

# Planning Committee Meeting

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

**Thursday, 30 April 2015 at 18:00**

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

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

## **Information for Members of the Public**

### **Access to information and meetings**

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

### **Have Your Say!**

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at [www.colchester.gov.uk](http://www.colchester.gov.uk)

### **Audio Recording, Filming, Mobile phones and other devices**

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council, with the exception of Committee members at all meetings of the Planning Committee, Licensing Committee, Licensing Sub-Committee and Governance Committee. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Where permitted, Councillors' use of devices is limited to receiving messages and accessing papers and information via the internet.

### **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 use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

### **Facilities**

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground floor.

### **Evacuation Procedures**

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**[www.colchester.gov.uk](http://www.colchester.gov.uk)**

## Material Planning Considerations

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

The following approach should be taken:

- 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.

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 Colchester’s own Local Plan documents
- Government guidance, case law, appeal decisions, planning history, “fallback” positions
- Design, scale, bulk, mass, appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations such as archaeology, listed buildings or conservation areas
- Environmental issues such as impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism
- Social issues such as affordable housing, accessibility, inclusion, education, recreation
- The ability to use planning conditions or obligations to overcome concerns

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 including 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
- unless they are “exceptional”, personal circumstances, including hardship

Strong opposition to a particular proposal is a common feature of the planning process. However, in the absence of substantial evidence of harm or support from the Development

Plan is unlikely to carry much weight. The same principles apply in reverse where there is strong support for a proposal that is contrary to the Development Plan and there is harm (or lack of substantially evidenced benefit).

Inspectors and Courts (see *North Wiltshire DC V SoS & Clover, 1992*) have established that precedent can be a legitimate consideration, but it is not enough to have a “general anxiety” and there has to be evidence of a real likelihood that similar applications (in all respects) will be submitted.

### **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 and Considering Reasons for Refusing Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework reinforces this by 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. However, not all development is acceptable and almost every permission will require planning conditions in order to make them acceptable. Some will remain unacceptable and should therefore be refused. Circular 11/95 (The Use of Conditions in Planning Permissions) and Circular 03/2009 (Costs Awards In Appeals And Other Planning Proceedings) set out advice on the government’s policy regarding the appropriate use of planning conditions and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. They derive from an interpretation of court judgments over the years and, although not planning law, are important material considerations. A decision to set them aside would therefore need to be well-reasoned and justified.

In terms of the Planning Committee, Circular 03/2009 makes it clear that “*Planning authorities are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority*”.

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that “*Whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed*”. 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. The Circular adds that “*A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.*” Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, 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, Circular 03/2009 makes it clear that planning authorities must “*properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason*”. 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 public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.



## **Colchester Borough Council Development Control**

### **Advisory Note on Parking Standards**

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

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

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

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

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



**Colchester Borough Council Environmental Control**  
**Advisory Notes for the Control of Pollution during Construction & Demolition Works**

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

**Best Practice for Construction Sites**

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

- **Noise Control**

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.

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.

Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

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**

- 1) 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.
- 2) 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**

- 1) 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. Dwelling houses**

Use as a dwelling house (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 dwelling house 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), nightclubs, or casinos.

#### ***Interpretation of Class C3***

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

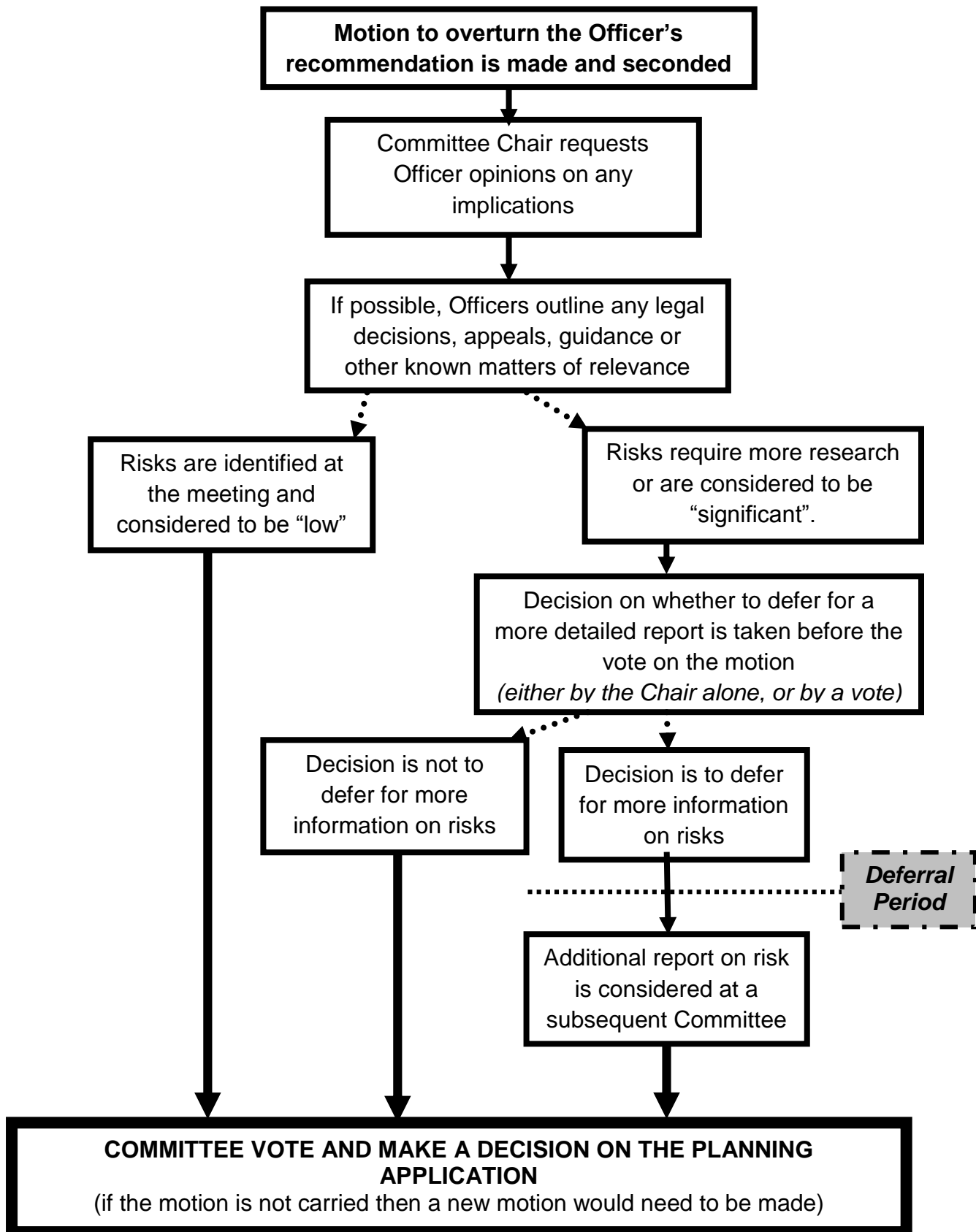
#### ***Interpretation of Class C4***

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

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 30 April 2015 at 18:00**

**Member:**

Councillor Theresa Higgins  
Councillor Jon Manning  
Councillor Peter Chillingworth  
Councillor Helen Chuah  
Councillor Pauline Hazell  
Councillor Brian Jarvis  
Councillor Mike Lilley  
Councillor Jackie Maclean  
Councillor Jessica Scott-Boutell  
Councillor Laura Sykes  
Councillor Julie Young

Chairman  
Deputy Chairman

**Substitutes:**

All members of the Council who are not members of this Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-

Councillors Christopher Arnold, Nick Barlow, Lyn Barton, Tina Bourne, Roger Buston, Kevin Bentley, Nigel Chapman, Barrie Cook, Robert Davidson, Beverly Davies, Andrew Ellis, Annie Feltham, Bill Frame, Ray Gamble, Dominic Graham, Marcus Harrington, Dave Harris, Julia Havis, Jo Hayes, Peter Higgins, Margaret Kimberley, Cyril Liddy, Sue Lissimore, Kim Naish, Nigel Offen, Gerard Oxford, Philip Oxford, Will Quince, Rosalind Scott, Lesley Scott-Boutell, Peter Sheane, Paul Smith Dennis Willetts and Tim Young.

**AGENDA - Part A**

(open to the public including the press)

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

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

**1 Welcome and Announcements**

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

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

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

## **2 Have Your Say! (Planning)**

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

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

## **3 Substitutions**

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

## **4 Urgent Items**

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

## **5 Declarations of Interest**

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

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

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

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

6a     **Minutes of 2 April 2015**     17 - 20

6b     **Minutes of 16 April 2015**     21 - 26

## 7.1     **Planning Applications**

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

7.1     **146519 62 Brook Street, Colchester**     27 - 54

Outline application for the development of up to five dwellings, provision of parking for retained dwelling (No. 62) and other ancillary development

7.2     **150669 99-105 London Road, Copford, Colchester**     55 - 66

Application for removal or variation of condition following grant of planning permission (144976), condition 17 which requires delivery and construction traffic to be from London Road and not Allendale Drive

7.3     **150476 CCTV cameras on Coast Road, West Mersea, Colchester**     67 - 72

Installation of CCTV equipment on floating pontoon and toilet block

## 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

Thursday, 02 April 2015

**Attendees:** Councillor Peter Chillingworth (Group Spokesperson), Councillor Jackie Maclean (Member), Councillor Helen Chuah (Member), Councillor Theresa Higgins (Chairman), Councillor Laura Sykes (Member), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Group Spokesperson), Councillor Julie Young (Member), Councillor Jessica Scott-Boutell (Member)

**Substitutes:** Councillor Nick Barlow (for Councillor Jon Manning)

## 141 Site Visits

The following members attended the formal site visit: Councillors Chuah, Hazell, T. Higgins, Jarvis, Lilley and Sykes.

## 142 150071 Alderwood Care Home, 39 Essex Hall Road, Colchester

The Committee considered an application for the proposed 24 bed specialist care home in the grounds of Alderwood Care Home at 39 Essex Hall Road, Colchester. The application had been referred to the Committee because the Committee had approved the application subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 which included a contribution of £7,680 to mitigate the primary care impact of the development but in the event, NHS (England) had indicated that they did not consider a contribution to be appropriate. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

## 143 146583 Tesco Stores, Highwoods Square, Colchester

The Committee considered an extension to existing ClassA1 retail store at Tesco Stores, Highwoods Square, Colchester. The application had been referred to the Committee at the request of Councillor G. Oxford. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Nadine Calder, Planning Officer, presented the report and assisted the Committee in its

deliberations.

Councillor G. Oxford attended and, with the consent of the Chairman, addressed the Committee. He explained that he was making representations to the Committee at the request of local residents living around the perimeter of the Tesco site. The residents were very aggrieved at the repeated development proposal submitted for the supermarket and were of the view that such a large store should not be situated in the midst of a residential development. The current application was the 63<sup>rd</sup> to be submitted in relation to the store and he acknowledged that each application had to be considered on its own merits. When the previous application had been considered by the Committee last year a view had been expressed that any further applications would be considered to be over development. The current proposal had been the subject of amendments in order to achieve the officer's recommendation for approval. However, this demonstrated no regard whatever for neighbouring residents who considered, as a consequence, that the store was just being allowed to grow and grow on a piecemeal basis. He also referred to regular litter picking exercises undertaken by children from St Luke's Church which should rightly be the responsibility of the store holders rather than the local community.

