes

Chair
Deputy Chair

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:

Tracy Arnold	Molly Bloomfield	Michelle Burrows	Roger Buston	Mark Cory
Pam Cox	Adam Fox	Mark Goacher	Jeremy Hagon	Dave Harris
Mike Hogg	Richard Kirkby-Taylor	Sue Lissimore	Andrea Luxford Vaughan	Patricia Moore
Beverly Oxford	Gerard Oxford	Kayleigh Rippingale	Lesley Scott-Boutell	Paul Smith
Dennis Willetts	Barbara Wood	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

This meeting will be audio livestreamed to the Committee's webpage:

[· Colchester Borough Council \(cmis.uk.com\)](http://cmis.uk.com)

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will 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!

At meetings of the Planning Committee, members of the public may make representations to the Committee members. 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 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.

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

The Councillors will be invited to confirm that the minutes of the meeting held on 28 April 2022 and 9 June 2022 are a correct record.

Planning Committee Minutes 280422 7 - 14

2022-06-09 CBC Planning Committee Minutes 15 - 22

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 220154 & 220155 garage site between 7 & 9 Prospero Close Colchester and Garage site adj, 15 Prospero Close, Colchester 23 - 50

220154 - redevelopment of site to involve the demolition of the existing garages and provision of 2 no. one bedroom units.

220155 - redevelopment of site to involve the demolition of the existing garages and provision of 2 no. one bedroom units.

7.2 220147 Garage Block, Wheeler Close, Colchester 51 - 70

Demolition of existing garages and redevelopment of site to provide 6x2 bedroom flats.

Planning Committee Information Pages v2 71 - 82

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)

PLANNING COMMITTEE
28 APRIL 2022

<i>Present: -</i>	Councillors Davidson (Chair), Barton, Chuah, Lilley, Maclean
<i>Substitutes: -</i>	Councillor Loveland for Councillor Hazell Councillor G. Oxford for Councillor B. Oxford Councillor Pearson for Councillor Warnes
<i>Also in attendance:</i>	Councillor Chapman

911. Minutes

The minutes of the meeting held on 31 March 2022 were confirmed as a correct record.

912. 211392/393 Land at the Folley, Layer de la Haye, Colchester

The Committee considered two outline applications for residential development, including a Rural Exception site. The application was referred to the Committee as it was a major application with representations received raising material planning considerations and it was also a departure from the currently adopted Development Plan.

The Committee had before it a report in which all information was set out together with additional information on the Amendment Sheet.

James Ryan, Planning Manager (South), presented the report to the Committee and assisted the Committee with its deliberations.

Daniel Watts of the Tollgate Partnership Ltd addressed the Committee in support of the application pursuant to the provisions of Planning Committee Procedure Rule 8(3). This was a low density development with only 14 units per hectare. It was the result of consultation with the Parish Council and officers and had been brought forward because of his family's long association with the village. His father had been a long standing resident of the village and had wanted to provide housing specific to the parishes needs and officers had suggested that this could be met through a Rural Exception site. This would provide affordable housing in line with the borough's needs but would also give residents of the parish first refusal of the properties in perpetuity. The applicants wanted to ensure that the site was not overdeveloped and was open and accessible. The overall site would provide 34% affordable housing. Eight of the affordable units would be dedicated to Layer de la Haye in

perpetuity. Financial contributions to the community and parks and recreation would also be provided together with a 10% increase in tree and canopy cover together with 10% biodiversity net gain. There would be two access points but no through route through the development. Essex Highways raised no objection on highways issues. The development was also in line with the emerging Local Plan.

Councillor Ellis attended and with the consent of the Chair addressed the Committee. The plans for this application had been a long time in gestation and both he and Councillor Bentley had met the applicant and discussed the application with the Parish Council. The plans did not meet with universal approval in Layer de la Haye. The increase in the number of residents would increase traffic flows and the demands on the facilities and services in the village. It was noted that the site had been submitted for examination in section 2 of the Local Plan so development was likely to happen. On that basis the ward Councillors had worked with the Parish Council to mitigate the impact and ensure any benefits were reaped by the local community. The inclusion of a Rural Exception site was welcomed as it would provide affordable housing for residents of the village in perpetuity. There would also be a further 16 affordable units on the main site. These would be subject to a policy he was hoping to introduce for the borough known as “Communities that grow together, stay together”. Affordable housing that ensured families could stay close together brought social, environmental and economic benefits and would allow people in Layer and its surrounding villages to remain close to their support networks. The development would be able to absorb all the current applicants on the Council’s Housing Needs register in Layer de la Haye and the vast number of those registered in local villages. If successful, the policy would be rolled out across the whole borough. It would be beneficial if Salcott and Layer Marney could be added to the second tier of the cascade parishes.

In discussion, the Committee expressed its broad support for the proposal. The extensive package of planning gain was noted and the Committee particularly welcomed the allocation of housing to those with links to the local community. It supported the proposal that Salcott and Layer Marney be added to the second tier of cascade parishes. Some concerns were expressed about the density of the proposed development but the Planning Manager reassured the Committee that the proposed density of 14/15 dwellings per hectare was low for a new housing development. It was noted that design would be considered at the reserved matters stage, but that the design would be tenure blind.

The Committee also explored issues relating to the access arrangements and whether it would be preferable to have two access points off the Folley rather than using the existing estate network. The Planning Manager explained that these issues had been explored with the Highway Authority who were content with the proposed arrangements. The estate roads were wide and well-engineered. The inclusion of just one access off the Folley would help retain its character. The development linked into the existing footpaths and was permeable in terms of pedestrians.

RESOLVED (UNANIMOUS) that the application be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal

agreement is not signed within 6 months, authority be delegated to the Assistant Director to refuse the application, or otherwise to be authorised to complete the agreement. The Permission also be subject to the conditions set out in the report and the Amendment Sheet, for which delegated authority was granted to add to and amend as necessary, together with the addition of Salcott and Layer Marney to the list of cascade villages for the letting agreement.

913. 212943 Land to Rear of 6-12 Villa Road, Stanway, Colchester CO3 0RH

The Committee considered an application for the erection of 3 commercial units (class E) and car parking. The application was referred to the Committee as it had been called in by Councillor Dundas, Councillor Scott-Boutell and Councillor Hagon for the reasons set out in the report.

The Committee had before it a report in which all information was set out together with additional information on the Amendment Sheet.

Nadine Calder, Principal Planning Officer, presented the report to the Committee and together with Simon Cairns, Development Manager, assisted the Committee with its deliberations.

Parish Councillor Dave Chambers of Stanway Parish Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8(3) in opposition to the application. He explained that the site was a Youth Garden and had been created by former Councillors Sykes with Stanway Parish Council. Over the years it had become a focus of anti-social behaviour and the Parish Council had removed the damaged equipment from the site to clean it up. The company which ran the shops in Villa Road had then requested permission to enlarge the car park and improve the remaining garden. The Parish Council supported this but had subsequently discovered they were not the owners of the land. The Parish Council opposed the application and it had been called in by all three ward Councillors. The Parish Council was not fundamentally opposed to development on the site but was concerned by the loss of plants and vegetation to maximise retail space. There was already sufficient retail space and housing development in Stanway.

Robert Pomery, agent for the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8(3) in support of the application. The route through the site from Villa Road to Tollgate East was not a public right of way. All the land on both sides of the site boundary was privately owned. On the Tollgate East side the owners had allowed access along a strip of land adjacent to the footway to Tollgate East and were content for this to continue for the foreseeable future. Whilst local Councillors seemed to be unaware of this, there was a sign on an adjacent building confirming the position. The proposal was not dependent in planning terms on there being a footway through the site. Its existence or otherwise was not a material planning consideration. The applicant could not deliver the route as not all of the land necessary was in his control so the application should not be made dependent on maintaining the route. The applicant wished to make better use of some underused land which had been the subject of anti-social behaviour. The site would be better managed. There was no objection from statutory consultees or from neighbours and the application was policy compliant.

Councillor Scott-Boutell attended and with the consent of the Chair addressed the Committee. The footpath was created by Stanway Parish Council and received retrospective planning permission in 1991. Proposals to improve the area through a drought garden were put forward in 1992. As part of the landscaping agreement a path around the landscaped area was created. No application was ever made to change the use from a drought garden to a youth garden as it was believed that the Parish Council owned the land. The footpath was used heavily and was often congested, particularly at school run times. As the footpath was maintained by Stanway Parish Council there was no need for Essex County Council to create a footpath and take responsibility for this link. If the application were approved who would be responsible for the maintenance of this link and enforcement of the no cycling sign? Who would be liable in the event of an accident? Would the applicant provide a delineated footpath with new surfacing and drainage? Disabled bays should be provided in the existing car park. A litter bin in line with Council's new litter bin policy should be provided and the graffiti removed.

In response to the comments made by speakers, the Principal Planning Officer explained that whilst some trees would be removed there would be mitigation and overall 10% biodiversity net gain was anticipated. In terms of the footway, this was on private land and the applicant was under no obligation to provide it. It would be difficult to justify refusal on these grounds as the proposal would make better use of the site and would improve the footway. Issues relating to the maintenance of the footway were for the landowner. In respect of the suggestion that bays for disabled drivers be provided, if the car parking area was laid out bays for disabled drivers could be provided but this could reduce the number of spaces overall. An updated arboricultural report had been received and needed to be included as a condition in the final decision.

In discussion, the Committee noted that the footpath was heavily used and suggested that an informative be added to any decision asking the landowner to consider bequeathing the land to the Parish Council for use as a footpath. Confirmation was also sought as to whether there was a highways objection to the scheme, and the extent of the tree loss. Members of the Committee expressed support for the suggestions made in respect of the provision of a disabled parking bay and a litter bin.

The Principal Planning Officer explained that whilst some loss of trees was unavoidable there would be overall biodiversity net gain. The Development Manager explained that the policies on canopy cover in the Emerging Local Plan had outstanding objections so limited weight could be attached to them. There were conditions in place to address concerns relating to the canopy cover and a refusal on these grounds could not be sustained. The Principal Planning Officer confirmed that there had been a highways objection on a previous scheme but this had now been resolved.

RESOLVED (UNANIMOUS) that the application be approved subject to the conditions and informatives set out in the report and Amendment Sheet together with:-

- the condition relating to approved plans and documents be amended to include the Arboricultural Impact Assessment;
- An informative to encourage the passing of ownership of the footway to Stanway Parish Council;
- The provision of a litter bin as part of the landscaping condition;
- An additional condition requiring the provision of a disabled parking bay.

914. 220717 North Station Road and North Hill, Colchester

The Committee considered an application for advertisement consent for the replacement of the existing “fixing the link” flags with a small change to the design. The application had been referred to the Committee as Colchester Borough Council was the applicant.

The Committee had before it a report in which all information was set out together with additional information on the Amendment Sheet.

RESOLVED (UNANIMOUS) that the application for advertisement consent be approved subject to the conditions and informatives set out in the report and the Amendment Sheet.

915. 220148 - Land to the West of Cross Cottages, Boxted

The Committee considered an application for the redevelopment of the site to create 7 new residential units. The application was referred to the Committee because the applicant was Colchester Amphora Homes Ltd on behalf of Colchester Borough Homes.