Members of the Committee expressed sympathy for the residents' views but acknowledged that the proposal was small, innocuous and unlikely to generate increased traffic nuisance in the vicinity, as such, there were no grounds upon which the proposal could be refused.

*RESOLVED* (TEN voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report.

#### **144     146509 Tregullon, High Street, Langham**

The Committee considered an application for a new detached house, comprising two storey main house with two single storey wings (one called 'Annexe' although it shared access and core facilities and services with the house) and garages, forming an L-shaped building enclosing the front parking and turning courtyard, existing hedges to be retained and strengthened, new western boundary hedge and formation of a wildflower meadow/ butterfly reserve in the southern half of the existing two acre site at Tregullon, High Street, Langham. The application had been referred to the Committee at the request of Councillor Cable. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mark Russell, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Chris Exley addressed the Committee pursuant to the provisions of Planning Committee

Procedure Rule 8 in support of the application. He referred to fencing and established hedgerow surrounding the site of a nearby property known as 'Six Acres' which had received planning permission in 2000 for change of use from agricultural to residential. He pointed out the local characteristic in Langham Moor for the predominantly 20<sup>th</sup> century houses to face and be set back from the road. He considered there was no locally distinctive architectural style although there were a small number of vernacular dwellings with chimneys, rendered walls and thatched roofs and it was these characteristics which had been picked up for the design of the dwelling the subject of the application. He considered the design to be exemplary, ahead of its time with numerous innovations and flexibility for an extended family through various stages of life. The house would be a certified *passivhaus* and a fully integrated sustainable proposal. The ecological proposal on part of the site had been designed by an award winning butterfly conservationist which would provide a wildlife corridor benefitting the wider area. He considered the proposal to be innovative and sustainable, complying with the National Planning Policy Framework.

The Principal Planning Officer explained his view that the ecological proposal could be the subject of an application without the need for residential development on the same site.

Andrew Tyrrell, the Planning Manager, confirmed that the example of the planning permission granted 15 years ago referred to by Mr Exley pre-dated the Council's Core Strategy and reflected decision making three sets of policy documents previously and, as such, it could not be considered relevant to the consideration of the current application.

Members of the Committee were of the view that the proposal was clearly outside the village envelope and the Council's policies provided for a strong presumption against development in such locations, with exceptions being made where applications demonstrated particular merit. Although the application did demonstrate good design principles and included innovative ideas, it was not considered to be of sufficiently high merit for an exception to be made for this particular site.

*RESOLVED* (UNANIMOUSLY) that the application be refused for the reasons set out in the report and the amendment sheet.

**145      150351 Elfin House, 3 Pedders Close, Colchester**

The Committee considered an application for the a two storey office extension at Elfin house, 3 Pedders Close, Colchester. The application had been referred to the Committee because the agent worked as a consultant for Colchester Borough Council. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.



# Planning Committee

Thursday, 16 April 2015

**Attendees:** Councillor Peter Chillingworth (Group Spokesperson), Councillor Jackie Maclean (Member), Councillor Helen Chuah (Member), Councillor Theresa Higgins (Chairman), Councillor Jon Manning (Deputy Chairman), Councillor Laura Sykes (Member), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Group Spokesperson), Councillor Jessica Scott-Boutell (Member)

**Substitutes:** Councillor Tim Young (for Councillor Julie Young)

## 146 Site Visits

The following members attended the formal site visit: Councillors Chillingworth, Chuah, Hazell, T. Higgins, Jarvis, Lilley, Maclean, Manning and Sykes.

## 147 Minutes of 19 March 2015

The minutes of the meeting held on 19 March 2015 were confirmed as a correct record.

## 148 150235 1-7 Winnock Almshouses, Military Road, Colchester

**Councillor T. Higgins (in respect of her Trusteeship of the St Mary Magdalen Hospital Almshouses) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor Sykes (in respect of her Trusteeship of the Rosemary Almshouses) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a planning application and request for listed building consent for the proposed demolition of seven existing almshouses and construction of ten new dwellings at 1-7 Winnock Road, Military Road, Colchester. The application had been referred to the Committee because an objection had been received. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the planning application and request for listed building consent be approved subject to the conditions set out in the report.

**149      146566 Land south of Holmwood Farm, Brook Hall Road, Fingringhoe**

The Committee considered an application for the change of use of lakes to recreational fishing and formation of a hard-standing car park at land south of Holmwood Farm, Brook Hall Road, Fingringhoe. The application had been referred to the Committee because it was classed as a major application on the basis of the site area and a number of applications had been received. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

**150      143704 Rowhedge Business Park, Fingringhoe Road, Rowhedge**

**Councillor Lilley (by reason of his having expressed a prejudicial view on the application) declared an interest pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination immediately after he had made representations as a visiting ward councillor.**

**He had also withdrawn from participation in the visit to the location undertaken by the Committee members.**

The Committee considered an application for the change of use of land to plant hire business at Rowhedge Business Park, Fingringhoe Road, Rowhedge, Colchester. The application had been referred to the Committee at the request of Councillor Lilley. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mark Russell, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. He provided details of recent correspondence from the Environment Agency regarding the arrangements for the washing down of vehicles on the site, in respect of which a proposed method had been submitted by the applicant. However, written confirmation of the scheme's acceptability to the Environment Agency was still awaited, and accordingly he suggested that the recommendation in the report could be amended such that the determination of the application be delegated to the Head of Professional Services, in accordance with the confirmed views of the Environment Agency.

Richard Keeble addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he had lived in the vicinity of the area of the application and of the applicant's existing unauthorised site for 20 years and he was concerned that the unauthorised operation had been continuing for three years despite complaints about noise, dust and pollution. He was of the view that the applicant should not be permitted to continue to operate

simply by moving the location of the site a few metres away. References to previous plant hire operations on the site of the application dated back over 20 years since which time the locality had significantly changed particularly in terms of the volume of traffic using the local road network. He referred to a recently approved development at Rowhedge Wharf which was also expected to generate a considerable number of additional vehicle movements. He was concerned about the conclusions reached by the Highway Authority, which considered the proposal acceptable, given access to the site was at the brow of a hill in a 60 mph zone and the proposal would involve the movement of very long vehicles and trailers.

Ben Elvin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals had been prepared following very detailed discussions to find a suitable site which would provide a settled and permanent base for the operation of the business. The applicant provided employment for up to 17 people and wanted to remain in the locality. Other alternative sites had been investigated but this had proved to be difficult and no others had proved to be suitable due to size restrictions or proximity of housing. The revised proposals had also enabled the access to be moved away from Rectory Road, such that the Highway Authority was of the view that the proposals were acceptable. In addition, he referred to the ecological assessments which had confirmed that no harm would result from the operation and welcomed the opportunity for the proposal to provide for conditions to be placed on the operation to address any issues relating to noise or light.

Councillor Lilley attended and, with the consent of the Chairman, addressed the Committee. He was of the view that the applicant had been trading illegally for a number of years and, as such, could not be trusted to adhere to any conditions which would be attached to a planning approval. He considered that the applicant was being given assistance to relocate his business and he was of the view that this was not appropriate in the light of existing problems with the business. He was very concerned about the washing down arrangements on the site, especially as there was no information as to where the vehicles and machinery had been working and what materials were therefore being transferred to the watercourses in the locality. He further considered that the determination of the application should be deferred in order to give more time for the outstanding information from the Environment Agency to be received and considered. He acknowledged that, if the business was to continue to operate, it would be better for it to be undertaken from an alternative site to the existing one, but he was of the view that if permission was granted for the proposed site, the monitoring arrangements required would lead to considerable work. Accordingly, should the application receive approval, he asked the Committee to consider the addition of conditions to address problems associated with bonfires and lighting on the site outside the hours of operation. In the event the application was refused he considered arrangements should be made for an eviction notice to be served on the existing site.

The Principal Planning Officer explained that the application had to be determined on its merits and the representations made regarding the business practices of the applicant

could not be considered material to the determination of the application. He confirmed that the Highway Authority had not objected to the proposals, problems relating to the burning of bonfires on site should properly be dealt with by means of Environmental Protection legislation and it would be possible to amend proposed Condition 11 in order to provide for further restrictions on lighting on site.

Members of the Committee were concerned about the potential environmental impact associated with the washing down of vehicles and machinery on site and considered details of the nature of the proposed method of washing down together with the final view of the Environment Agency on the matter to be important to their determination. Also, whilst acknowledging that the Highway Authority had not objected to the proposals, they speculated as to what had prompted this conclusion. Mention was also made of the possibility of granting a temporary permission for a period of two or three years.

Andrew Tyrrell, Planning Manager, confirmed that, for applications which included the costs of building works, it was not usually considered reasonable to grant permission for a temporary period. With regard to the background history, he explained that the ability of the Council to enforce individual conditions associated with a site which was appropriately authorised would be much enhanced compared to seeking to enforce such matters on an unauthorised site where the whole principle was unacceptable. He was aware from the enforcement history that the Highway Authority had undertaken detailed considerations of the locality in the course of its investigations into the existing site and, therefore, this was inevitably the case in respect of the proposed site. As such, he was of the view that the Highway Authority's conclusions in relation to the proposed site would be based on adequate knowledge of the area and the nature of the proposed operation. Whilst acknowledging that he was unaware of the precise nature of the Highway Authority's assessment in relation to the proposed site, he also confirmed that it had been usual practice for future traffic impacts to be considered by Essex County Council in terms of overall assessments on some of the cumulative impacts of the town centre sites. He also emphasised the requirement for planning applications to be determined in accordance with conditions 'on the ground' at the time of the decision. Finally, he confirmed the likelihood that the Environment Agency would seek to require the imposition of a condition providing for the prior approval in writing of a scheme for washing down facilities and that it would also be possible to include an additional condition to specify that the washing down scheme was in relation to the plant hire equipment on the site.

*RESOLVED* (UNANIMOUSLY) that the application be deferred for further consideration by the Committee at a future meeting to enable details of the Environment Agency's views on the method for washing down of vehicles and machinery and further information on the assessment of the application by the Highway Authority to be made available.



**Councillor Lilley (in respect of his membership of the Board of Colchester Borough Homes) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the replacement of windows and rear doors to flats and replacement windows to communal areas at Flats 1-9, Bob Russell House, New Town Road, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

**152      146530 58 Rosebery Avenue, Colchester**

**Councillor T. Higgins (in respect of her acquaintance with a resident in the locality of the application site) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for a proposed two storey extension with new detached garage on the rear boundary at 58 Rosebery Avenue, Colchester. The application had been referred to the Committee by Councillor Frame. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Carl Allen, Planning Officer, presented the report and assisted the Committee in its deliberations.

Michael Steinke addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he lived immediately adjacent to the application site and his decision to object had been a difficult one to make. His concerns were in relation to the garage element of the application and its proposed location to the rear of the plot. He considered the garage to be poorly placed, out of character with others in the street and, as such, to be contrary to the Council's Design Guidelines. He explained that existing garages in the street were located in closer proximity to the frontage of the plots, he considered the poor design of the garage to be contrary to the principles contained in the National Planning Policy Framework and he was concerned that it would set an unfavourable precedent in the neighbourhood. He requested the Committee to refuse the current application but to look favourably on a proposal for a garage closer to the applicant's house.