The Committee had before it a report in which all information was set out together with additional information on the Amendment Sheet.

Nadine Calder, Principal Planning Officer, presented the report to the Committee and together with Simon Cairns, Development Manager, assisted the Committee with its deliberations.

Parish Councillor Jonathan Hunt of Boxted Parish Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8(3) in opposition to the application. Boxted did not fundamentally oppose the provision of affordable housing but did oppose this particular application. The site had been developed as a garage site for Cross Cottages in the 1960s and had continued to serve that purpose at various times since. At present between 11-15 cars and work vans used the site. Whilst it was suggested that the proposal would provide policy compliant parking for Cross Cottages, Boxted was poorly served by public transport and any new residents of working age would require a car and therefore the minimum provision would not meet need. Vehicles using the site would be displaced to surrounding roads which would be in contravention of highways and local plan policies. There had been a failure to assess holistically the impact of this displacement on congestion and road safety. Issues about emergency vehicle access to Cross

Cottages had been reported in the past and these would be exacerbated. Boxted Parish Council wanted to work with Colchester Borough Council to find a solution that suited all parties and to maintain the current parking amenity. Residents had found the process difficult and poorly communicated.

Rebecca Howard addressed the Committee pursuant to the provision of Planning Committee Procedure Rule 8(3) in support of the application. The application would provide seven high quality new homes available for social rent with priority for those with a local connection. They would include improved accessibility features. It was considered that it would result in a visual enhancement of the locality and would be a sympathetic addition to the street scene. Local residents and the Parish Council had been consulted and their views and concerns had been listened to. Amendments had been made to the layout, landscaping and car parking to address their concerns. A car parking displacement survey had been undertaken which had demonstrated that there were 27 spaces available on Dedham Road and at Cross Cottages with spaces still available at the times surveyed. Therefore the development would not create an adverse parking impact. Under the terms of the policy, two visitor parking spaces were required. However, eight would be provided. This over provision would help address the need from the informal arrangements in place. The proposal was wholly compliant with the development plan.

A written statement from Councillor Barber in opposition to the application was read to the Committee with the consent of the Chair. Whilst the merit in developing this brownfield site was recognised he shared the concerns raised by residents in respect of parking. Approximately 13-15 cars parked on the site daily and this helped alleviate parking issues elsewhere in the village. Whilst the development included a few extra visitor spaces it would lead to an overall net loss of eleven parking spaces. There was an existing issue on Dedham Road which was subject to an application that the Local Highway Panel was examining. There was also a risk that this would undermine the work being done to promote more sustainable transport to and from the primary school. As this was an application being brought by the Council, the Committee should be able to make its decision without the worry of an appeal.

Councillor Chapman attended and with the consent of the Chair addressed the Committee. He had suggested that this land be made formally available for parking by residents in approximately 2009 and this had been agreed by Colchester Borough Homes. There had been some representations at the time that the land should be made available for development. The use of the site had gradually increased over time. The consultation with residents had not been undertaken in an empathetic way. Councillor Barber was working hard to find a solution to the parking issues which would probably involve parking in Dedham Road. It was appreciated that this was a difficult issue for the Planning Committee and that there may not be planning reasons to justify a refusal. However, any help the Planning Committee could give in resolving the issue would be appreciated. In the long term the Council needed to work with the Parish Council to look at better public transport and car parking solutions.

The Principal Planning Officer responded to the public speakers and explained that there were no garages on the site. The Council had allowed residents to park there

on an informal basis. The land was private and the applicant had no obligation to provide car parking for Cross Cottages. Nevertheless, additional car parking spaces were provided in the scheme to help address the parking need of residents of Cross Cottages. However in planning terms it was not the developer's responsibility to provide a parking solution for Cross Cottages. The current use of the site was not an efficient use and generated no income for the Council. Whilst the point made about an appeal was noted, if the Council could not develop the land it may look to sell the land to a private developer, who may address the parking issues in a less sympathetic way.

In discussion, members of the Committee noted that there was no highways objection to the scheme. In response to the reference to the Local Highway Panel scheme referred to by Councillor Barber, the Principal Planning Officer explained the scheme was on the Local Highway Panel's list but it was complex and needed funding so there was no imminent prospect of the scheme being implemented.

The Committee expressed some concern about the potential impact of the displaced parking that could arise, particularly on emergency access, and explored what parking provision there was for Cross Cottages. The Principal Planning Officer explained that when they were built they would have been parking complaint at that time. However over time some had built extensions or had garages removed, although she did not have the current figures. However it was reiterated that Cross Cottages was not part of the application and issues around access to Cross Cottages was not a material planning consideration. Parking surveys had been conducted over the past two years and site visits made which had shown that approximately six cars were usually parked there, although it was appreciated that this could have increased recently. There was scope to increase car parking on the site by up to three spaces, but it would be at the expense of green space.

Members of the Committee also stressed the growing need for affordable housing in rural areas. Whilst the suggestion to increase parking at the expense of biodiversity was noted some members felt that this ran contrary to the Council's declaration of a climate emergency. The Council also had a responsibility to make the most of its assets for the benefit of local residents. It was also noted that there were no objections from statutory consultees.

Members of the Committee also explored whether the design could be amended to incorporate more parking. The Development Manager explained that further investigation could be made into using the spaces between the buildings more efficiently. It was suggested that if it was so minded the Committee could grant delegated powers to examine this issue to create more parking, and to grant permission subject to the creation of two additional parking spaces. This would be a significant concession to local feeling on the parking issue. It was emphasised that what was proposed was exploring the use of the gaps between the buildings and not altering the proposed built form.

It was suggested by a member of the Committee that the application be deferred for further negotiations and brought back to the Committee but the consensus was that delegating the decision to officers would enable the issues to be dealt with satisfactorily, without the time involved in a further referral back to the Committee.

RESOLVED (SIX voted FOR, ONE voted AGAINST and ONE ABSTAINED from voting) that the application be approved subject to the conditions and informatives in the report and the Amendment Sheet subject to the delegation of powers to officers to seek revisions to the layout to deliver a further two visitor parking bays on site.

PLANNING COMMITTEE

9 June 2022

<i>Present:-</i>	Councillors Lilley (Chair) , Chuah, Kirkby-Taylor, MacLean, Mannion, McCarthy, McLean, Moore, Smith, Warnes and Wood
<i>Substitute Member:-</i>	Cllr Smith Substituted for Councillor Barton Cllr Moore Substituted for Councillor Chapman Cllr Kirkby-Taylor Substituted for Councillor Nissen Cllr Wood Substituted for Councillor Tate
<i>Also in Attendance:-</i>	Cllr Burrowes Cllr Cory Cllr Harris Cllr Luxford-Vaughan

903. Minutes

It was noted that no minutes were submitted for approval at the meeting.

904. 210965 Land at Broadfields, Wivenhoe

The Committee considered an application for the construction of residential development, access, landscaping, public open space, and associated infrastructure works. The application was referred to the Planning Committee as it was called in by Councillor Mark Cory for the following reason:

The application contravenes numerous Wivenhoe Neighbourhood Plan policies.

And

Matters relating to the Wivenhoe Neighbourhood Plan site location boundaries, as well as associated issues with traffic and transport impacts; the access road; Elmstead Road impacts including Broad Lane junction; cycle path position; adjacent land ownership must be confirmed as public (Councils) or Fields in Trust; quality of housing and environmental standards; ensuring affordable homes at 30% and a localised priority scheme for Wivenhoe.

The Committee had before it a report and amendment sheet in which all information was set out.

James Ryan, Area Planning Manager, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the location of the site and the details of the position of the proposed 120 dwellings. The Committee heard how the proposed dwellings were situated at the end of Richard Avenue and north of the power lines on site. The Planning Manager detailed the location of the proposed sports pitches and that these would not be under power lines and that the applicant had submitted plans for dwellings north of the power lines to ensure that the dwellings were of good design meeting space

standards and not creating an urban environment. It was noted by the Planning Manager and the Applicant that this did not conform to the Neighbourhood Plan but that there was not any identified material harm identified by Officers created by the proposed 35 dwellings located to the north of power lines. The Planning Manager concluded that the proposal was weighed in favour of approval in officer's opinion and that the officer's recommendation for approval was set out in the Committee report.

Kevin Read addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard how the speaker was the Chair of Wivenhoe Planning Committee and that the neighbourhood plan agreed that the site required 120 dwellings but it was acknowledged that there were land ownership issues with regard to the southern area of the allocation. The speaker outlined that the proposal did not contain any 1 bed dwellings which contravened the Neighbourhood Plan and that the applicant should go back to the drawing board with regards to the designs of the dwellings as they were not in keeping with the local area. Members heard that there was no access to cycle paths or walkways that were detailed in the Neighbourhood Plan and that if approved the resolution should include further conditions regarding construction traffic and movements. The speaker concluded by summarising that the Neighbourhood Plan was supported by over 3000 votes from local residents and asked that the application be refused.

Samuel Caslin (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the site had been purchased in 2020 and the application before Members was the culmination of 2 years of collaborative working and outlined that the Neighbourhood plan was not subject to technical analysis. The Applicant explained that the proposal had been recalibrated from what was included in the Neighbourhood Plan as it was the only way to not create an overdeveloped area. The Applicant elaborated that if the dwellings had been concentrated in the allocation area then the application would not have accorded to the design principles in the Neighbourhood Plan. The speaker concluded by outlining that they had sought legal advice regarding the distribution of dwellings, that the proposal would be providing the sports pitches in the local plan as well as safeguarding the wildlife site to the east of the site, and asked that the application be approved as detailed in the officer recommendation.

With the permission of the Chair, Councillor Andrea Luxford-Vaughan addressed the Committee. The Committee heard that the detailed red plan had not been shared with the Town Council and that the proposal before Members would be building outside the designated boundary in the Neighbourhood Plan and the applicant knew the requirements of the site including the constraints when they bought the land which included the attenuation basin which could be put underground. It was further elaborated that the land to the south of the site was going to be built on by a separate developer. The visiting Councillor concluded that the proposed development did not provide the necessary connectivity across the site and made the design unsustainable.

With the permission of the Chair, Councillor Michelle Burrowes addressed the Committee. The Committee heard that the proposal before the Committee was not compliant with the Adopted Neighbourhood Plan with 25% of the proposed dwellings being beyond the defined limit. She elaborated that the proposed tenures did not reflect the evidence base for the local need and that the upkeep of the open green spaces would be paid for by future residents. Related to this was the lack of green and blue infrastructure with the site giving prominence to vehicular movements and raised concern that some of the dwellings could not be served via a fire hydrant and would require sprinklers to be installed. The visiting Councillor concluded by outlining that the proposal did not adhere to the Neighbourhood Plan which was being ignored.

With the permission of the Chair, Councillor Mark Cory addressed the Committee. The Committee heard that if the proposal was approved then it would set a dangerous precedent with regards to Neighbourhood Plans and the emerging Colchester Local Plan. The Visiting Councillor elaborated that Colchester Borough Council supported Neighbourhood Plans and that the adopted plan in Wivenhoe had taken hundreds of hours to prepare and showed that 89% of residents supported development in the area. He confirmed that there were outstanding issues with Anglian Water, cycle paths being behind dwellings and that there was no restriction of Permitted Development rights. It was also noted that the sports pitches that were being provided did not have any additional parking or facilities and asked that the natural area should be protected via a covenant. He concluded by reminding the Committee that RAMs contributions were not paid to Colchester Borough Council and outlined that approving the proposal would set a precedent for future neighbourhood plans.

At the request of the Chair the Area Planning Manager responded to the points raised by the Have Your Say speakers and visiting Councillors. The Committee heard that the application was being assessed on its own merits and that officers did not consider that there was demonstrable harm identified by Officers of development being north of the power lines. He outlined that the sports pitches were a long way back from the power lines, that the additional space for the number of dwellings allowed for a more attractive development that would otherwise be cramped, and that there was the possibility of further development to the South. It was noted that the scheme did comply with the required housing mix in the Neighbourhood Plan of 1 and 2 bedroom dwellings, that Anglian Water had removed their objection, and that a management company would service the open spaces except the sports pitches. The Committee heard that the use of underground crates were a last resort for drainage issues, that it would be unreasonable to ask for further infrastructure on site for the sports pitches and that the RAM's contribution would be paid to Essex County Council. The Area Manager concluded by outlining that the sports pitches were in a better position than originally proposed and confirmed that the removal of Permitted Development Rights was included in the Officer recommendation.

The Area Planning Manager responded to further questions from the Committee and responded that: there was no vehicle access to Elmstead Road except for construction purposes and that the Neighbourhood Plan required a single point of access, that the applicant had done an assessment of the site and found that it was not possible to provide a scheme that is workable within the allocation area which is why a non-compliant scheme had been submitted.

The Committee debated the application on the issues including: the design of the proposal including the location of the Sustainable urban Drainage area and the harm to the landscape. The Committee raised significant concern regarding the impact that that would have on the neighbourhood plan and the precedent it would set in the future.

RESOLVED (BY EIGHT VOTES FOR and ZERO AGAINST with THREE ABSTENTIONS)
That the application was refused as it was contrary to the Wivenhoe Neighbourhood Plan site allocation policy; failure to comply with the settlement boundary causing landscape harm and visual intrusion of housing in views from the highway to the north of the site. Further delegation is given to the Development Manager to finesse the wording as appropriate.

905. 211788 Land West of 194 and East of 202 Old London Road, Marks Tey

The Committee considered an application for the development of the site for commercial, business and professional services (Class E,C and G), general industrial (Class B2) and storage and distribution (Class B8) purposes with associated access, parking including provision for lost residents on-street parking and landscaping, including diversion of a public right of way, and off-site highway improvement to the Old London Road and its junction with the A120. The application was referred to the Committee as it was classified as a major, a s.106 agreement is required and objections have been received.

The Committee had before it a report and amendment sheet in which all information was set out.

Simon Cairns, Development Manager, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the location of the site next to the A12 carriageway and showed photographs Old London Road. The Committee were shown the access to the site, the combination of buildings on the site and how this had changed since the application had previously been before the Committee. It was noted how there were proposed changes to the footways as well as placement of the buildings further away from the existing residential development as well as green wall planting to mask some of the industrial facets of the warehouses where these faced sensitive boundaries. The Committee heard that there was a provision of photovoltaic panels on top of the largest warehouses/business units and that discussions had taken place between Officers and the Parish Council and reported that there was still significant concern regarding the proposed development and the Neighbourhood Plan and Highways improvements. The Planning Manager elaborated that there were no records of accidents or injuries along Old London Road and concluded by stating how the proposal would promote employment and would provide an additional 96 HGV traffic movements every day.

Owen Walker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard how the traffic impact on the local area could be substantial but could be resolved, that Old London Road was a substandard road whereby two HGV's could not pass each other without mounting the pavement. The Committee were asked to note that Old London Road was a designated cycling route, that the Andersons site further down the road had previously been approved so there would be further traffic movements and that the access and details surrounding the site were crucial in determining the application.

John Bowles, Planning Agent Savills, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support to the application. The Committee heard that since the scheme had been deferred significant work had been undertaken to soften the scheme and to reduce the quantum of development on the site. The Committee heard how National Highways had accepted the proposed access and transport proposals and had included additional off street parking. The speaker concluded by outlining that there were no substantive grounds to warrant a refusal and commented that their client was willing to accept the amended conditions contained within the amendment sheet.

The Planning Manager responded to questions from the Committee on issues including: that the development could not be held hostage to any proposed road works that would take place in the future and that the committee could seek further off street parking if they were minded to approve the application. The Planning Manager continued by outlining that there were extensive conditions covering the hours of operation on the site as well as the impact on residential amenity regarding noise created from the site.

The Committee debated the application on issues including: the Traffic Regulation Order along Old London Road and the implications of proposed highways mitigation measures and their timing with wider A12 improvements, the site's relationship with the Neighbourhood Plan, and that the Committee wanted to see additional photovoltaic panels on the site.

The Chair invited Eric Cooper from National Highways to address the Committee regarding the proposed upgrades to the A12 and its relationship with the proposal before the Committee. The Committee heard that plans for the improvement work were going to be submitted in July and with all going well it could be completed by 2027. The Committee heard that National Highways (formerly Highways England) had reviewed the evidence from the Applicant regarding the proposed mitigations and found that they were acceptable considering the size of the application.

The representative from National Highways responded to questions from the Committee on issues including: that National Highways would be content to remove a Traffic Regulation Order along Old London Road if the data agreed with that conclusion and outlined that residents would be able to comment on that process.

The Committee continued to debate the application on the issues including: that the noise created from the site could not exceed the background level as detailed in condition 26, and whether the applicant would be able to implement the footpath from the site as opposed to the Parish Council.

RESOLVED (UNANIMOUSLY) that application 211788 was approved as per the officer recommendation and amendments sheet with additional conditions to cover SuDS (ZCM), BREAM "very good" for office unit 1100 (ZCC/ZCD), Further condition seeking to maximise PV on all roofs plus report to confirm no resultant glint/glare, revised access conditions to provide for review of proposed arrangements and upgrading of Old London Road prior to commencement, having regard to progress of delivery of planned A12 improvements, to include possible single access to serve whole of application site plus Andersons site. Together with an amended S106 clause if it was possible for the developer to deliver cycleway-footway link to A120 via Parish Council land prior to occupation of units, if not a financial contribution to be provided.

906. 220959 Rear of, 192-200 Mersea Road, Colchester

The Committee considered an application for retrospective planning for the construction of a single dwelling, following approval ref: 182342. The application was referred to the Committee as it had been called in by Councillor Dave Harris for the following reason: "The build is too high, the windows are too high and the build is too visible from houses on Holm Oak, a very tall bungalow – not built to original planning design. Looking from patio from Holm Oak the roof line is much too high."

The Committee had before it a report and amendment sheet in which all information was set out.

John Miles, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the changes to the building in terms of the built form and the originally agreed plans. The Committee heard that the floor level and external openings of the bungalow would be lowered so that they would be no higher than was originally approved. Further works would be undertaken to increase the height of the fence to the North from 1.8m to 2.0m and photos were shown of the built structure from

various angles and positions on and off site to give the committee a range of views. The Senior Planning Officer concluded by outlining that the officer recommendation was approval as detailed in the report.

Malcolm Laquis-Alden addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard that the pictures shown to the Committee did not provide the impact of what the height of the building was and that the proposal did not respond to the local character of the area and would have a materially harmful impact through its overbearing nature. The speaker elaborated that the application could be refused on design grounds alone and has changed the nature of their property which is now being overlooked. The speaker concluded by asking that the council put a covenant on the building to stop the applicant building into the roof or any higher and that permitted development rights for the property be removed.

Andrew Ransome addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support to the application. The Committee heard that the building had been built incorrectly in error and that the applicant was very apologetic for this mistake which had come about through a lack of experience and outlined that the proposal before the Committee would take the design back to the original as far as it could.

With the permission of the Chair, Councillor Dave Harris addressed the Committee. The Committee heard that the original application on the site had been made in 2018 on a very narrow strip of land and outlined how they had met residents on site and noted that the roof was more akin to a 1.75 storey dwelling and was clear that the building was taller than approved and that it looked more like a village hall than a bungalow. The visiting Councillor elaborated that the existing residents feel overshadowed by the proposal and that there was concern from the local community that the building would be converted into a two storey dwelling. The speaker concluded by asking the Committee to remove the right for building into the roof of the property.

At the request of the Chair the Senior Planning Officer responded to the points raised by the Have Your Say speakers and visiting Councillors. The Committee heard that the height and impact of the dwelling was compliant with the Council's policies, that there was limited visibility from public viewpoints and that the recommendation before the Committee included the removal of Permitted Development rights.

The Committee debated the application on the issues including: the removal of permitted development rights, that the building was on the original area as proposed, the height of the roof, and whether there would be any roof lights proposed. The Senior Planning Officer confirmed that if approved any further alterations including roof lights would require additional planning permission.

The Committee continued to debate the application on the issues including: the structure of the building, whether the building as it was currently built would be approved at Committee if this was the original design, whether the site suffered from drainage issues, and the height of the air bricks.

RESOLVED (By TEN votes FOR and ONE AGAINST) that application 220959 be approved subject to the conditions and informatives in the committee report.

907. 220994 2 Colchester Bike Kitchen & 3 Portal Precinct, Sir Isaacs Walk, Colchester, Essex, CO1 1JJ

The Committee considered an application for shopfront signage for unit 3 Colchester Bike park and e-Cargo Bike Library, and unit 2 Colchester Bike Kitchen – to be mounted on existing fascia. The application was referred to the Committee because the applicant was Colchester Borough Council.

The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that application 220994 be approved subject to the conditions and informatives in the committee report.

908. Changes to the Planning Scheme of Delegation

The Lead Officer for Planning, Housing and Economic Growth presented the report to the Committee outlining that during the pandemic increased delegation was entrusted to officers and group spokespersons from the Committee to allow planning decisions to take place in an efficient and accountable way. The proposal within the report would allow the Committee to focus on the important decisions that come before committee and would remove Permitted Development applications as the Committee could have only very limited influence on these applications and had previously caused frustration with not just the Committee but residents as well. The Lead Officer concluded by outlining the recommendation and confirming that Permitted Development applications would not be available for call in if the Committee approved the recommendation.

The Committee debated the report that was before the Committee noting that it would ease the frustrations of the Planning Committee when Permitted Development applications came before the Committee and enquired whether letters could be sent to residents explaining the limited considerations that could be taken into account with prior approvals.

The Lead Officer for Planning, Housing and Economic Growth confirmed that Letters could be drafted and templates could be drawn up outlining the key information that would be sent to residents and that these could be circulated to the Committee for comments.

The Committee continued to debate the report on the issues including what action could be taken by residents and Councillors regarding Permitted Development applications, however there was concern among some Members that the proposal could away some of the decision-making power of the Committee and could limit public involvement within the planning system. Further to this Members questioned what impact this would have on Permission in principle and the decision-making process. A point was raised whether this could be considered for a trial period of 6 months to understand the impact on the Committee and residents.