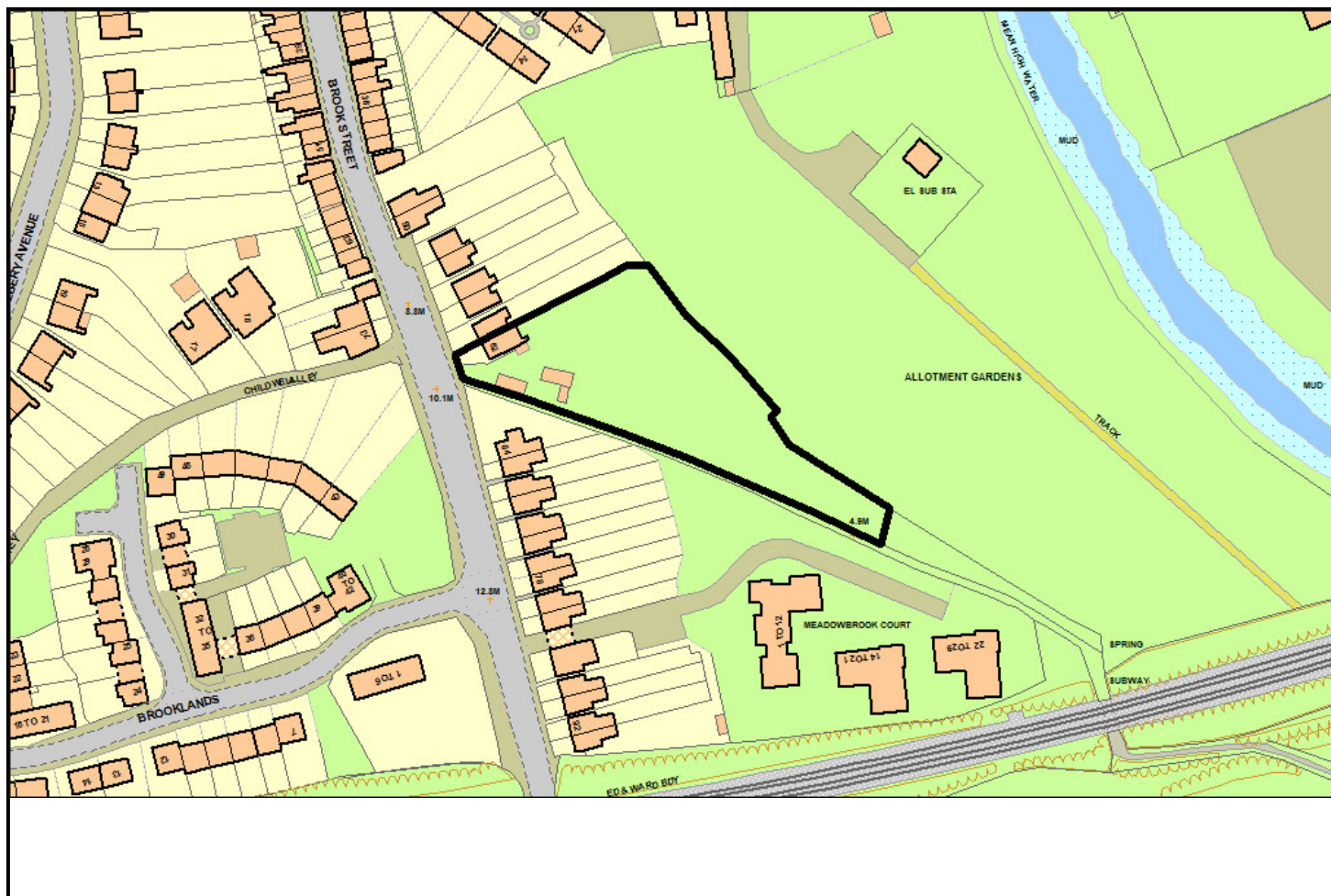
Councillor Frame attended and, with the consent of the Chairman, addressed the Committee. He was also concerned about the garage element of the application. He considered the proposed dimensions were excessively large and not well designed and the proposed location would result in a very long driveway to the rear of the garden. He

considered there was potential for the garage to be used as a workshop which would impact negatively on neighbouring residents in terms of the enjoyment of their gardens. He was of the view the garage should be located nearer to the applicant's house so that a smaller area of the garden would be lost. He requested the Committee to refuse the garage element of the application or for a condition to be added to prevent its use as a workshop.

The Planning Officer explained that any workshop related use of a garage would be permitted so long as it did not involve the operation of a business, it was difficult to argue against the principle of the garage and the potential driveway as it would be possible for the applicant to erect a slightly shorter garage in the garden of the plot under permitted development rights so long as it was two metres away from the boundary. He confirmed it would be acceptable to add an informative to any planning permission to confirm the requirement for a change of use permission if the use of the garage extended beyond for domestic purposes.

Members of the Committee, whilst acknowledging the views expressed by the objector, confirmed that they were required to determine the application on its merits and were of the view that there were no grounds upon which they could refuse the application.

*RESOLVED* (TEN voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report and an additional informative confirming the requirement for a change of use application to be submitted if the use of the garage extended beyond for domestic purposes.



**Application No:** 146519

**Location:** 62 Brook Street, Colchester, CO1 2UT

**Scale (approx):** 1:1250

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **30 April 2015**  
Report of: **Head of Professional/Commercial Services**  
Title: **Planning Applications**

**7.1 Case Officer: Sue Jackson Due Date: 05/05/2015**

**MINOR**

**Site:** 62 Brook Street, Colchester, CO1 2UT

**Application No:** 146519

**Date Received:** 22 December 2014

**Agent:** Mr Matthew Kendrick, Grass Roots Planning Ltd

**Applicant:** Mr Jonathan Amos, Clifton Homes (SW) Ltd

**Development:** Outline application for the development of up to 5 dwellings, provision of parking for retained dwelling (No. 62) and other ancillary development

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval

### **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Frame for the following reasons;

“A previous application 141087 for the same site was refused on 1 May 2014. The current applicants have failed to adequately address the highway safety issues which were cited as one of the reasons for the previous refusal including the acute entry angle and the problem of large vehicles which are required to substantially enter the opposing carriageway when exiting the site bringing them into conflict with existing highway users.

These issues will be further exacerbated by the applicant categorising the site as self build which is totally inappropriate for a restricted site of this nature. The uncontrolled element of self build will inevitably lead to issues of highway safety and a lack of control over how many vehicles are entering the site without proper coordination leading to a loss of amenity to residents.

Brook Street has long been recognised as one of the worst areas for air quality in Colchester yet this is proposing to add yet more vehicles into the area and put family homes into an already polluted area.”

## **2.0 Synopsis**

- 2.1 The key issues explored below are the proposed layout and design, site levels, air quality issues, highway issues, impact on residents’ amenity, trees and ecology; contaminated land issues and planning obligations

## **3.0 Site Description and Context**

- 3.1 The site is located on the east side of Brook Street Colchester. It currently forms part of the garden to no 62 Brook Street. There is a Public Right of Way (PROW) along the whole of the southeast boundary. To the north west are gardens of houses in Brook Street and to the rear, east, boundary are allotments. The site has an area of approximately 0.34 hectares it is long and narrow in shape with a width varying between 40m- 8m and tapering to approximately 3 metres at its eastern corner. South of the PROW is further frontage development to Brook Street.
- 3.2 The topography of Brook Street rises from its junction with East Hill to its junction with Magdalen Street/Barrack Street and the houses adjacent to the north boundary are at a lower level than the site.
- 3.3 The site topography slopes in two directions; both E-W and also N-S. There is a bank leading down to the site along the PROW and the land then slopes down to the gardens of the houses along Brook Street. The site slopes down from the road to rear but also contains some raised areas within the site.
- 3.4 The site contains a number of trees and where the site tapers at its eastern corner there are fallen trees and undergrowth. This area of the site is also damp.
- 3.5 Development on both sides of Brook Street leading from East Hill comprises terraced houses abutting the narrow footway. No 66 is part of a small group of semi-detached houses set back at an angle from the road; semidetached houses continue on this side of Brook Street to the railway; whilst there is a more recent housing development on the opposite side of the road that is set back from the road frontage and accessed via Brooklands.

## **4.0 Description of the Proposal**

- 4.1 This outline application proposes the erection of up to 5 dwellings. The site has a narrow frontage to the road and this area will provide an improved access road to the development.

## **5.0 Land Use Allocation**

### **5.1 Residential**

## **6.0 Relevant Planning History**

6.1 1410871 – This application was considered by Planning committee at the meeting on 24<sup>th</sup> April 2014 and refused for the following reasons (summarised):

- Overdevelopment, failure to meet the Council adopted minimum private garden sizes. Due to the site levels some gardens would be unusable. Unacceptable loss of amenity due to overlooking and the overbearing nature of the buildings.
- Poor sense of place, dominated by vehicle parking
- Design does not reflect the appearance and character of existing dwellings and it does not create its own sense of identity
- Loss of trees with no replacement failure to incorporate features which are beneficial to wildlife.
- Detrimental to highway safety for the following reasons:-
  1. The minor road joins the highway at an acute angle of 60 degrees.
  2. Persons entering or leaving the front door of No 62 Brook Street are potentially vulnerable to impact from manoeuvring vehicles.
  3. The vehicle tracking diagram reveals that large vehicles are required to substantially enter the opposing carriageway when exiting the site bringing them into conflict with existing traffic
  4. Due to the level crossing at East Gates, queues on Brook Street regularly extend past the site entrance, thus preventing egress from the site for larger vehicles. This could lead to vehicle conflict in the highway.
  5. The application fails to provide any visitor parking which should be measured at 0.25 spaces per unit. In this location this will lead to additional parking stress in Brook Street.
  6. Given the gradient of the road, and the shared surface turning head, and the slab levels of plots 11 and 12, these plots could be subjected to flooding from highway surface water.
  7. As shown there is no protection to prevent driving and parking on the PROW this would be detrimental to pedestrian safety.
- The application did not include an ecology/habitat assessment, arboricultural impact assessment or a phase 1 risk assessment.

## **7.0 Principal Policies**

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

- Backland and Infill
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- Extending Your House?
- The Essex Design Guide
- External Materials in New Developments
- Affordable Housing
- Cycling Delivery Strategy

## 8.0 Consultations

### 8.1 Highway Authority

Following this Authority's previous recommendation of refusal, appropriate speed survey information has been received which provides evidence showing that the proposed visibility splays of 2.4 x 43m will not create a highway safety issue. The Highway Authority does not wish to raise an objection to the above application subject to conditions.