RESOLVED (UNANIMOUSLY) That the changes to the scheme of delegation are agreed subject to the following amendments:

- That the changes are agreed for a trial period of six months which will then be reported back to the Committee on the progress of the changes.
- Permission in principle removed from scope and Member notifications on applications to confirm if technically possible whether Permitted Development categories and subject to a delegated decision.

- Templates for each category of PD to be circulated to provide an explanation of the matters withing scope of consideration for third parties.



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Item No: 7.1

Application: 220154 & 220155

Applicant: Colchester Borough Council

Agent: Mrs Rebecca Howard

Proposal: (i) Redevelopment of site to involve the demolition of the existing garages and provision of 2 no. one bedroom units; and
(ii) Redevelopment of site to involve the demolition of the existing garages and provision of 2 no. one bedroom units

Location: (i) Garage site between 7 & 9, Prospero Close, Colchester; and
(ii) Garage site adj 15, Prospero Close, Colchester

Ward: Greenstead

Officer: Nadine Calder

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 These applications are referred to the Planning Committee because the applicant is Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposals, the design, scale and form, their impact on neighbouring amenity in terms of outlook, light and privacy and provision of parking. These matters have been considered alongside planning policy requirements and other material matters, leading to the applications being subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application sites lie within the defined settlement limits for Colchester. They each currently accommodate two flat-roofed blocks of garages located amongst existing residential dwellings on the northern side of Prospero Close. The garages appear to be in a reasonable state of repair and are offered for rent (managed by Colchester Borough Homes). A total of 14no. garages are present on each site.
- 3.2 Site i) is located in between Nos. 7 and 9 Prospero Close while Site ii) is located to the north east of No. 15 Prospero Close. The sites are relatively square in shape and are surrounded by residential development to all sides with Prospero Close directly to the south and Heatley Way being located to the north of Site 2. An area of informal open space is located directly to the east of Site 3. Vehicular access to the sites is gained off Prospero Close to the south west.

4.0 Description of the Proposal

- 4.1 The proposal includes the demolition of the existing garages and the construction of 2 no. 1-bedroom units on each site, with associated landscaping, parking and private amenity provision. The design of the residential units on the two sites is identical. The proposal is to be 100% affordable housing and would be owned by Colchester Borough Council and managed by Colchester Borough Homes. The palette of materials includes red facing brickwork and rockpanel cladding.

5.0 Land Use Allocation

- 5.1 The sites lie within the defined settlement limits for Colchester but have no other allocation.

6.0 Relevant Planning History

- 6.1 There is no planning history that is particularly relevant to the current proposal. The proposed development was however the subject of preliminary discussions in late 2020/early 2021 which helped inform the final scheme

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 Local Plan 2017-2033 Section 1

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. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP7 Place Shaping Principles

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.

- 7.3 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
H4 - Affordable Housing
UR2 - Built Design and Character
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.4 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
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

- 7.5 The sites do not lie in a Neighbourhood Plan Area.

- 7.6 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 is at a very advanced stage having undergone examination hearing sessions in April 2021 with re-consultation on modifications in late 2021. The examiner's report has now been received with Section 2 found to be sound awaiting formal adoption. It must now be afforded significant weight due to its very advanced stage.

Policies relevant to this application include:
SG1 Colchester's Spatial Strategy
SG2 Housing Delivery
DM15 Design and Amenity
DM19 Private Amenity Space
DM22 Parking
DM25 Renewable Energy, Water Waste and Recycling

- 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
Affordable Housing
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 The Arboricultural Officer does not object to the proposals.
- 8.3 The Archaeological Advisor confirmed that there are no archaeological issues arising from the proposed developments.
- 8.4 The Contaminated Land Officer does not object to the proposed developments subject to conditions, including site characterisation, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination and a validation certificate and an informative relating to asbestos.
- 8.5 Environmental Protection raise no objection to the proposal. For Site ii), no conditions are proposed, whereas for Site i) the provision of a Construction Method Statement and the limiting of the hours of work are requested via condition. Officers however consider that these conditions should also be applied to Site ii), should planning permission be granted.
- 8.6 The Landscape Advisor does not object to the proposals subject to conditions requiring full details relating to soft and hard landscaping being provided prior to commencement of works.
- 8.7 The Highway Authority does not object to the proposals subject to conditions, including the existing vehicular accesses to be suitably and permanently closed, the car parking area to have been properly constructed, hard surfaced and sealed prior to the first occupation of the development, all parking spaces measuring a minimum of 5.5m x 2.9m, no unbound material to be used in the treatment of the vehicular parking area throughout, the provision of details for cycle storage and the provision of a construction management plan.
- 8.8 Cadent Gas have no objection to the proposals subject to an informative.

9.0 Parish Council Response

- 9.1 This area is non-parished.

10.0 Representations from Notified Parties

- 10.1 The applications 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.

Site i) (Land between Nos. 7 and 9 Prospero Close)

10.2 One letter of objection and one general comment were received, the main reasons for objecting/commenting were as follows:

- Existing parking problems in Prospero Close;
- Garages form boundary wall, boundary wall needs to be reinstated with a brick wall of the same height;
- Garages may contain asbestos – residents need to be informed during the removal process; and
- Adjoining properties need to be considered and repaired, where necessary, as part of the construction works.

10.3 A further general comment was received from Colchester Cycling Campaign, requesting that convenient secure cycle parking should be provided at one space per bedroom that is as convenient as the car garages/parking.

Site ii) (Land adjacent No. 15 Prospero Close)

10.4 Four households have submitted numerous letters of objection, with one additional household providing a general comment. The main reasons for objecting/commenting were as follows:

- Increase existing parking pressure in Prospero Close;
- Some flats have more than one car;
- Development would restrict access to the back of properties (including by car and for emergency services);
- Proposed boundary enclosure of 1.8m is not high enough;
- The access between the development and neighbouring dwellings is too narrow and obstructing sunlight and ventilation; and
- Garages to be removed are located adjacent to existing residential properties. How will neighbours be protected from heavy rainfall etc.?

11.0 Parking Provision

11.1 Both proposals provide three parking spaces each (one space per dwelling plus a visitor space), which complies with adopted parking standards.

11.2 The scheme however also affects tenanted garages and this will be further assessed in the main body of the report below.

12.0 Accessibility

12.1 With regard to the Equalities Act and compliance with policies DP12 and DP17 that detail requirements in terms of accessibility standards the scheme involves providing a wheelchair accessible unit and has been designed to be inclusive, accessible and adaptable. As the development will be owned and managed by Colchester Borough Homes there is the scope and budget to manage the units in accordance with the needs of the occupants.

13.0 Open Space Provisions

13.1 The proposed dwellings have adequate amenity space overall.

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 These applications are not classed as “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

Principle of Development

- 16.1 The application sites lie within the settlement boundary for Colchester and within an area that is residential in character where development such as that proposed is considered to be acceptable in policy terms; subject to the development satisfying all other aspects of the Development Plan. These are assessed in detail in the following paragraphs.

Affordable Housing Need

- 16.2 Providing more affordable homes is a key corporate strategic priority of the Council, because of the unmet demand that exists. To this extent, the Council has set up a Housing Company, Colchester Amphora Homes Limited (CAHL), to develop mixed-tenure housing schemes with 30% affordable homes alongside private sale property. CAHL have also been appointed to deliver 100% affordable housing on a number of sites, including the development of garage sites.
- 16.3 These applications are two of several submitted concurrently by CAHL for affordable housing on under-used Council owned, Colchester Borough Homes (CBH) managed garage sites. These applications are the result of ongoing work by the Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives.

Design, Layout and Impact on Surrounding Area

- 16.4 At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development, and the Framework indicates that new development should respond to local character and should reflect the identity of its surroundings. This is reflected in Development Policy DP1 and Core Strategy Policy UR2 as well as Section 1 Plan Policy SP7 and emerging Section 2 Policy DM15. These policies state that all proposals should be well designed, having regard to local building traditions, and should be based on a proper assessment of the character of the application site and the surrounding built and natural environment.

- 16.5 The proposed development for the two sites is identical in terms of its design and resembles a pair of semi-detached properties, providing 2no. 1-bed flats each. Site i) is sandwiched between residential properties along Prospero Close while Site ii) would be positioned towards the end of the Prospero Close cul-de-sac, between existing residential development directly to the south west and an area of open space directly to the east. The surrounding area is characterised by mainly terraced dwellings or flats arranged in buildings that resemble semi-detached properties with the existing built development in Prospero Close being of no particular architectural merit. While the proposed development would not follow the architectural approach of the surrounding area, it would be of an appearance that would enhance the visual amenity of its surroundings. The use of brick for the main bulk of the proposed buildings would ensure that the proposal respects the character of existing built development that surrounds the site, with the introduction of contrasting materials (rockpanel cladding) elevating the appearance of the proposed development.
- 16.6 The proposed development would broadly follow the established building line created by existing development located along the northern side of Prospero Close. As set out above, the proposed design and materials would result in the development departing from the existing architectural style of built development surrounding the site, however, it should be noted that the design of the neighbouring buildings is now slightly dated. The Framework (paragraph 134) makes it clear that great weight should be given to proposals that help raise the standard of design in an area, so long as they fit in with the overall form and layout of their surroundings. Whilst the design of the proposed development in itself is not outstanding, as referred to in the Framework, it is considered that a more contemporary approach to the proposed development would create visual interest in an area that is otherwise repetitive in design and appearance. The visual amenity of the surrounding site would therefore be improved, and this would clearly outweigh the slight harm that would be caused by the proposal not repeating existing established design principles and materials used on the surrounding area. As a result, it is considered that the proposal is acceptable in terms of its overall design, appearance and impact on the surrounding area.
- 16.7 It is noted that the building on Site ii), where it faces the open space, would introduce a blank flank wall to this area. New development would usually be expected to face on to areas of open space, however, in this instance, it is noted that there are already a number of dwellings to the east and south east of the site that face towards the open space and thus provide passive surveillance of this area. Whilst it would be visually more attractive if the proposed development benefitted from windows in its side elevation, or at least decorative features in the brickwork, it is noted that windows, or alternative visual interest, in the flank wall of No. 15 Prospero Close, which currently faces the area of open space beyond the garages, are also absent. On this basis, it is considered that an objection on the basis of a lack of windows, for both surveillance of the open space or visual interest to the public realm, could not be justified in this instance.

Impact on Neighbour Amenities

- 16.8 The proposed developments would be located amongst existing residential development. Consideration needs to be given as to how the proposals would affect the occupants of nearby residential properties in terms of loss of light, privacy and overbearing impacts.
- 16.9 The proposed development on Site i) would be sandwiched between Nos. 7 and 9 Prospero Close. It would be staggered between the front walls of the neighbouring properties due to development to the north east being positioned slightly forward of the building line established by properties to the south west. The building would be positioned closer to No. 9 and would retain pedestrian access to the rear of adjoining properties via a walkway, while the gardens of neighbouring and future occupiers of the site are proposed to be enclosed by a 1.8m high close boarded fence.
- 16.10 Neither the existing neighbouring occupiers nor the proposed development benefits from any windows in their flank walls which would ensure that no overlooking or loss of privacy would occur. The same would apply to the proposed first floor windows in the rear elevation of the proposed development, which would mainly provide views over the proposed private rear garden. It is noted that the proposed building would extend slightly beyond the two storey element of the neighbouring property to the east, however, this would not result in any such visual or material harm to the outlook of the neighbour that would justify the refusal of this scheme. Similarly, the proposed development is not expected to have a significant impact on the amount of light the neighbouring first floor rear facing window receives due to the relatively minor infringement of the proposed development on this window and its location to the north west of the neighbour.
- 16.11 Due to the proposed building being positioned closer to the eastern boundary, there is a generous distance between the proposed built development and the existing residential property to the south west of the site, No. 7. The proposed building would be in line with the rear wall of this neighbour and this, coupled with the distance between the two buildings, would ensure that the proposed development would not appear overbearing on the outlook of the neighbouring occupier to the south west, or cause loss of light. As set out above, there are no concerns with regard to overlooking due to the arrangement of existing and proposed windows.
- 16.12 The position of the building has been amended since the consultation exercises have taken place. The original scheme included two parking spaces to the front of the dwelling, which resulted in the building being positioned more centrally within the site. As a result of the two parking spaces now being proposed opposite the site (due to concerns with regards to the practicality of these two spaces), the building has been moved forward. This is not only more reflective of existing built development within the area, it is also beneficial with regard to its impact on the neighbouring occupier to the east, as the original location of the building would have had

a minor impact on the outlook of this neighbour and potentially on the amount of light the first floor rear facing window receives. No reconsultation was carried out following the relocation of the proposed parking spaces and the building. However, this is considered to be acceptable given that the proposed change is beneficial in terms of its impact on neighbouring amenities and the fact that no objections were received with regards to the proposed development's impact on the neighbour to the east or its position within the site. On this basis, it is considered that the application can be determined without the need for a reconsultation. Any representations that may be received following the publication of this report will of course be relayed to Members of the Planning Committee before or at the meeting.

- 16.13 The proposed development on Site ii) would be positioned between No. 15 Prospero Close and an area of open space with residential development beyond. These neighbours however are located a significant distance from the proposed development, beyond the intervening area of open space and as such, would not be impacted by the proposed development. Similar to Nos. 7 and 9, No. 15 does not benefit from any windows in its flank wall and neither does the proposed development. As such, there are no concerns with regard to overlooking or loss of privacy. Also similar to Site i), the building is proposed to be positioned closer to the eastern boundary of the site, i.e. closer to the area of open space. Two parking spaces and a walkway providing access to the rear of Nos. 13 and 15 Prospero Close would be provided between the neighbour to the south west and the proposed building. The arrangement of the proposed development would ensure that no harm would be caused to neighbouring occupiers by way of appearing overbearing on their outlook or causing loss of light.
- 16.14 Concerns were raised with regard to the development obstructing sun light and ventilation as a result of the walkway between the neighbouring property and the proposed building not being sufficiently wide. The existing garages are currently attached to the neighbouring property, while the proposed development would introduce two parking spaces between the neighbouring property and the proposed residential dwelling. As set out above, there is therefore sufficient distance between the two buildings so as to not obstruct any sunlight or ventilation to the neighbouring property and/or garden and the proposal is therefore held to be acceptable in this regard.
- 16.15 With regard to the proposed residential use on the sites, it is considered that this is more compatible with the surrounding area than the current garage sites. The proposal to create 4no. 1-bed units on these sites is held to have the potential to create less comings and goings (and associated noise and disturbance) to and from the sites which would have a positive impact on the amenities of neighbouring occupiers of the site.

- 16.16 Taking into account the above, it is concluded that the proposed developments are acceptable with regard to their impact on the amenities of existing neighbouring occupiers as well as future occupiers of the proposed developments.

Parking and Highway Safety

- 16.17 Adopted parking standards require one parking space per dwelling with one bedroom, plus 0.25 visitor parking spaces per dwelling. On this basis, both proposals would require a total of three parking spaces each. Both proposals provide the required one parking space per residential unit, plus one visitor space, thus complying with the policy requirements.
- 16.18 Secure cycle storage can be provided within the rear gardens, however the details of this are proposed to be secured via condition. The development would utilise an existing and active vehicular access and the area benefits from, and would retain, adequate turning facilities. The development has therefore not attracted an objection from the Highway Authority on highway safety or efficiency grounds. As such, the proposed development is held to be acceptable in this regard subject to relevant conditions.
- 16.19 The proposed scheme however affects tenanted garages. The proposal results in the loss of 28 garages (14 on each site). The garages are unallocated to local residents. They are managed by CBH and are rented out. Information submitted as part of the application states that ten of the 28 garages are rented out to tenants (five on each site). Out of the ten rented garages, seven tenants live within a mile of the site with the remaining three living 2-3 (two) or 6+ (one) miles from the site.
- 16.20 The consultation exercises that have been carried out by the applicants to inform tenants of the garages that the garages they are renting are on a site that has been selected for development potential for affordable housing as part of Colchester Borough Council's ambition to deliver 350 new council homes, has resulted in three responses at the time of writing this report.
- 16.21 The letters explained that if the site is redeveloped the Council would seek to ensure that people who are renting a garage are offered an alternative solution. Attached to the letter was a questionnaire, encouraging tenants to provide information on what they use the garage for and whether they would like to work with the Council to find an alternative garage facility should the site be redeveloped.
- 16.22 Only one respondent provided information on what their garage is used for and in this instance, it was for storage and car parking. Applying the worst-case scenario, a total of seven cars would need to be displaced into the surrounding roads, although it is considered that this number would be lower.
- 16.23 The Car Parking Displacement Survey that was submitted in support of this application states that at the time of their visits, which were carried out on a

weekday at 1pm (this is likely to be less representative) and on a Sunday at 9am, there was sufficient capacity in the immediate surroundings of the site (i.e. within a 100m radius) for additional roadside parking and that the displaced cars would not increase the parking stress within the surrounding area to a significant level.

- 16.24 Whilst it is undesirable to displace vehicles from off-street parking into the highway, it is considered that the absence of any demonstrable harm to the detriment of highway safety and efficiency, combined with and weighed against the wider public benefits of the scheme, which include a 100% affordable housing provision, would suggest that the proposed development is acceptable in this instance.
- 16.25 Furthermore, as set out above, where possible, the Council is willing to work with affected residents to find alternative solutions to mitigate the loss of their rented garage. It was originally intended to also develop the garage site located adjacent to No. 1 Prospero Close, for residential purposes. This application has since been withdrawn and the 14 garages located on this site will now be retained. It is understood that only three garages are rented on this site and that the garages team are currently considering refurbishing these garages. There is therefore scope for very reasonable alternative solutions for those affected wishing to retain a garage locally.

Private Amenity Space

- 16.26 Development Policy DP16 requires that all new residential development provides private amenity space to a high standard, with secure usable space that is also appropriate to the surrounding context. The minimum requirement for flats is 25m² of private amenity space per flat provided communally, resulting in a total of 50m² of private amenity space being required for both developments. These requirements are echoed in emerging Section 2 Policy DM19.
- 16.27 The current scheme provides 108sqm of private amenity space for Site i) and 190sqm of private amenity space for Site ii). The gardens are both secure and usable and the proposed arrangement is therefore appropriate in its context and compliant with adopted and emerging policies.
- 16.28 Policy DP16 also states that *“all new residential development will pay a commuted sum towards open space provision and maintenance.”* No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that *“the standards, outlined above, are to be applied to all additional new residential Units. (...) New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”*
- 16.29 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor

conflict with adopted policy. However, in similar previous cases at Council owned garage sites granted permission in the past, the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. Given that the developer is the service provider, the requirement for contributions is effectively negated. It does not set a precedent for private market housing as this does not provide 100% affordable housing.

16.30 In addition, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council's overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.

16.31 In conclusion, the scheme provides acceptable private and communal amenity space and open space provisions.

Landscape and Trees

16.32 Development Plan Policy DP1 and emerging Section 2 Policy DM15 require development proposals to demonstrate that they respect and enhance the character of the site, context and surroundings including its landscape setting.

16.33 There are a number of trees and hedgerows in the vicinity of the site and accordingly, a Tree Constraints Plan was submitted. Two small hedgerows are proposed to be removed to facilitate the proposed developments with all larger and visually important trees proposed to be retained. The removal of the hedgerows has not attracted any objection from the Arboricultural Officer or Landscape Advisor. Both sites would provide soft landscaping features in front of the proposed buildings, which would aid in softening the appearance of the built development on the surrounding area. Subject to a condition, which would require the existing rear wall on Site i) to be raised to match the existing rear wall to 7 Prospero Close to enhance public amenity, there are no objections to the proposed development on Site i). With regards to Site ii), this originally included the verge in front of No. 12 Prospero Close, where it was proposed to provide parking for the development. The Landscape Advisor requested that a medium to large tree be planted in that space. The proposal has since been amended and parking is provided adjacent the proposed dwelling. The area in front of No. 12 no longer forms part of the application site and as such, it is not considered that the proposed planting of a tree in this location is justified, although it is recommended that this be done anyway in the interests of sustainability. Notwithstanding this, subject to the relevant conditions, the proposed developments are considered to be acceptable in terms of their landscape impacts.

Other Matters

- 16.34 Concerns regarding the removal of the garages, where they are attached to existing properties, are noted. The proposed development does not include any built development adjoining existing properties and the sides of the adjoining properties would therefore become free standing walls while the gardens are proposed to be enclosed by 1.8m high close boarded fences. The applicant is committed to ensure that no damage is caused to the side walls of neighbouring properties and would take all necessary steps to protect neighbouring properties during demolition works. This includes making sure that no gardens are unnecessarily exposed to the public. Whether insulation of the exposed walls will become necessary would need to be explored via building regulations.
- 16.35 Objectors also criticised that the proposed developments would restrict access to the rear and side of neighbouring dwellings to all types of vehicles and emergency services. This concern is not shared by Officers as the existing garages are located directly adjacent the neighbouring houses and gardens, with a walkway to the rear of the sites providing access to the rear gardens of neighbouring occupiers. The rear access to neighbouring gardens would be retained and provided directly adjacent to the boundary with neighbouring properties. This is entirely convenient and secure. Whilst vehicles and emergency services may currently be able to park within the garage sites and closer to the access to the rear of the site (provided no vehicles are parked in front of the garages), the proposed arrangements are not unacceptable with regard to the response times of emergency services. Furthermore, should heavy lifting to move items into/out of neighbouring gardens become an insurmountable issue, then it would be advisable for neighbours to explore the possibility of installing a side gate to their garden. In any event, these matters are not material nor substantial enough to warrant a refusal of the proposed scheme.
- 16.36 Similarly, it is noted that concerns were raised that the proposed 1.8m high close boarded fence is not high or secure enough. Whilst the height of the garages is not currently known, it is considered that a single storey flat roofed garage block directly adjacent to neighbouring gardens is less secure than the proposed fence, given that this could be a more convenient way of accessing neighbouring back gardens. Close boarded fences of 1.8m height is a relatively standard enclosure of gardens and this is therefore considered to be acceptable in this instance.
- 16.37 Refuse and recycling storage facilities would be provided within the individual plots, and it is anticipated that kerbside collection is proposed. The proposed arrangements would not have any adverse impact on the visual amenity of the surrounding area.
- 16.38 The application sites are located within Flood Zone 1 and consequently, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding.