The Highway Authority has also provided the following clarification "The developer provided a speed survey showing us that the ambient speed of vehicles on the road, and the accident data, meant this Authority could accept the reduced visibility splays without a highway safety issue being created. In this regard I had no grounds to retain the previous objection. The speed survey results are in Appendix B of the transport statement"

### 8.2 Urban Design Officer

"This is a confined and generally difficult to develop backland site where the detail of the design will be important in overcoming constraints, addressing reasonable neighbour sensitivities and ensuring development which enhances the area. As such the current scheme fails to adequately convince that the site can provide the form of access and quantum of proposed development whilst meeting design policy, for example as outlined in the Essex Design Guide and Essex Parking Standards. I would therefore recommend improvements before I can support the scheme. My more detailed comments are as follows:

The site provides an opportunity to provide well designed family homes backing onto allotments, retaining some of the sites leafy hillside appeal and provide a more positive relationship with the adjoining footpath which currently suffers from lack of natural surveillance and a feeling of being tightly hemmed in by fencing. The proposal crudely reengineers the hillside into three flat linear bands and includes a seemingly unnecessarily unattractive 1m sheer drop with 1.2m protective fence. Levelling of the bank adjoining the footpath would also involve removing all the vegetation, including a number of trees, which currently help to positively green the footpath. This loss of trees would also remove the landscape screening needed to adequately screen the rear of existing properties on Brook Road from the fronts of proposed properties. I would suggest a band of verge and banking is safeguarded to suitably open up the footpath with a reasonably safe slope down to the road, though protected by knee-high wooden rail, retaining significant levels of tree planting and supplemented by additional planting where appropriate. Planting between homes and the footpath should maintain adequate eye level natural surveillance, e.g. above ground planting and under tree canopies. These recommendations suggest a slightly curved street and front building line, i.e. with plots 2 and 3 for example set back from the southern boundary relative to other plots. The split ground level 2-3 storey format of housing suggested in the site section drawing would appear appropriate for plots 2 and 3 and probably 1, considering the precedent set by adjoining properties, though would seemingly be too tall for plots 4-5 given the potential for these to appear overbearing to nearby allotments. The collective impact of height and massing would also be a consideration. A dormer style arrangement might also be considered to reduce overall visual impact.



With regard to parking, I am concerned that some parking is proposed to the front of properties and in a way which would create a too car dominated environment; considering conflict with the adjoining green foot link and with the Essex Parking Standards. Similarly parking to the side of plot 5 would unduly confine the footpath and reduce the potential for natural surveillance from the property. For this context I would generally recommend parking is provided in tandem to the side of properties and entirely behind the front building line, though some other arrangements might also be appropriate, e.g. spatially enclosed (and therefore discreet) within a forecourt similar to as proposed for plot 4. The relatively narrow (4.8m) street appears appropriate to minimise landscape impact, though might be widened on occasion to facilitate say 1 or 2 visitor parking spaces and passing ability. Parking should be set back from the 4.8m wide street by at least 1.2m to ensure the required 6m turning width, noting this is currently not achieved for four spaces. The 'gateway' area to the development generally appears poor, albeit this appears constrained in all directions. On reflection, I would suggest the need to re-elevate the southern elevation of 62 Brook Street befitting its more prominent 2nd frontage context, partially enclosing the proposed easterly street vista. Similarly the adjoining two new parking spaces for no.62 will detract from the streetscene, though would probably be acceptable considering site constraints.

I would recommend the shared street be continuously treated in a higher quality hard surface to complement the landscape setting / green link (e.g. resin-bound gravel or clay-type pavements), rather than just at the end of the cul-de-sac as suggested. The wing of dwelling 4 appears to project unnecessarily close to allotments in a way which would undermine their green space character. Similarly dwelling 5 might be moved further from the boundary. It is debatable whether plot 5 should be provided given its tapered and treed nature, though its development might be better argued if less than a full 2 storeys, a verge is provided between it and the footpath, a noticeable gap is provided between the building and the allotments boundary, and subject to tree survey recommendations. The constrained nature of the site means good design will not always be possible, though puts greater emphasis on mitigating design quality elsewhere including the design of individual homes."

#### 8.2.1 Additional Comments, 23/2/15

As requested by the applicant the following drawing broadly indicates how the site layout might be improved. This would be subject to detailed considerations including appropriate slope down from the footpath, checking the turning area is acceptable, consultation with highways etc. However, the detached housing format suggests there is some slack to make any necessary amendments.

#### 8.3 Environmental Protection has raised no objection subject to conditions.

One of the conditions recommended the submission of a detailed assessment undertaken by a competent person of the impact the proposed development will have on local air quality. Following discussion with the Environmental protection Team it was agreed this assessment should be submitted prior to the determination of the application.

An air quality assessment has been submitted, Environmental Protection have received the following independent assessment of the report:

"This proposed development is situated partially within an AQMA and in an area of poor air quality. The air quality assessment identified that air quality conditions for

future residents will be acceptable. This observation can be accepted however, traffic movements created by this application will have a small but detrimental effect on nearby air quality that already exceeds EU limit values by 37.5%.

In addition to this application, enquiries have been received relating to air quality impact assessments for other sites within the same AQMA.

Air quality is a material consideration in the planning process. In the determination of this application, consideration should be given to the existing poor air quality and also to the cumulative impact of development on pollution levels.

The National Planning Policy Framework identifies that development should incorporate facilities for low emission vehicle infrastructure. If the proposed development does gain planning permission, then a mitigating measure of the installation of one ELV charging point per unit should be conditioned. This is to enable future occupiers to make green vehicle choices and to minimize the impact”.

#### 8.4 Contaminated Land Officer

“The reports are generally acceptable to Colchester Borough Council Environmental Protection, although I have some comments which I would generally recommend be addressed by future reporting, and conditioned as part of the Reserved Matters. You will, however, need to advise on any implications with respect to the self-build aspect of this outline proposal:

To summarise: some unacceptable levels of contamination have been identified at this site, which will require remediation (once the risks have been fully characterised). This will require the submission of a Remediation Method Statement (RMS) for agreement by Colchester Borough Council, before any works could begin on site. However, based on the information provided, and taking into the account my comments above, it would appear that the site could be made suitable for use, with the remaining actions dealt with by way of condition. Consequently, should permission be granted for this application, Environmental Protection would recommend inclusion of conditions.”

#### 8.5 Natural England

“Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**The Wildlife and Countryside Act 1981 (as amended)**

**The Conservation of Habitats and Species Regulations 2010 (as amended)**

Natural England’s comments in relation to this application are provided in the following sections.

**Statutory nature conservation sites – no objection.**

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

**Protected Species**

We have not assessed this application and associated documents for impacts on protected species.

Natural England have published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a ‘reasonable likelihood’ of protected species being present. It also provides detailed advice on the protected species most often affected by development,

including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at

[consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

### **Impacts to Invertebrates and their Habitats**

Natural England does not provide bespoke advice to local planning authorities on habitats and species listed as being of principal importance for the purpose of conserving biodiversity, under Section 41 of the Natural Environment and Rural Communities Act 2006. These are capable of being material considerations in the determination of planning applications, and this proposed development may affect s41 invertebrate species and/or the s41 habitat “open mosaic habitat on previously developed land”.

We have not assessed the application for impacts on these habitats and species, and our lack of comment should not be taken to imply that there are no impacts on them arising from the proposed development.

Natural England has produced standard advice for use by local authorities in Essex, which can be found [here](#). The advice can be used to assist your authority and applicants in determining whether the mosaic s41 habitat and s41 invertebrate species are reasonably likely to be present on, or in the vicinity of, the development site, and how we advise that these are considered in the planning process.

### **Local Sites**

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

### **Biodiversity enhancements**

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *‘Every public authority must, in exercising its functions, have regard, so far as it is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity’*. Section 40(3) of the same Act also states that *‘conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat’*.

### **Impact Risk Zones for Sites of Special Scientific Interest**

Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI

and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated.”

## 8.6 Environment Agency

“Thank you for your consultation received on 23 December 2014. We have inspected the application, as submitted, and have no objection. However, we have the following advice on flood risk, land contamination, foul water and sustainability:

### **Flood Risk – Tidal/Fluvial**

Our maps show the majority of the site lies in Flood Zone 12, the low risk zone and the eastern limits in tidal Flood Zone 2, the medium risk zone. The proposed residential dwellings are classified as ‘more vulnerable’ development and the application is therefore covered by our Flood Risk Standing Advice.

We note that a Flood Risk Assessment by Hydrock, referenced R/C14010/001/.02 and dated December 2014, has been submitted. As this falls under our standing advice, we are not providing detailed advice on flood risk, although we have brought some points to your attention below:

- When comparing modelled flood levels to ground levels, only a very small area on the eastern site boundary is shown to be within the critical 1 in 100 year plus climate change fluvial floodplain.
- The site is protected by the Colne Barrier. The Strategic Flood Risk Assessment (SFRA) for Colchester Borough Council shows that if the Colne Barrier were to breach/fail then the site would not be affected by floodwater in a design 1 in 200 year plus climate change flood.
- There is therefore safe dry access/egress route.

The western limits of the site are within an area of flooding if a reservoir was to fail and release the water that it holds.

### **Summary of Flood Risk Responsibilities for your Council.**

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and resource or evacuation arrangements).
- Safety of the building.
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures).
- Whether insurance can be gained or not.
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

### **Contaminated Land**

The submitted application form indicates that contamination is suspected for all or part of the site and a Phase II report has been submitted. However, we consider that the water environment at this site is of low environmental sensitivity, therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issued for this site.

### **Foul Water Disposal**

The application form states that foul water will be deposited off via the main sewer network. Anglian Water Services should be consulted regarding the available capacity in the foul water infrastructure. If there is not sufficient capacity in the infrastructure then we must be consulted again with alternative methods of disposal.

### **Sustainability**

Climate change is one of the biggest threats to the economy, environment and society. New development should therefore be designed with a view to improving resilience and adapting to the effects of climate change, particularly with regards to already stretched environmental resources and infrastructure such as water supply and treatment, water quality and waste disposal facilities. We also need to limit the contribution of new development to climate change and minimise the consumption of natural resources.

Opportunities should therefore be taken in the planning system, no matter the scale of the development, to contribute to tackling these problems. In particular we recommend the following issues are considered at the determination stage and incorporated into suitable planning conditions:-

- Overall sustainability: a pre-assessment under the appropriate Code/BREEAM standard should be submitted with the application. We recommend that design Stage and Post-Construction certificates (issued by the Building Research Establishment or equivalent authorising body) are sought through planning conditions.
- Resource efficiency: a reduction in the use of resources (including water, energy, waste and materials) should be encouraged to a level which is sustainable in the long term. As well as helping the environment, Defra have advised that making simple changes resulting in more efficient use of resources could save UK businesses around £234bn a year.
- Net gains for nature: opportunities should be taken to ensure the development is conserving and enhancing habitats to improve the biodiversity value of the immediate and surrounding area.
- Sustainable energy use: the development should be designed to minimise energy demand and have decentralised and renewable energy technologies (as appropriate) incorporated, while ensuring that adverse impacts are satisfactorily addressed.

These measures are in line with the objectives of the NPPF as set out in paragraphs 7 and 93-108. Reference should also be made to the Climate Change section of the draft National Planning Practice Guidance, in particular “Why is it important for planning to consider climate change?” and “Where can I find out more about climate change mitigation and adaptation?”

- 8.7 The Landscape Officer has commented that the tree planting indicated requires amendment. The 2 mature willow trees T0013 & T0014 alongside the public footpath proposed for removal form a distinct feature within the landscape with considerable amenity value, their retention should be considered within any revised proposals if they are agreed with/confirmed as being A or B category, this in order to help protect the amenity value afforded by these trees.

## **9.0 Parish Council Response**

- 9.1 N/A

## **10.0 Representations**

- 10.1 (numbers of support/objection and issues raised) Support 3, Object 11

- 10.2 Councillor Hayes (comments summarised)

I write to object to this application.