- 16.39 The sites have been used for garaging for some years and therefore a Ground Contamination Report was submitted with this application. The Contaminated Land Officer is satisfied with this report and concludes that the site could be made suitable for its intended use subject to conditions which have been accepted by the agent. There are therefore no objections to the proposals on the basis of contamination.
- 16.40 A payment of £137.71 per dwelling will be made in contribution towards the measures in Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected, and the proposal complies with the Habitat Regulations.
- 16.41 The proposals include the installation of solar panels which would have an economic benefit helping address fuel poverty and mitigating climate change. This element satisfies the criteria of emerging Section 2 Policy DM25 which states that the local planning authority will support proposals for renewable energy projects (including solar panels on buildings) at appropriate locations in the Borough to help reduce Colchester's carbon footprint.

Planning Balance

- 16.42 The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposals would provide economic benefits through the creation of temporary employment during the construction phase. The provision of additional and more modern affordable housing within the Borough generally satisfies the social dimension. The social role of sustainable development is also described as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The proposals are considered to satisfy this objective due to the developments being generally well designed and sustainable. In respect of the environmental aspect, the proposal would remove underused garage sites and provide additional landscaping features. The proposed developments are considered to be of an enhanced visual quality when compared to the existing built development on the sites and would deliver much needed affordable homes in the Borough.
- 16.43 The proposed developments are therefore considered to represent sustainable development. There is also sufficient evidence to be confident that overall, the developments would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network.

17.0 Conclusion

- 17.1 In summary, it is considered that the proposed developments represent sustainable development and would not cause any visual or material harm to the character and appearance of the surrounding area, neighbouring occupiers or highway safety. Consequently, the proposed developments are held to be acceptable.

18.0 Recommendation to the Committee

- 18.1 **The Officer recommendation to the Committee for application reference 220154 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 Drawing Numbers

PROSCL-IWD-XX-XX-DR-A-1001 Rev P03 Existing Location Plan

PROSCL-IWD-XX-XX-DR-A-2001 Rev P05 Proposed Location Plan

PROSCL-IWD-02-XX-DR-A-2055 Rev P1 Proposed Floor Plans - Plots 1 & 2 (Block 2)

PROSCL-IWD-02-XX-DR-A-2057 Rev P1 Proposed Elevations – Plots 1 & 2 (Block 2)

EAS-0109.4 TPP Tree Protection Plan (TPP)

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

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

4. Non-Standard Condition - Hard and soft landscaping

No part of the development shall be occupied until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also proposed planting; details of any hard surface finishes and external works, including raising the existing rear wall to match the existing rear wall to 7 Prospero Close. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried

out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any 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/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

5. ZFE – Landscape management plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

6. ZPA – Construction Method Statement

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel and body washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

7. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

8. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

9. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10.ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

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

11.ZG3 - *Validation Certificate*

Prior to the first occupation of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 10.

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

12.Non-Standard Condition - Closing of Vehicular Access

The existing vehicular access shown on the submitted plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the footway/kerbing to the specifications of the Highway Authority which shall connect to the adjacent and existing footways to provide a continuous footway along Prospero Close.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

13.Non-Standard Condition - Parking Space/Hardstanding Sizes (Open)

The new parking spaces/vehicular hardstanding shall each be constructed to minimum dimensions of 5.5m and 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety.

14.Non-Standard Condition - Car parking area to be constructed

The development shall not be occupied until such time as the car parking area, indicated on the approved plans, has been properly constructed, hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not

be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

15. Non-Standard Condition - No Unbound Surface Materials

No unbound material shall be used in the surface treatment of the proposed vehicular parking area throughout.

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

16. Non-Standard Condition - Cycle Parking

Prior to first occupation of the development hereby approved, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient, 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 ensure appropriate cycle parking is provided in the interest of highway safety.

17. 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: 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.

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application

for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. Non-Standard Informative - Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage: https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169](https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169) under Landscape Consultancy by clicking the 'read our guidance' link)'.

4. Non-Standard Informative - Highway Works

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.

5. Non-Standard Informative - Asbestos in Existing Buildings

In accordance with the applicant's obligations under The Control of Asbestos Regulations 2012, prior to undertaking the permitted development works, an appropriate pre-demolition asbestos survey should be undertaken, by suitable qualified and experienced persons, and any relevant identified material managed, removed safely, and appropriately disposed of at a suitable waste acceptance facility. The enforcing authority for this type of work is the Health and Safety Executive and it is recommended that you contact them directly to discuss their requirements.

Reason: The potential presence of asbestos containing materials (ACM's) on the site is suspected and Environmental Protection wish to ensure that no new contamination pathways are created by the proposed development.

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.

18.2 The Officer recommendation to the Committee for application reference 220155 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 Drawing Numbers

PROSCL-IWD-XX-XX-DR-A-1002 Rev P02 Existing Location Plan

PROSCL-IWD-XX-XX-DR-A-2002 Rev P04 Proposed Location Plan

PROSCL-IWD-03-XX-DR-A-2056 Rev P1 Proposed Floor Plans - Plots 1 & 2 (Block 3)

PROSCL-IWD-03-XX-DR-A-2058 Rev P1 Proposed Elevations – Plots 1 & 2 (Block 3)

EAS-0109.4 TPP Tree Protection Plan (TPP)

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

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

4. Non-Standard Condition - Hard and soft landscaping

No part of the development shall be occupied until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also proposed planting; details of any hard surface finishes and external works. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any 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/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

5. ZFE - Landscape management plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

6. ZPA – Construction Method Statement

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

the parking of vehicles of site operatives and visitors;
hours of deliveries and hours of work;
loading and unloading of plant and materials;
storage of plant and materials used in constructing the development;
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
wheel and body washing facilities;
measures to control the emission of dust and dirt during construction; and
a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

7. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

8. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

9. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

10. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

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

11.ZG3 - *Validation Certificate*

Prior to the first occupation of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 10.

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

12.Non-Standard Condition - Closing of Vehicular Access

The existing vehicular access shown on the submitted plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating an appropriate boundary treatment.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

13.Non-Standard Condition - Parking Space/Hardstanding Sizes (Open)

The new parking spaces / vehicular hardstanding shall each be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety.

14.Non-Standard Condition - Car parking area to be constructed

The development shall not be occupied until such time as the car parking area, indicated on the approved plans, has been properly constructed, hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

15.Non-Standard Condition - No Unbound Surface Materials

No unbound material shall be used in the surface treatment of the proposed vehicular parking area throughout.

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

16.Non-Standard Condition - Cycle Parking

Prior to first occupation of the development hereby approved, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient, 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 ensure appropriate cycle parking is provided in the interest of highway safety.

17.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: 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.

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3. Non-Standard Informative - Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage: https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169](https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169) under Landscape Consultancy by clicking the 'read our guidance' link)'.

4. Non-Standard Informative - Highway Works

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.

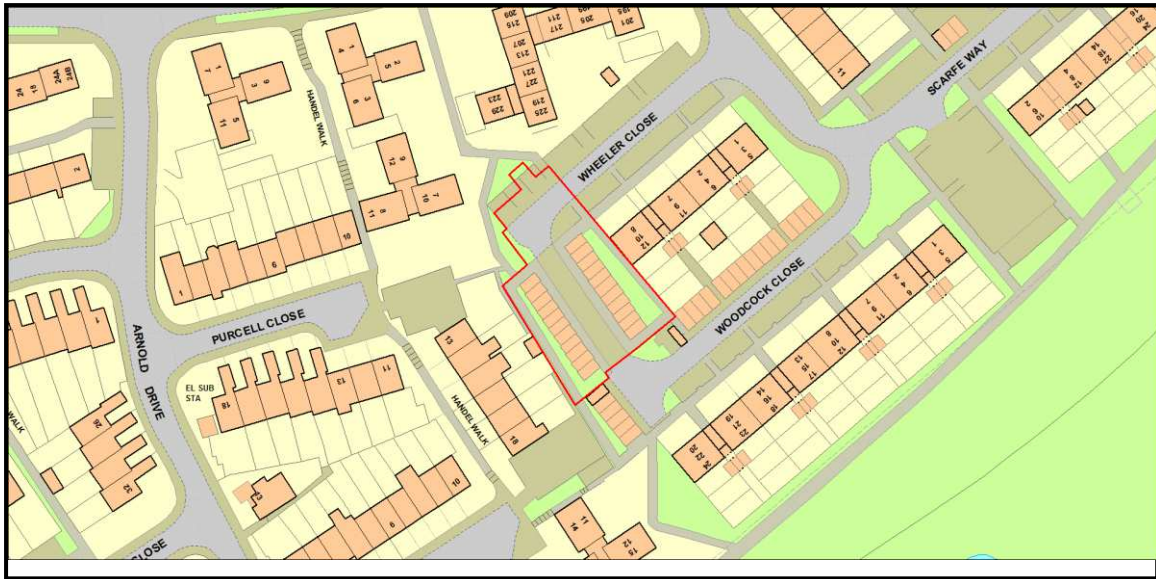
The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

5. Non-Standard Informative - Asbestos in Existing Buildings

In accordance with the applicant's obligations under The Control of Asbestos Regulations 2012, prior to undertaking the permitted development works, an appropriate pre-demolition asbestos survey should be undertaken, by suitable qualified and experienced persons, and any relevant identified material managed, removed safely, and appropriately disposed of at a suitable waste acceptance facility. The enforcing authority for this type of work is the Health and Safety Executive and it is recommended that you contact them directly to discuss their requirements.

Reason: The potential presence of asbestos containing materials (ACM's) on the site is suspected and Environmental Protection wish to ensure that no new contamination pathways are created by the proposed development.

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.



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Item No: 7.2

Application: 220147

Applicant: Colchester Borough Council

Agent: Mrs Rebecca Howard

Proposal: Demolition of existing garages and redevelopment of site to provide 6 x 2 bedroom flats

Location: Garage Block Wheeler Close, Wheeler Close, Colchester

Ward: Greenstead

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 the applicant is Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposal, the design, scale and form, its impact on neighbouring amenity in terms of outlook, light and privacy and provision of parking. These matters have been considered alongside planning policy requirements and other material matters, leading to the application being subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site lies within the defined settlement limits for Colchester. It currently accommodates two flat-roofed blocks of garages in the main body of the site accessed off Wheeler Close, and a block of garages to the south at the end of Woodcock Close. The garages appear to be in a reasonable state of repair and are offered for rent (managed by Colchester Borough Homes). A total of 28no. garages are on site.
- 3.2 The site is irregular in shape and is bounded by residential development to all sides with Wheeler Close and Woodcock Close directly to the north and south of the site. Vehicular access to the site is gained off Wheeler Close to the north east with a footway linking Wheeler Close and other residential development in the vicinity to the Salary Brook running along the western side of the site.