- This represents another loss of valued back garden which legislation was specifically passed to protect. The issues identified in connection with the refused application 141087 are still present, though the density of proposed development is reduced.
- The area is an Air Quality Management Area due to the excessively high air pollution from vehicle exhaust fumes and the Council has a duty under the Environment Act 1995 to mitigate this. The health hazard to existing residents must be brought down to legal levels before any more development is contemplated in this area.
- The new road will just add to traffic problems in the already very congested and problematic Brook Street as vehicles entering and leaving the proposed development will increase traffic density. The proposed entrance/exit will create a new hazard in Brook Street as it suffers from the same defects as before.
- The proposed development is adjacent to a public footpath and visible from that footpath. While the application seeks to characterise the public footpath as a source of nuisance, this is denied by for example the occupier of 64 Brook Street.
- The proposed development will unduly harm the amenity of existing residents by altering the character of the green space at the rear of their properties.
- The proposed development will harm the value of the Colne river valley as a wildlife corridor and a leisure resource for inhabitants of the Borough. This location is adjacent to the River Colne flood plain, to allotments, to the Town to Port Trail and to the wildlife-rich area between East Hill and Hythe Hill called "The Moors", valued by bird-watchers, walkers and cyclists. As Natural England point out in their letter, statute requires the planning authority to have regard to the purpose of conserving biodiversity.
- It is very unfortunate that the application proposes to remove almost all the trees and vegetation on the site, including 6 category B trees, because they are characterised as nuisances to or significant constraints to the proposed development. They are also habitats for wildlife and if they are incompatible with the proposed development, that counts against the development not the trees.
- A small part of the development land at the east end of the site is on Flood Zone 2 (medium risk). This is undesirable for housing. The application states that the proposals are to deal with excess water run-off by means of a "sustainable

drainage system” and “soakaway”. However, the MLM Environmental report states on page 5 that soakaway drainage is considered unsuitable for this site. This is due to the “predominantly cohesive” soils found below the site: see section 7.7 on page 14. What drainage is therefore to be provided?

- The application contains no proposals for provision for waste and recycling.
- I note that as before, the sole comment in support appears to come from the owners of 62 Brook Street, the site of the proposed development.

10.3 The objections raised by residents reflect those raised by Councillor Hayes the following objections are also raised.

- The traffic survey that was done clearly points out that the busiest time was between 9 and 10 am and 6 till 7pm the reasons for these results are because between 8-9 the traffic barely moves and the same between 430 and 630pm. The times they have suggest is when it starts moving again which is when larger amounts of traffic pass over the sensors proving that static road counters don't tell you the information you really need.
- The area that is to be built on is to have the top soil cleaned as it has been identified as having asbestos in it. What implications does that have for the health of myself and residents living near.
- There will be the initial dirt and noise pollution from the building then when the houses are done it will be noise, heating and vehicle fumes constantly being blown at the back of or houses.
- The last application was rejected on the grounds an entrance way was not in a suitable place, and this is still the case. if you were in a car pulling out of this driveway you would not see vehicles coming up the road because of the setback of the houses and would jam it up if you were trying to turn right. There was a recent accident with a vehicle coming out of meadow brook court because visibility is really bad.
- It is proposed that piling would need to be done to secure the ground, the last time piling was done there was substantial damage done to the properties with large cracks forming in the houses.
- On a normal week there are hundreds of parents and pupils who walk regularly up and down the hill to a local school, if this proposal goes ahead it is putting more danger in front of them
- Decontamination of the site would require diggers and lorries in addition to the building works causing severe disruption to the residents and the traffic.
- Proposal Planning statement states there are continuous footways on both sides of Brook Street. This is not true as the footway at the bridge on the east side of the road is only 0.4m wide. Footways and crossing places in Brook Street are totally inadequate

- Proposal Planning statement says the development will provide 2 parking spaces for no 62 taking pressure off the on street parking. Incorrect as no.62 already has parking for at least 2 vehicles so there is no additional benefit to on street parking.
- This proposal is for outline planning with a view to self build units. I believe that this is an inappropriate way of moving forward and is not in tune with the planning policy of Colchester Borough Council or in the best interests the local residents.
- As the owner of the property next door to No 62 I am concerned that any houses built would have a clear view of my terrace and garden at the rear. Also the relatively clean air which we currently enjoy at the rear would be compromised by the introduction of any extra vehicles entering and exiting this site. It is well known that there is serious pollution from excessive traffic in Brook St, which was declared to be an AQMA ten years ago, since when nothing has been done to improve conditions. On the contrary, there is more and more traffic, now even including buses.
- The houses are proposed to be self-build but no mention of timescale is made. If they are not all to be built at the same time then presumably the noise and disruption of building works would continue on and off for a considerable time.
- References have been made to 'anti-social' problems relating to the footpath which runs alongside my property. I wish to state that I have lived here for thirty years and have never experienced or seen anything of this sort. The path is used on a daily basis by people going to and from work, dog walkers and people like myself walking to the Hythe area.

#### 10.4 Letters of support

- This is a very sustainable location and is perfect for the creation of a small development of new family houses. We understand they may be offered to allow families to self-build their own homes, which could be an excellent opportunity for local people.
- The design layout offers five houses that are situated within a short walk to town, but also with direct access to the Colne valley walks, cycle routes and train station. Via the footpath these houses have access to Castle Park, which doesn't require walking along the main road.
- Every house has the space to park two cars
- The development of this whole area is a permanent solution to enhancing the area long term. The footpath, although recently resurfaced is not a pleasant route to the river walks. It is littered with rubbish and then in the autumn becomes a slippery mulch of rotten leaves. In the summer it is overgrown with nettles and is very difficult to negotiate with small children and especially with a pram. If this area is developed this area would be opened up, easier to maintain and a generally more pleasant access to the river walk and cycle route.
- The plans improve visibility



- The flow of pedestrians up and down the pavement in front of 62 Brook Street is much smaller than on the other side of the road due to the pavement significantly narrowing to less than half a metre at the railway bridge.
- The new planning shows a refuse collection point at the top of the access. This now means that the refuse lorry would continue to still just stop in one place on Brook Street to collect the refuse from the new development as it does now with the existing access at no.62.
- The proposed planning would brighten up, improve and bring new families to this area.

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

## **11.0 Parking Provision**

- 11.1 This is an outline application but the drawings demonstrate the Council's adopted parking standards can be met

## **12.0 Open Space Provisions**

- 12.1 The development is not of a size where public open space is required and the drawings demonstrate the Council's adopted amenity standards can be met

## **13.0 Air Quality**

- 13.1 The site is within an Air Quality Management Area. Following consultation with Environmental Protection an Air Quality Assessment has been submitted. The consultation section above sets out the independent response received. The main points are summarised below:-

- The development is situated partially within an AQMA and in an area of poor air quality. The air quality assessment identified that air quality conditions for future residents will be acceptable.
- Traffic movements created by the application will have a small but detrimental effect on nearby air quality that already exceeds EU limit values by 37.5%.
- Consideration should be given to the existing poor air quality and also to the cumulative impact of development on pollution levels.
- The NPPF identifies that development should incorporate facilities for low emission vehicles. If the proposed development does gain planning permission, then a mitigating measure of the installation of one ELV charging point per unit should be conditioned. This is to enable future occupiers to make green vehicle choices and to minimize the impact".

- 13.2 The Transport Statement supporting the application indicates An Automatic Traffic Count (ATC) survey was carried out adjacent to the site, where Brook Street narrows around 30m north of the site entrance, from Saturday 7th December 2013 for one week. The results indicated an average daily flow of just under 16,000 vehicles (two-way combined) of which 9% were HGVs of all types. Weekday peak hours were identified as 09:00-10:00 (with 1,084 two-way vehicles on average) and 18:00-19:00 (with 1,238 vehicles).
- 13.3 Five dwellings will generate additional traffic onto Brook Street. However the amount of additional movements compared to existing traffic flow would be very small. The transport statement indicates an average daily flow of 16,000 movements. If each dwelling was to generate an average daily flow of 8 two-way combined movements this would add in total just one quarter of 1% to the average daily flow. Eight two-way movements per day is a very high estimate and the average is likely to be much lower. The development of this site will not create a precedent for other development, nor does have the potential to allow adjacent land to be developed. On this basis your officers consider the impact of the development on air quality is insufficient to justify a refusal of planning permission. The mitigation measures recommended in the consultants' report are secured by condition.

#### **14.0 Development Team and Planning Obligations**

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

#### **15.0 Report**

##### Layout

- 15.1 The application is for outline planning permission. A block plan showing a possible layout for 5 units has been submitted. However all matters of layout, appearance and landscaping do not form part of this application and will be submitted and agreed under the reserved matters applications. The access arrangements shown do form part of the application.
- 15.2 The block plan indicates access onto Brook Street to the side of no 62 with 4 dwellings fronting the access with the 5th unit side on. There is a public right of way (PROW) along the south boundary and within the site a bank which acts partly as a retaining wall. The original plan indicated the removal of the bank with the ground level of the site lower than the PROW.
- 15.3 An amended plan has been received indicating the bank retained. This will result in a more satisfactory relationship between the two. The PROW is currently enclosed on both sides by high fencing producing a tunnel effect. The bank will be landscaped and with the dwellings overlooking the PROW they will provide natural surveillance.

- 15.4 Whilst the layout shown does not form part of the application it does demonstrate that the site could satisfactorily accommodate 5 dwellings meeting the Councils adopted standards in respect of privacy, amenity and parking. The development is therefore acceptable in principle.

#### Scale, Height and Massing

- 15.5 The site slopes down behind the road frontage there is also a downwards slope from S –N. This means cut and fill is required in the central part of the site to provide a developable area. The Design and Access Statement indicates dwelling will be split level 2 storeys fronting the access (the front elevation) and 3 storeys to the rear. This reflects development along Brook Street. Storey height can be controlled by condition.

#### Impact on the Surrounding Area

- 15.6 The development will generate additional traffic onto Brook Street a very busy road where traffic is often stationary. The question to be asked is whether the traffic generated by 5 dwellings will have such an adverse impact that a refusal of planning permission could be justified. Your officers consider the additional vehicle movements generated by 5 dwellings when compared to the existing traffic flow will be very small and will not have such an adverse impact to justify a refusal of planning permission.

#### Impacts on Neighbouring Properties

- 15.7 Existing dwellings fronting Brook Street are at a much higher level than those proposed. There are no issues of overlooking, loss of privacy or overbearing in respect of existing dwellings or the area of private amenity space next to the dwelling. The rear gardens of the majority of the dwellings and the rear elevation of the dwellings will face the allotments. Whilst it is likely one dwelling will share a boundary with no 60 Brook Street, when the reserved matters for this plot are considered should there be any overlooking issues then this can be designed out by the orientation of the dwelling and position of windows.

#### Amenity Provisions

- 15.8 The drawings indicate the Council's adopted standards for private amenity area can be satisfied.

#### Highway Issues

- 15.9 The Highway Authority has withdrawn their objection to the application their comments are set out in the consultation response above.

## Other matters

### 15.10 Trees

An Arboricultural Impact Assessment has been submitted. None of the trees are protected by a tree preservation order. There are no category A trees on the site and 7 category B trees. The majority of these are within the garden and are proposed to be removed. A willow on the bank adjacent to the PROW will also be removed. No objection is raised to the removal of the trees. New planting will be secured by condition for the gardens and the bank.

### 15.11 Ecology/Habitat

An ecological assessment has been submitted this concludes the site is of low ecological value with only the trees and scrub habitat being of value for some groups; birds, bats and invertebrates. The application information indicates the site is predominantly open garden land mainly laid to lawn with negligible habitat value for ecology. However in its eastern corner of the site is an area of fallen trees, undergrowth and evidence of a spring or pond. This area is to be retained. Precautionary mitigation for reptiles is recommended in respect of clearance works within the scrub habitat and in relation to nesting birds. Enhancements for birds, bats and invertebrates have been recommended.

### 15.12 Contaminated Land Risk Assessment

The site is within a known fill area. The Contaminated Land Officer has considered the submitted reports and has raised no objection subject to conditions

### 15.13 Drainage and Flood Risk

The majority of the site is within Flood Zone 1 – the low risk zone, a small part is within Flood Zone 2. A Flood Risk Assessment has been submitted and considered by the Environment Agency (EA). The EA advise that only a very small part of the site is shown to be in the critical 1 in 100 year plus climate change fluvial floodplain, the site is protected by the Colne Barrier. There is a safe /dry access/egress route.

The Council's Emergency Planner has confirmed an emergency plan is not required as residents have a safe means of escape. Only a limited area of site is within Flood Zone 2 and this area is shown as garden. The dwellings will be constructed within Flood Zone 1 the low risk zone.

## **16.0 Conclusion**

- 16.1 The development is proposed on a site allocated for residential purposes. Five dwellings are proposed and whilst the application is for outline planning permission it has been demonstrated the site can satisfactorily accommodate 5 dwellings and satisfy the council adopted standards in respect of parking, private amenity space and it will not have an adverse impact on neighbouring amenity or privacy. Consultees including the Highway Authority, Environment Agency and Environmental Protection have raised no objection subject to conditions. It is appreciated the development will add traffic to Brook Street an Air Quality Management Area. The additional vehicle

movements will be very small compared to existing traffic figures and whilst this will result in a small adverse impact officers consider this limited adverse impact is not sufficient to justify a refusal of planning permission. The proposed dwellings will be located behind the road frontage and air quality for these residents will be acceptable.

## **17.0 Recommendation**

17.1 APPROVE subject to the following conditions

## **18.0 Positivity Statement**

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

## **19.0 Conditions**

1 - \*Time Limit for Outline Permissions Part 1 of 3

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

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

2 - Time Limit for Outline Permissions Part 2 of 3

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

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

3 - Time Limit for Outline Permissions Part 2 of 3

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

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

#### 4 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

#### 5 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

#### 6 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include details of surface water and foul water drainage. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage and foul drainage has been fully installed and is available for use.

Reason: To minimise the risk of flooding and to ensure an appropriate method of foul water drainage.

#### 7 -Non-Standard Condition/Reason

The number of residential units hereby approved is restricted to a maximum of 5 dwellings.

Reason: For the avoidance of doubt as to the extent of this permission.

#### 8 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall comply with the Design and Access Statement Rev A and drawing nos. 13048/001 REV B and 13048/003 REV A submitted with the outline planning application reference 146519.

Reason: In order to ensure the phased development of the site is carried out in a co-ordinated and coherent manner and in accordance with an over-arching design and access strategy.

#### 9 - Non-Standard Condition/Reason

The reserved matters application for each dwelling demonstrate compliance with the following reports/documents submitted in respect of the outline application reference 146519

- Ecological Assessment Ref:1046 dated February 2015
- Flood Risk Assessment December 2014 Hydrock Ref: R/C14010/001.02
- Phase II Geo-environmental Assessment Report Document Ref: 771789-REP-ENV-R4 Date: 22 April 2014
- Arboricultural Impact Assessment at; 62 Brook Street, Colchester 24.01.2014.

Reason To ensure a satisfactory form of development

#### 10 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include all of the following • details of a landscape scheme for the bank adjacent to the Public Right of Way and all other hard and soft landscaped areas other than privately owned domestic gardens. The landscape scheme shall include the following:

- PLANTING PLANS; WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; ANDIMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.
- Details of a Management Company with responsibility for the bank and all other hard and soft landscape areas which do not form part of a domestic curtilage
- Details of a Management Company for the access road
- Details of habitat enhancements for the areas which do not form part of a domestic curtilage plus an implementation timetable.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity. To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area and to provide opportunities for biodiversity improvements in accordance with Paragraph 118 of the National Planning Policy Framework.

#### 11 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include a scheme of habitat and ecological enhancements and implementation timetable. The scheme shall include enhancements for birds, bats and invertebrates.

Reason: To provide opportunities for biodiversity improvements in accordance with Paragraph 118 of the National Planning Policy Framework.

#### 12 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall a scheme to limit the development's impact on the environment and ensure it is resilient to future climate change. The scheme shall include details of water efficiency measures, waste and resource management and efficiency, net gains for nature and sustainable energy use. The applicant is advised to consider the response from the Environment Agency in respect of the outline planning application and to appoint a suitably qualified consultant.

Reason: To ensure the development is sustainable and its adverse impacts on the environment are minimised.

### 13 - Non-Standard Condition/Reason

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

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

### 14 - Non-Standard Condition/Reason

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows, doors, rooflights, dormer windows or any other form of opening shall be inserted in any elevation or roof slope of any dwelling except in accordance with the approved reserved matters detail.

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

### 15 - Non-Standard Condition/Reason

The garage accommodation forming any part of the approved reserved matters shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose, including other uses ancillary to the residential use, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To retain adequate on-site parking provision in the interest of highway safety.

### 16 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include full details of all landscape works. The submitted landscape details shall include:

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

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



#### 17 - Non-Standard Condition/Reason

Prior to the first occupation of any of the dwellings, 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.

#### 18 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include a minimum of 2 off-street car parking spaces for the dwelling and a minimum of 2 visitor parking spaces within the site. The parking facilities, as agreed, shall be maintained at all times for parking and provided prior to the occupation of the dwelling.

Reason: To ensure the provision of adequate car parking within the scheme in accordance with the Council's parking standards.

#### 19 - Non-Standard Condition/Reason

19. The reserved matters application for each dwelling shall include a Construction Method Statement. 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; turning and offloading facilities for delivery vehicles within the site hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

#### 20 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include a noise survey for the proposed development as the site in the vicinity of the RAILWAY. The survey shall be undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. Each residential unit shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax)
- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAmax).

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

## 21 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall demonstrate that the access road is of a non-gravel construction. The access road shall be constructed in accordance with the approved materials.

Reason: To protect the residential amenity.

## 22 – Non Standard Condition

The reserved matters application for each dwelling shall demonstrate that all the following requirements are satisfied:

- Prior to occupation of the dwelling, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 49 metres to the north and 2.4 metres by 47 metres to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
- Prior to occupation of the dwelling the vehicular parking and turning facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of any highway boundary.
- The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.
- Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.
- Any single garages should have a minimum internal measurement of 7m x 3m
- Any double garages should have a minimum internal measurement of 7m x 6m
- Any tandem garages should have minimum internal measurements of 12m x 3m
- All garages shall be retained for the purposes of vehicle parking in perpetuity.

Reason: In the interests of highway safety and to ensure compliance with policy DM1, DM7, DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

## 23 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include a detailed sustainable transport mitigation package. This package will provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking (including the local Public Rights of Way network), taxi travel, car sharing and community transport in the vicinity of the site. The package shall thereafter be implemented as agreed for each individual dwelling and/or premises within 14 days of the first beneficial use or occupation of that unit.

Reason: In the interests of mitigating the impact of the approved development by seeking to reduce the need to travel by private car through the promotion of sustainable transport choices.

## 24 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include an investigation and risk assessment, in addition to any assessment provided with the outline planning application, which shall 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.

#### 25 - Non-Standard Condition/Reason

No works shall commence 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.

#### 26 - Non-Standard Condition/Reason

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.

#### 27 - Non-Standard Condition/Reason

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 24, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 25, 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 26.

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.

#### 28 - Non-Standard Condition/Reason

Prior to the first OCCUPATION/USE of any of the dwellings, 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 25.

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.

Informative the Investigation and Risk Assessment will need to be carried out by an appropriately qualified professional.

#### 29 - Non-Standard Condition/Reason

The reserved matters application for each dwelling shall include details of the installation of one ELV charging point. The approved details shall be installed prior to the occupation of the dwelling and thereafter maintained.

Reason The site is within an Air Quality management Area and this will help mitigate the impact of the development and enable future occupiers to make green vehicle choices.

#### 30 - Non-Standard Condition/Reason

No works shall take place on any of the dwellings hereby approved until evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the development is designed to be sustainable and will make efficient use of energy, water and materials.

#### 31 - Non-Standard Condition/Reason

Within 3 months of the first occupation of each dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that the dwelling has achieved a Code for Sustainable Homes rating of Code Level 3 or higher shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

### 20.0 Informatives

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

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

**(3) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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

(4) Essex County Council as Highway Authority can assist in the production of appropriate material as packs of information are available for purchase by the developer. Contact the Sustainable Travel Planning team on 01245 436135 or email [travelplanteam@essex.gov.uk](mailto:travelplanteam@essex.gov.uk) for more information.

(5) The public's rights and ease of passage over public footpath no137 (Colchester) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. Any unauthorised interference with the route will constitute a contravention of the Highways Act 1980.

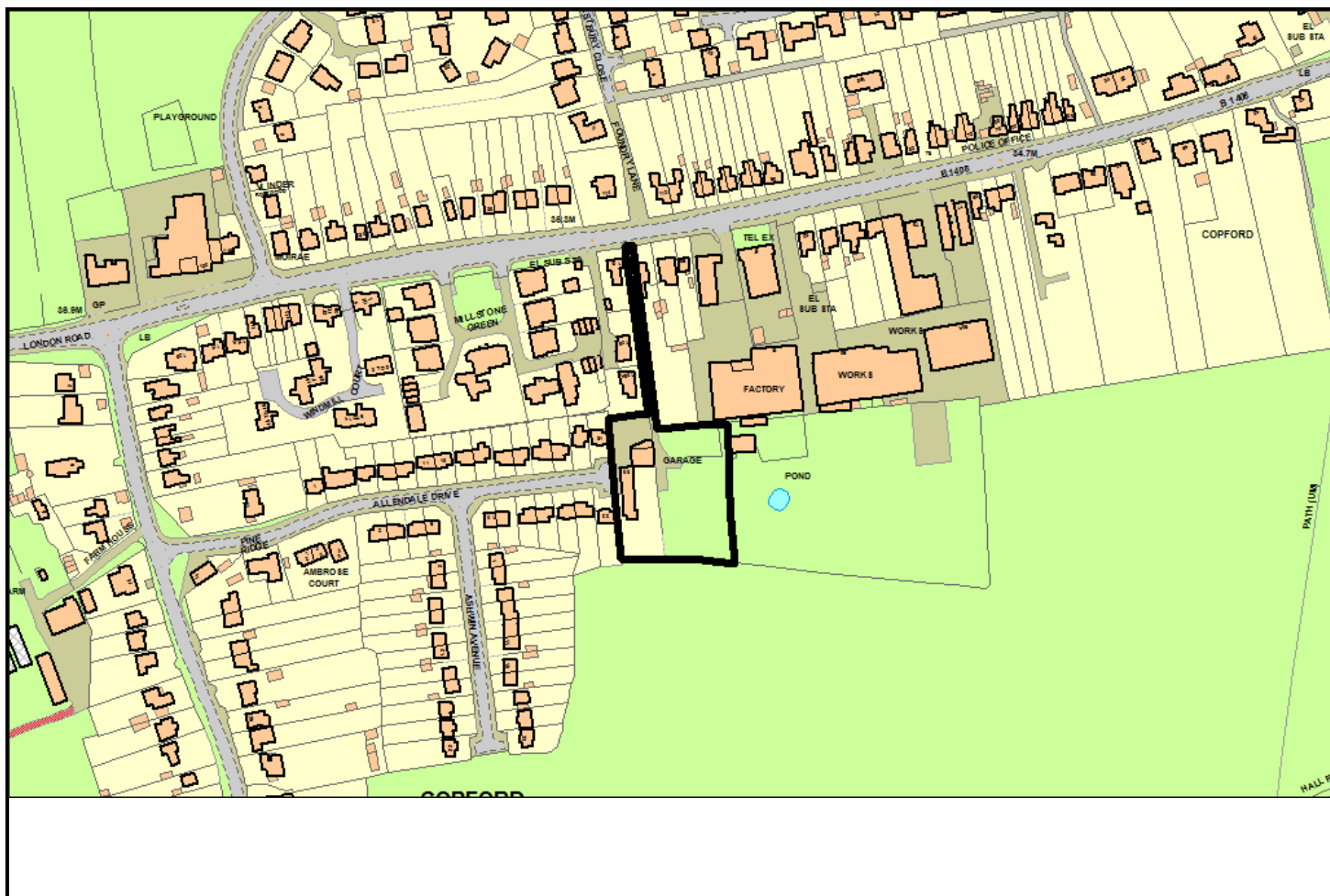
(6) Cost of Works - The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester, CO4 9QQ.