4.0 Description of the Proposal

- 4.1 The proposal includes the demolition of the existing garages and the construction of 2no. three-storey blocks of flats that are attached (reading as a single block) and served by a shared central communal entrance. Both blocks would provide 3no. 2-bed flats each, resulting in a total of 6 no. 2-bedroom flats with associated landscaping, parking and private/communal amenity provision. The proposal is to be 100% affordable and would be owned by Colchester Borough Council and managed by Colchester Borough Homes. The palette of materials includes buff facing brickwork and blue/black facing engineering brickwork.

5.0 Land Use Allocation

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

6.0 Relevant Planning History

- 6.1 In 2013, prior notification for the demolition of a block of garages (a total of 6no. garages) in the northern part of the site was granted (reference 131789). These

have since been demolished and the site laid to hardstanding to provide off street parking spaces.

- 6.2 The proposed development was also the subject of preliminary discussions in late 2020/early 2021 which helped inform the final scheme

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 Local Plan 2017-2033 Section 1

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. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP7 Place Shaping Principles

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.

- 7.3 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
H4 - Affordable Housing
UR2 - Built Design and Character
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.4 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
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
- 7.5 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
- 7.6 The site does not lie in a Neighbourhood Plan Area.
- 7.7 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 is at a very advanced stage having undergone examination hearing sessions in April 2021 with re-consultation on modifications in late 2021. The examiner’s report has now been received with Section 2 found to be sound awaiting formal adoption. It must now be afforded significant weight due to its very advanced stage.

Policies relevant to this application include:
SG1 Colchester’s Spatial Strategy
SG2 Housing Delivery
DM15 Design and Amenity
DM19 Private Amenity Space
DM22 Parking
DM25 Renewable Energy, Water Waste and Recycling

- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
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 The Arboricultural Officer does not object to the proposal subject to the submitted arboricultural report being made an approved document.
- 8.3 The Archaeological Advisor confirmed that there are no archaeological issues arising from the proposed development.
- 8.4 The Contaminated Land Officer does not object to the proposed development subject to conditions, including site characterisation, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination and a validation certificate.
- 8.5 Environmental Protection raise no objection to the proposal subject to conditions, including the provision of a Construction Method Statement and the limiting of the hours of work.
- 8.6 The Landscape Advisor does not object to the proposal subject to conditions which would need to secure a pair of medium sized trees to the rear of the site where at maturity they would overhang the boundary, thereby helping soften the street scene and compensating for the loss of one of the trees.
- 8.7 The Highway Authority does not object to the proposal subject to conditions, including all off street parking to be provided in precise accordance with the details contained within the current Parking Standards, the provision of details for cycle storage, the provision of a construction management plan, vehicular accesses/parking spaces to be constructed at right angles to the highway boundary, the provision of Residential Travel Packs and upgrades to the local bus stop.

9.0 Parish Council Response

- 9.1 This area is 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 Five letters of objection were received, the main reasons for objecting were as follows:
 - Side windows will cause overlooking;
 - Loss of light;

- Loss of garages which are used for parking and storage for properties that have no garden;
- Area suffers from lack of parking;
- Increased traffic/car usage to the area;
- Access to bins will be hindered
- Concerns that new properties will attract anti-social behaviour in Wheeler Close; and
- Construction of block of flats in Scarfe Way has resulted in insufficient parking in the area.

10.3 A further general comment was received from Colchester Cycling Campaign, requesting that convenient secure cycle parking should be provided at one space per bedroom that is as convenient as the car garages/parking.

10.4 A reconsultation, which incorporated the block of garages at the end of Woodcock Close into the application site, resulted in three of the households that originally objected reiterating their objections and adding the following comments:

- Balconies will increase noise pollution;
- There are safety issues with making Wheeler Close and Woodcock Close a cul-de-sac; and
- Parking and pedestrian safety will be negatively impacts.

11.0 Parking Provision

11.1 The proposal provides ten parking spaces, which falls short of the adopted standards, where a total of 14no. spaces would be required (two spaces per dwelling plus 0.25 visitor space per dwelling). The acceptability of this will be assessed in the main body of the report.

11.2 The scheme also affects tenanted garages and this will be further assessed in the main body of the report below.

12.0 Accessibility

12.1 With regard to the Equalities Act and compliance with policies DP12 and DP17 that detail requirements in terms of accessibility standards the scheme involves a wheelchair unit and has been designed to be inclusive, accessible and adaptable. As the development will be owned and managed by Colchester Borough Homes there is the scope and budget to manage the units in accordance with the needs of the occupants.

13.0 Open Space Provisions

13.1 The proposed dwellings have adequate amenity space overall.

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 of Development

- 16.1 The application site lies within the settlement boundary for Colchester and within an area that is residential in character where development such as that proposed is considered to be acceptable in policy terms; subject to the development satisfying all other aspects of the Development Plan. These are assessed in detail in the following paragraphs.

Affordable Housing Need

- 16.2 Providing more affordable homes is a key corporate strategic priority of the Council, because of the unmet demand that exists. To this extent, the Council has set up a Housing Company, Colchester Amphora Homes Limited (CAHL), to develop mixed-tenure housing schemes with 30% affordable homes alongside private sale property. CAHL have also been appointed to deliver 100% affordable housing on a number of sites, including the development of garage sites.
- 16.3 This application is one of several submitted concurrently by CAHL for affordable housing on under-used Council owned, Colchester Borough Homes (CBH) managed garage sites. These applications are the result of ongoing work by the Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives.

Design, Layout and Impact on Surrounding Area

- 16.4 At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development, and the Framework indicates that new development should respond to local character and should reflect the identity of its surroundings. This is reflected in Development Policy DP1 and Core Strategy Policy UR2 as well as Section 1 Plan Policy SP7 and emerging Section 2 Policy DM15. These policies state that all proposals should be well designed, having regard to local building traditions, and should be based on a proper assessment of the character of the application site and the surrounding built and natural environment.
- 16.5 The proposal consists of 2no. conjoined three-storey blocks of flats that are attached and served by a central communal entrance. Both blocks would provide 3no. 2-bed flats each. This, in principle, is reflective of the character of Wheeler

Close to the north east, Woodcock Close to the south east and Scarfe Way beyond Woodcock Close, which all consist of three-storey link-attached blocks of flats, essentially forming a terraced form of development. The building as proposed would be positioned slightly off centre and towards the north eastern boundary of the site, with a communal garden area provided to the side and rear of the building while the front would be used for parking (a total of 5no. parking spaces are provided). Directly to the front of the building, a small area of soft landscaping is proposed while secure refuse storage facilities would be provided to the north west of the building. A further 5no. parking spaces are proposed to the south of the building, at the end of Woodcock Close.

- 16.6 There is a well-established building line from development along Wheeler Close the north east with development slightly set back from the road, allowing for parking and pedestrian access into the buildings as well as a grassed area between the building and the parking area.
- 16.7 The proposed development would follow this established building line and provide an informal area of open space to the front of it with parking beyond, thus being in general conformity with the existing arrangements in close proximity to the site. There is a relatively strong design uniformity of built development in Wheeler Close and development to the east and south, with buildings being brick built three storey blocks of flats with very shallow pitched roofs and gables to the sides. Whilst the proposed development would be of brick build, a more modern design approach has been adopted, which is reflected in the choice of materials, including a mixture of buff facing brickwork and blue and black facing engineering brickwork, grey UPVC windows and doors and a grey concrete plain tiled roof. The design largely follows a recently approved development for affordable housing along Scarfe Way (reference 192733).
- 16.8 While the proposed design and materials would result in the development departing from the existing architecture of built development surrounding the site, it should be noted that the design of the neighbouring buildings is now slightly dated. The Framework (paragraph 134) makes it clear that great weight should be given to proposals that help raise the standard of design in an area, so long as they fit in with the overall form and layout of their surroundings. Whilst the design of the proposed development in itself is not outstanding, as referred to in the Framework, it is considered that a more contemporary approach to the proposed development would create some visual interest in an area that is otherwise very repetitive in design and appearance. The visual amenity of the surrounding site would therefore be improved, and this would clearly outweigh the slight harm that would be caused by the proposal not repeating existing established design principles and materials used on the surrounding area. As a result, it is considered that the proposal is acceptable in terms of its overall design, appearance and impact on the surrounding area

Impact on Neighbour Amenities

- 16.9 The proposed development would be located amongst existing residential development. Consideration needs to be given as to how the proposal would affect the occupants of nearby residential properties in terms of loss of light, privacy and overbearing impacts.
- 16.10 The proposed development would be positioned adjacent to the neighbouring building to the north east (Nos. 8, 10 and 12 Wheeler Close). The proposed building would follow the established building line of properties fronting Wheeler Close to the north east of the site, however, it would be considerably deeper, and slightly taller, than the neighbouring properties. Notwithstanding this, the development has been designed to ensure that the proposed building would not cause any unacceptable impacts in terms of loss of light or overbearing impacts on neighbouring occupiers. It is noted that by extending beyond the rear wall of Nos. 8, 10 and 12 Wheeler Close, the development would introduce a relatively tall brick wall in close proximity to the rear garden of these flats, however, the rear elevation of these neighbouring properties as well as the gardens are south facing with the proposed development being located to the south west of these. This would therefore minimise the harm the proposed development may cause in terms of loss of light and avoiding appearing unduly overbearing on the outlook of neighbours. In terms of overlooking, all the windows in the flank wall would serve bathrooms and would therefore be conditioned to be obscure glazed, while the balconies would be fitted with a 1.8m high privacy screen to avoid any impact on the privacy of neighbouring occupiers.
- 16.11 There is a generous garden to the south east of the building with the nearest neighbouring building to the south east (Nos. 19-24 Woodcock Close) being located a considerable distance from the proposed building. Woodcock Close runs between the site and buildings along Woodcock Close with those also being set back a considerable distance from the road. The changing levels on the site are noted, however, despite the proposed building being positioned on significantly higher grounds than the buildings along Woodcock Close, the distance between the existing and proposed built form would ensure that no serious concerns are raised with regards to the proposed development's impact on the amenities of neighbouring occupiers to the south east in terms of appearing overbearing on their outlook or causing loss of light or privacy. It is also worth noting that, as per the recommendation of the Landscape Advisor, the developer is requested to plant two medium sized trees along the south eastern boundary of the site which would help softening the impact of the proposed development on the outlook of neighbouring occupiers.
- 16.12 Turning to the residential properties along Handel Walk to the south west of the site, it is considered that the proposed development is again positioned significantly far enough away from the rear of these dwellings, and gardens, so as to not cause any significant impact in terms of loss of light or

overbearing impacts. A footway runs parallel between the south eastern boundaries for properties along Handel Walk and the south western boundary of the site with the proposed building being concentrated towards the eastern boundary/centre of the site. The area closest to properties along Handel Walk, which is currently occupied by garages, would be laid to grass and used as a communal back garden for future residents of the site. This may therefore have a beneficial impact on residents along Handel Walk. With regard to concerns relating to overlooking, again the only side facing windows relate to bathroom windows, which are proposed to be obscure glazed. On this basis, it is not considered that the proposed development would cause any material harm on the privacy of neighbouring occupiers.

- 16.13 With regard to the proposed residential use on the site, it is considered that this is more compatible with the surrounding area than the current garage site. The proposal to create six flats on this site is held to have the potential to create less comings and goings (and associated noise and disturbance) to and from the site which would have a positive impact on the amenities of neighbouring occupiers of the site.
- 16.14 Taking into account the above, it is concluded that the proposed development is acceptable with regard to impact on the amenities of existing neighbouring occupiers as well as future occupiers of the proposed development.

Parking and Highway Safety

- 16.15 Adopted parking standards require two parking spaces per dwelling, plus 0.25 visitor parking spaces per dwelling. On this basis, the development would require a total of 14no. parking spaces. The development provides ten parking spaces, which represents an under provision of four spaces. The site lies within the defined settlement limits for Colchester and in a sustainable area where existing residents and future occupiers of the proposed development can access sustainable transport modes within a short walk from the site. There are a number of bus stops located along Avon Way, a short walk from the site, providing frequent services to the town centre, North Station and Essex University. The adopted Vehicle Parking Standards and allied adopted development policy allow for reductions of the vehicle standards to be made if the development is within an urban area that has good links to sustainable transport. This is considered to be the case in this instance.
- 16.16 Secure cycle storage can be provided within the rear garden, however the details of this are proposed to be secured via condition. The development would utilise an existing and active vehicular access and adequate turning facilities within the site are provided. The development has therefore not attracted an objection from the Highway Authority on highway safety or efficiency grounds. As such, the proposed development is held to be acceptable in this regard subject to relevant conditions.

- 16.17 The proposed scheme however affects tenanted garages. The proposal results in the loss of 28 garages. The garages are unallocated to local residents. They are managed by CBH and are rented out. Information submitted as part of the application states that 18 of the 28 garages are rented out to tenants, although it is noted that only eleven out of the 18 tenants live within a mile of the site. A further three live within 1-2 miles from the site and four within 2-3 miles.
- 16.18 The consultation exercises that have been carried out by the applicants to inform tenants of the garages that the garages they are renting are on a site that has been selected for development potential for affordable housing as part of Colchester Borough Council's ambition to deliver 350 new council homes, has resulted in eight responses at the time of writing this report.
- 16.19 The letters explained that if the site is redeveloped the Council would seek to ensure that people who are renting a garage are offered an alternative solution. Attached to the letter was a questionnaire, encouraging tenants to provide information on what they use the garage for and whether they would like to work with the Council to find an alternative garage facility should the site be redeveloped.
- 16.20 Five out of the eight respondents indicated that their garage is used either solely for the parking of a car or a mixture of car parking and storage with three stating they use it for storage purposes only. This demonstrates that not all garages are utilised for the parking of a car and that the total number of garages that would be lost would not equal the number of vehicles that would need to be displaced onto the road.
- 16.21 The Car Parking Displacement Survey that was submitted in support of this application states that at the time of their visits, which were carried out on a weekday at 1pm (this is likely to be less representative) and on a Sunday at 9am, there was sufficient capacity in the immediate surroundings of the site (i.e. within a 100m radius) for additional roadside parking and that the displaced cars would not increase the parking stress within the surrounding area to a significant level.
- 16.22 Whilst it is undesirable to displace vehicles from off-street parking into the highway, it is considered that the absence of any demonstrable harm to the detriment of highway safety and efficiency, combined with and weighed against the wider public benefits of the scheme, which include a 100% affordable housing provision, would suggest that the proposed development is acceptable in this instance. Furthermore, it should be noted that the Council, where possible, is willing to work with affected residents to find alternative solutions to mitigate the loss of their rented garage.

Private Amenity Space

- 16.23 Development Policy DP16 requires that all new residential development shall provide private amenity space to a high standard, with secure usable space that is also appropriate to the surrounding context. The minimum requirement for flats is 25m² of private amenity space per flat provided communally, resulting in a total of 150m² of private amenity space being required for this development. It is however explained that where balconies are provided the space provided may be taken off the communal requirement. These requirements are echoed in emerging Section 2 Policy DM19.
- 16.24 The current scheme provides balconies for each of the flats as well as a generous communal garden area to the rear of the building. The proposed amenity spaces (both private and communal) are all secure and usable. The proposed arrangement is therefore appropriate in its context and compliant with policy DP16.
- 16.25 Policy DP16 also states that *“all new residential development will pay a commuted sum towards open space provision and maintenance.”* No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that *“the standards, outlined above, are to be applied to all additional new residential Units. (...) New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”*
- 16.26 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Council owned garage sites given permission in the past, the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. Given that the developer is the service provider, the requirement for contributions is effectively negated. It does not set a precedent for private market housing as this does not provide 100% affordable housing.
- 16.27 In addition, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council’s overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.
- 16.28 In conclusion, the scheme provides acceptable private and communal amenity space and open space provisions.

Landscape and Trees

- 16.29 Development Plan Policy DP1 and emerging Section 2 Policy DM15 require development proposals to demonstrate that they respect and enhance the character of the site, context and surroundings including its landscape setting.
- 16.30 There are a number of trees on the site and accordingly, a Tree Constraints Plan was submitted. A category C tree and two individual hedgerows are proposed to be removed to facilitate the proposed development. This has not attracted any objection from the Arboricultural Officer. The Landscape Advisor is also satisfied with the landscape aspect of the proposed development, subject to a condition which would secure the planting of a pair of medium sized trees to the rear of the site where, at maturity they would overhang the boundary, thereby helping to soften the street scene and compensating for the loss of the afore-mentioned tree. This condition was accepted by the agent and as a result of this, the proposed development is considered to be acceptable in terms of its landscape impact.

Other Matters

- 16.31 Secure refuse and recycling storage facilities are proposed to be provided to the north west of the entrance of the building with kerbside collection being proposed. The proposed arrangements is not expected to have any adverse impact on the visual amenity of the surrounding area.
- 16.32 The application site is located within Flood Zone 1 and consequently, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding.
- 16.33 The site has been used for garaging for some years and therefore a Ground Contamination Report was submitted with this application. The Contaminated Land Officer is satisfied with this report and concludes that the site could be made suitable for its intended use subject to conditions which have been accepted by the agent. There are therefore no objections to the proposal on the basis of contamination.
- 16.34 A payment of £137.71 per dwelling will be made in contribution towards the measures in Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.
- 16.35 The proposal includes the installation of solar panels which would have an both economic benefit helping address fuel poverty and mitigating climate change. This element satisfies the criteria of emerging Section 2 Policy DM25 which states that the local planning authority will support proposals for renewable energy projects (including solar panels on buildings) at

appropriate locations in the Borough to help reduce Colchester's carbon footprint.

Planning Balance

- 16.36 The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposal would provide economic benefits through the creation of temporary employment during the construction phase. The provision of additional and more modern affordable housing within the Borough generally satisfies the social dimension. The social role of sustainable development is also described as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The proposal is considered to satisfy this objective due to the development being generally well designed and sustainable. In respect of the environmental aspect, the proposal would remove an underused garage site and provide additional landscaping features. The proposed development is considered to be of an enhanced visual quality when compared to the existing built development on the site and would deliver much needed affordable homes in the Borough.
- 16.37 The proposed development is therefore considered to represent sustainable development. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network.

17.0 Conclusion

- 17.1 In summary, it is considered that the proposed development represents sustainable development and would not cause any visual or material harm to the character and appearance of the surrounding area, neighbouring occupiers or highway safety. Consequently, the proposed development is held to be 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 condition:

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

WHEELC-IWD-XX-XX-DR-A-1001 Rev P04 Existing Location Plan

WHEELC-IWD-XX-XX-DR-A-1000 Rev P07 Proposed Site Plan

WHEELR-IWD-XX-ZZ-DR-A-2050 Proposed Ground & First Flr. Plans – Plot 1 to 4 (PLANNING)

WHEELR-IWD-XX-ZZ-DR-A-2051 Rev P4 Proposed Second Flr. & Roof – Plots 5 & 6 (PLANNING)

WHEELR-IWD-XX-ZZ-DR-A-2052 Rev P6 Proposed Elevations 1 – Plots 1 to 6 (PLANNING)

WHEELR-IWD-XX-ZZ-DR-A-2053 Rev P5 Proposed Elevations 2 – Plots 1 to 6 (PLANNING)

WHEELR-IWD-01-XX-DR-A-2055 Rev P1 Proposed Street Elevation – Building Heights

Arboricultural Impact Assessment (EAS-109v2, dated 22nd June 2022)

EAS-109.1 TCP Tree Constraints Plan (TCP)

EAS-109.1 TPP Rev A Tree Protection Plan (TPP)

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

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

4. Non-Standard Condition - Hard and soft landscaping

No works shall take place a scheme of hard and soft landscape works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also accurately identify positions and spread of all existing trees, shrubs and hedgerows on the site; proposed planting, including a couple of medium sized trees to the southern boundary of the site; details of any hard surface finishes and external works. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any 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/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

5. ZFE – Landscape management plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

6. ZPA – Construction Method Statement

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

the parking of vehicles of site operatives and visitors;
hours of deliveries and hours of work;
loading and unloading of plant and materials;
storage of plant and materials used in constructing the development;
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
wheel and body washing facilities;
measures to control the emission of dust and dirt during construction; and
a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

7. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the

Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

8. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

9. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

10. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

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

11.ZG3 - *Validation Certificate*

Prior to the first occupation of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 10.

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

12.Non-Standard Condition - Vehicular Access/Parking Spaces

Prior to the first occupation of the proposed development, the proposed vehicular accesses/parking spaces shall be constructed at right angles to the highway boundary and shall be provided with an appropriately constructed connection to Wheeler Close and Woodcock Way 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.

13.Non-Standard Condition - Cycle Parking

Prior to first occupation of the development hereby approved, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient, 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 ensure appropriate cycle parking is provided in the interest of highway safety.

14.Non-Standard Condition - Improvements to bus stop

Prior to first occupation of the proposed development the applicant shall provide improvements to the eastbound bus stop named Scarfe Way (No S4, 4 & 77A service) outside Number 150 Avon Way by the provision of 5.0m of level entry kerbing, passenger waiting hard standing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development.

15.ZIF - No unbound surface materials

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

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

16.ZDG - *Removal of PD - Obscure Glazing But Opening

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor windows in the side elevations shall be glazed in obscure glass to a minimum of level 4 obscurity and top-hung before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

17.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: 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.

18.Non-Standard Condition - Residential Travel Packs

The Developer shall be responsible for the provision, implementation and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling which shall be 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.

19.0 Informative

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with

your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. Non-Standard Informative - Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage: https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169](https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169) under Landscape Consultancy by clicking the 'read our guidance' link').

4. Non-Standard Informative - Highway Works

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.

5. Non-Standard Informative - Highways

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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.