(7) Cost of Works - 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.

(8) Site Workers - Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

(9) To avoid committing an offence under The Wildlife and Countryside Act 1981 (as amended) clearance of the scrub habitat should be undertaken outside the hibernation period (ie between April to October inclusive).

(10) To avoid committing an offence under The Wildlife and Countryside Act 1981 (as amended) areas of suitable nesting habitat should only be removed outside the bird nesting season (March to August inclusive).



**Application No:** 150669

**Location:** 99-105 London Road, Copford, Colchester, CO6 1LG

**Scale (approx):** 1:1250

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**7.2 Case Officer: Sue Jackson      Due Date: 25/05/2015**

**MINOR**

**Site:**                    **99-105 London Road, Copford, Colchester, CO6 1LG**

**Application No:**   **150669**

**Date Received:**   30 March 2015

**Agent:**                Pomery Planning Consultants Ltd

**Applicant:**           Oak Home Developments Ltd

**Development:**      Application for removal or variation of condition following grant of planning permission (144976) condition 17 which requires delivery and construction traffic to be from London Road and not Allendale Drive.

**Ward:**                 Copford & West Stanway

**Summary of Recommendation:** Conditional Approval

## **1.0      Reason for Referral to the Planning Committee**

- 1.1      This application is referred to the Planning Committee because the application relates to the rewording of a condition which was imposed by the Planning Committee, objections have been received and the recommendation is to grant planning permission.

## **2.0      Synopsis**

- 2.1      The key issues explored below are whether the original condition was reasonable and enforceable, the proposed rewording, the proposals for delivery and construction vehicles and the impact on adjacent neighbours.

## **3.0      Site Description and Context**

- 3.1      The application site comprised the curtilage of a large detached house with swimming pool and detached outbuilding/car port, as well as a commercial workshop previously used in connection with a coach business. Both the house and the non-residential building are now partially demolished and the site cleared. The site is at the end of Allendale Drive. The red line of the application site includes a narrow strip of land which provides access to London Road.



## 4.0 Description of the Proposal

- 4.1 At the planning committee meeting on November 6th 2014 full planning permission was granted for the erection of 8 dwellings subject to a number of conditions, condition 17 requires the submission of, and agreement to a Construction Management Plan. At the meeting Members were concerned at delivery and construction vehicles using Allendale Drive and condition 17 was amended to require all construction and delivery vehicles to use the track from London Road.
- 4.2 During the meeting the case officer was informed via the Planning Manager that the agent had indicated it was possible for all these vehicles to use the London Road access. This was explained to the Committee hence the wording of the condition.
- 4.3 The information submitted to discharge the condition indicated that all delivery and construction traffic would use Allendale Drive; the discharge of the condition was refused. The case officer explained that an application to vary the wording of the condition was required and that resulted in the submission of the application.
- 4.4 The following supporting information provides an explanation and details of the proposal:-

*"Please accept this letter and its enclosures as an addendum to that Planning Statement. This additional information hopefully provides more precise details in relation to the separation of vehicle movements between the site access onto London Road and that onto Allendale Drive. It also rounds up one or two other matters.*

### *Background*

*When I addressed the Planning Committee, I did say that the applicant could not control the use of Allendale Drive, which he would need to use for some larger vehicles, but everything else would use the London Road access. It seems that one way or another this became translated into all vehicles must use London Road. I accept that immediately following the grant of consent, this prospect appeared to the applicant that it might be feasible, however on reflection it is not. In preparing his Construction Method Statement to discharge Condition 17, the applicant was advised by his Health & Safety Consultant that larger delivery/construction vehicles could not access the site via the London Road access. The reasons for this are set out in the Planning Statement, however in short; it is of insufficient width causing health and safety risks and represents a highway danger.*

*On further examination, it was evident that the imposition of the Condition, which prevents any use of Allendale Drive for construction access was perhaps imposed in haste. It is fair to say that neither the applicant nor the Officers/committee gave any detailed consideration to the feasibility or practicality of the condition. A good illustration of this is no better evidenced by the reason for the condition, which states:-*

*"In order to ensure that the construction takes place in a sustainable manner and to ensure that amenities of existing residents are protected as far as reasonable".*

Clearly, the intention was to protect the residents who live on Allendale Drive by routing all vehicles onto London Road. However, the London Road access is also lined with residential properties, which are immediately adjacent to the access track. A plan illustrating these properties is attached. Clearly, it was not Committee's intention to protect some, but not all local residents. The unintended consequences of the condition are now materialising, as a letter of support for the variance of the condition, has been received by the Council from a resident adjacent to the London Road Access.

#### *Programme*

The applicant simply wants to get on and build what is a small and uncomplicated development.

Quite reasonably, he wishes to use the most appropriate and safest access to the site, to suit the vehicle concerned. Enclosed with this letter is an updated Construction Method Statement, which details the separation of vehicles between the two access points.

The statement also gives a considered estimate of the amount of vehicle visits, which will need to access the site via Allendale Drive. These are as follows:-

Concrete Lorries – 35 visits

Skip Lorries – 20 visits

Muck Away Lorries – 30 visits

In addition, there will be deliveries from Builders Merchants at an estimated two per week.

These deliveries will be between the hours of 9am and 2 pm. Construction is likely to run for approximately 12 months.

The regularity of lorries using Allendale Drive will be condensed within the first few months of construction. It will begin with the removal of demolition material and spoil dug from foundations (Muck Away). Typically, foundations are dug in one day and the spoil taken away.

The following day the concrete is poured and so on. It takes approximately 3 concrete deliveries to complete each foundation. Once demolition is complete and the foundations are poured for each unit, the majority of the concrete and skip lorry movements will cease. For the remaining construction period there will be on average two Builders Merchants deliveries each week, visiting between 9.00am and 2.00pm.

All other movements will be directed to London Road, these will include all construction staff who will park on the site in the area marked on the enclosed plan.

The applicant is also the Contractor, he is very much alive to the concerns of residents and has written to them to provide contact details should they need to complain or bring matters to his attention. The applicant company is also signed up to the Considerate Contractor Scheme.

#### *Comments on the representations made.*

- The applicant knew about the restriction ? – As mentioned above, the prohibition on the use of Allendale Drive only became apparent at the Committee meeting and the limitations of the London Road access only became known, once the Health and Safety assessment was done. The purpose of the condition is in part to protect amenity. Being forced to solely use London Road does not achieve this purpose, as there are residential properties adjacent. Those who have made representations fail to acknowledge this important point.
- All previous applications have failed on access ? It should be noted the site has planning approval for 7 residential units to which there is no restriction on the use of Allendale Drive.

- *The applicant says that the required sized vehicles will be able to access the site from Allendale Drive, evidenced by those servicing an extension to one of the properties in the Drive. There is no comparison between the proposal and the small extension in question? The point the applicant makes is that the road is capable of accepting a delivery lorry or skip lorry, as one currently uses the road. It is accepted that there will be many more visits to the application site, but the point is the road is of sufficient width. Attached is a copy of a delivery in the road, taken on or around the 7th April 2015. It can be seen that the road is quite clear of parked cars.*
- *There will be endless 18 wheeler vehicles queuing to get to the site? – Firstly, there will no need for 18 wheeled lorries to visit the site. Deliveries will be typically by 18 tonne, 6 wheeled flat bed trucks, as seen in the attached photo. The regularity of visits will be as above, but it is most unlikely that they will never need to queue.*
- *The road is too narrow caused by parked cars, it will be dangerous for pedestrians for lorries to use the road ? - If parked cars block the highway, an offence will have been committed and action should and can be taken. However, the applicant's experience is that the road is rarely so busy with parked cars that it becomes impassable. In some ways, some parked cars will slow vehicles down in the road, thus making it safer for pedestrians.*
- *To date there has been no formal implementation of the development on the site. The works that have taken place are the removal of asbestos by an accredited contractor from the existing buildings on the site. In addition, UK Power Networks have visited the site to disconnect the power supplies. Site Hoarding has been erected and site huts and some marking out has and is being done in readiness of construction commencing.*
- *It is appreciated that the residents of Allendale Drive have had to contend with a lot of development in the area in recent years and it is understandable that they have concerns. However, the road is a public highway and of adequate dimensions to accommodate the scale and frequency of vehicles required to use it to carry out this development. If there are any doubts about this, then the planning authority should take advice from the highway authority. If there were a safe and suitable alternative available to the applicant then it would be used, however there is not. The applicant proposes to do all he can to minimise the movement of vehicles in Allendale Drive. The Council refuse vehicle visits the site each week and other vehicles of similar scale are already managing. It is hoped that with the additional information provided in this letter, the residents will at least be able to put matters into some perspective”.*

## **5.0 Land Use Allocation**

- 5.1 The majority of the site is within the settlement boundary but a part is outside. Planning permission has been granted for the development.

## **6.0 Relevant Planning History**

- 6.1 144976 Demolition of dwelling and workshop building and erection of 8 no. residential units and extension to car park to neighbouring employment units. Planning Permission was agreed at the committee meeting on the 6<sup>th</sup> November 2014.

## **7.0 Principal Policies**

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

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

SD1 - Sustainable Development Locations  
PR2 - People-friendly Streets  
TA4 - Roads and Traffic  
TA5 - Parking

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

DP1 Design and Amenity  
DP17 Accessibility and Access  
DP19 Parking Standards

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

Backland and Infill  
Vehicle Parking Standards

## **8.0 Consultations**

8.1 The Highway Authority has been consulted and their response will be reported on the amendment sheet.

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

## **9.0 Parish Council Response**

9.1 No comments received

## 10.0 Representations

10.1 1 support/ 4 objection

### OBJECTION

- One of the specific concerns of the residents of Allendale Drive was the movement of traffic to this site on the very narrow and hugely congested Allendale Drive. We were subsequently reassured on attending a planning meeting when we received confirmation that this would not happen and that all deliveries and construction traffic to this site would use London Road.
- Why has Health and Safety only now becomes an issue? The Developers were well aware of the restriction when they acquired the site from the previous developer. If Health and Safety is a concern due to the narrow access to this property I think the council will find that when cars are parked on both sides of Allendale Drive, which they are on a daily basis. Subsequently the Health and Safety of the residents of Allendale Drive will also become an issue. At least the lane will have no residents trying to access properties. No children walking to school, no cyclists going to the station etc. etc. Furthermore the access point suggested in Allendale Drive for this site has driveways immediately in front of it; surely this is a major Health and Safety issue for those residents. I enclose photographs of vehicles already visiting this site from Allendale Drive.
- The developer points out that Allendale Drive is a public highway and as such he cannot be stopped from using it. He is right Allendale Drive is a public highway which allows the residents that LIVE in it to pass and re-pass; it does not however give access to 99-105 LONDON ROAD which has NEVER had commercial or residential access from Allendale Drive
- Previous applications for this site have failed on the grounds of access. F/COL/06/0149 which was refused went to appeal and was decided in November 2006. The refusal was upheld. Issues raised then were that the proposed houses were outside of the village envelope and that the extra traffic created would cause major problems with parking demand, congestion and free flow of traffic in Allendale Drive.
- The developer suggests that construction traffic can easily access the site as proven by an extension currently taking place in the road. I How can he possibly compare a 3m extension on the side of an existing house taking approximately 6 weeks to complete to the construction of an 8house development of predominately 4/5 bedroom properties which in his own admission will take approximately 52 weeks to complete!
- There will be endless 18 wheeled lorries both removing the enormous amount of demolition material and earth as well as delivering thousands of bricks and roofing materials, drainage materials, cement lorries etc. etc., possibly all forming a line in Allendale Drive whilst awaiting entry to the site. Of course that's if they can actually get down Allendale Drive due to the parked.
- Just because Health and Safety say the developer is not to use the lane from London Road as it is too narrow does not change the situation on Allendale Drive. Our concerns still apply the road is too narrow to allow works traffic. The road is too busy for residents to move their vehicles and there is nowhere else for residents to park.

- Last year the council spent thousands of pounds rebuilding and resurfacing the pavements of these two roads and now it is considering allowing heavy goods vehicles access! I just don't understand this!
- By his own admission in his application the developer cannot be monitoring the arrival of deliveries on a permanent basis and seems to almost be excusing any breaches of conditions before he even has permission.
- What is the point in having planning rules and regulations if developers can just run rough shod over the resident and council.
- The residents of these two streets were treated appallingly by the developer of the old night club site, they turned to the Planning Office to protect them, and nothing was done

## **SUPPORT**

- My property borders the track that leads to the building site. It is far too narrow for large vans and lorries to use .On March 17th at 0740 a large van and trailer knocked part of my wall down as they were trying to exit onto London road. I am very worried that next time my home will be damaged. The original access was to be via the industrial area on London Road, this seems a safer option, even though an underused car park now occupies the access.

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

## **11.0 Parking Provision**

11.1 The approved development meets the adopted parking standards.

## **12.0 Open Space Provisions**

12.1 The approved development meets adopted amenity standards.

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

14.1 N/A

## **15.0 Report**

15.1 The revised wording to condition 17 the Construction Management Plan, requiring all construction and delivery traffic to access the site via London Road, was added at the committee meeting. At the time the case officer understood the planning agent had indicated this was possible.

- 15.2 The applicant is correct in saying his client has a right to use the public highway. The site abuts Allendale Drive and can be used for vehicular access indeed the occupants of the dwellings will use Allendale Drive. Rights to use a public highway can only be removed by a Traffic Order. A routing plan for vehicles for a major development is sometimes agreed with an applicant. In all cases compliance with such a condition relies on best endeavours on the part of the developer. A contractor or delivery vehicle might be unaware of an approved route and it would not be sensible for that vehicle to be denied access to a site and required to use the approved route.
- 15.3 It is considered the condition could not be enforced and is also unreasonable as the applicant has a right to use the public highway.
- 15.4 It may not have been appreciated at the Committee meeting that the London Road access passes very close to the boundary of other dwellings. There is no footway and this unmade track abuts the residential boundaries. The track is long and narrow only 3 metres wide. It is also 3 metres wide at its junction with London Road where visibility is poor.
- 15.5 Construction of the dwellings has not commenced so there is no breach of condition. The work carried out relates to removal of asbestos, site clearance, disconnection of utilities and erection of site hoardings which are not covered by the condition.
- 15.6 The applicant has provided details of the vehicles that will need to access the site via Allendale Drive
- Concrete Lorries – 35 visits
  - Skip Lorries – 20 visits
  - Muck Away Lorries – 30 visits
  - Deliveries from Builders Merchants at an estimated two per week.
- 15.7 These deliveries are indicated as between the hours of 9am and 2 pm with construction likely to take approximately 12 months.
- 15.8 The case officer has sought clarification whether the Concrete, Skip and Muck Away lorries are included in the deliveries restricted to between 9am and 2pm. It has been clarified that the timing of everything except concrete delivery can be controlled. *“Concrete deliveries are dependent on building control officer inspections. Therefore we could agree everything being done between 9.00 and 2.00, except concrete, which will need to be 9.00 and 5.00. In reality, 4.00 might do it, but they need a bit of leeway to allow for traffic or weather etc”.*
- 15.9 The information indicates the majority of lorries using Allendale Drive will be condensed within the first few months of construction involved with the removal of demolition material and spoil dug from foundations, then concrete deliveries for the foundations with approx. 3 vehicles per foundation. Once demolition is complete and the foundations are poured for each unit, the majority of the concrete and skip lorry movements will cease. For the remaining construction period it is indicated there will be on average two Builders Merchants deliveries each week, visiting between 9.00am and 2.00pm.

15.10 All other movements will be directed to London Road, these will include all construction staff who will park on the site in a specific defined area.

15.11 The Construction Method Statement also includes the following information

- A bowser or mains water supply suppression will be used during the demolition phase of the contract to ensure dust is kept to a minimum at all times.
- All deliveries to the site will be booked in with the A C Construction (Colchester) Ltd Site Manager in advance of the materials arriving to site. Vehicles will be planned to arrive between the hours of 9.00am and 2.00pm to avoid peak pedestrian and vehicular times.
- Vehicles will be instructed to contact the site manager prior to arrival where they will be met by a competent, trained Banksman, who will control the vehicles entering the site. When leaving the site, the vehicle will be escorted back onto Allendale Drive by a competent trained Banksman
- A wheel washing facility will be provided at the site entrance on Allendale Drive which will be utilised to prevent mud/debris entering Allendale Drive. The highway will be monitored after each vehicle movement to ensure no debris is left in Allendale Drive at any time.
- SITE WORKING HOURS The site working hours will be within the hours of 8.00am to 5.00pm Monday to Friday. Any work outside these hours will not be carried out without prior approval from A C Construction (Colchester) Ltd.
- SITE PARKING All car parking will be restricted to the entrance track from London Road to the site, which will also serve as the pedestrian access to the site. Vehicles entering London Road from the track will be guided out by a competent banksman.

15.12 The main issues raised in the representations from residents of Allendale Drive are that cars are parked along the road blocking access for large vehicles and that the road is used by school children and commuters on bicycles. It is also indicated that Allendale Drive has not to be used to provide access to the site.

15.13 A representation has also been received from a resident whose property is adjacent to the London Road access raising concerns about noise and damage.

15.14 Whilst officers are aware of the concerns raised by Members at the committee meeting it is considered the proposal under consideration regarding the timing of deliveries and routing of vehicles between Allendale Drive and London Road is acceptable. The times suggested are when there are likely to be less parked cars and would also be outside main commuter and school times.

15.15 An appeal decision is referred to this related to the erection of 16 dwellings and whilst the Inspector was concerned at additional traffic this was in respect of the traffic generated by the dwellings and not construction traffic.



## **16.0 Conclusion**

- 16.1 As condition 17 as currently worded is considered to be both unenforceable and unreasonable the proposed rewording and the use of Allendale Drive and London Road for construction and delivery vehicles as set out in the Construction Method Statement are considered acceptable. It is recommended the condition is reworded so Allendale Drive is used for some deliveries and the Construction Management Plan is approved in discharge of the condition.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions

## **18.0 Positivity Statement**

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

## **19.0 Conditions**

### **1 - Non-Standard Condition/Reason**

With the exception of condition 17 of Planning Permission 144976 which is hereby varied, the requirements of all other conditions imposed upon planning permission 144976 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

### **2 – Non Standard Condition/Reason**

Condition 17 of Planning permission 144976 is hereby varied as follows:-Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details of:

- which delivery and construction vehicles associated with the construction phase of the development will access the site via London Road and which vehicles will use Allendale Drive;
- prior notification of residents of delivery dates and times;
- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;

- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

## 20.0 Informatives

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

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

(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation** PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.



**7.3 Case Officer: Simon Osborn**

**Due Date: 07/05/2015**

**MINOR**

**Site:** Coast Road, West Mersea, Colchester

**Application No:** 150476

**Date Received:** 12 March 2015

**Agent:** Stephen Collis

**Applicant:** Colchester Borough Council

**Development:** Installation of CCTV equipment on floating pontoon and toilet block

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

### **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it is submitted by and on behalf of Colchester Borough Council.

### **2.0 Synopsis**

- 2.1 The key issues explored below are the impact of the proposal upon the natural environment and the character of the surrounding area. The report has regard to the purpose of the installation, which is to deter anti-social behavior, and recommends that planning permission be granted.

### **3.0 Site Description and Context**

- 3.1 The site relates to the public jetty, which stretches from the shore to the floating pontoon on Coast Road, West Mersea.

### **4.0 Description of the Proposal**

- 4.1 The proposal is to install four CCTV cameras each mounted on a pole. One of these will be mounted on one corner of the public conveniences adjacent to the public car park on Coast Road; the other three will be fixed onto a galvanised hammerhead structure at the end of the jetty, adjacent to the floating pontoon. The height of each camera above ground level will be between 4.65 metres and 5.65 metres.

### **5.0 Land Use Allocation**

- 5.1 The site is part of the West Mersea Conservation Area and the West Mersea Waterside Area of Special Character; it is also part of the Blackwater Estuary Site of Special Scientific Interest.

## **6.0 Relevant Planning History**

- 6.1 COL/87/0965 – provision of new public conveniences, approved 1984
- 6.2 F/COL/00/0373 – installation of new GRP kiosk, approved 2000
- 6.3 C/COL/01/1671 – stationing of removable stall for sale of local fish at landing, approved 2001

## **7.0 Principal Policies**

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

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

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

DP1 Design and Amenity  
DP10 Tourism, Leisure and Culture  
DP23 Coastal Areas

## **8.0 Consultations**

- 8.1 Natural England made the following comments:

“This application is within the Blackwater Estuary Site of Special Scientific Interest (SSSI). This SSSI forms part of the Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area (SPA), Blackwater Estuary (Mid-Essex Coast Phase 4) Wetland of International Importance under the Ramsar Convention (Ramsar Site) and the Essex Estuaries Special Area of Conservation (SAC).

Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which the Blackwater Estuary (Mid-Essex Coast Phase 4) SPA, the Blackwater Estuary (Mid-Essex Coast Phase 4) Ramsar Site and the Essex Estuaries SAC have been classified. Natural England therefore advises your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on these sites conservation objectives.

In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Blackwater Estuary SSSI has been notified.

We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of the application change, Natural England should be reconsulted.”

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

8.2 Environmental Protection – no comment

## **9.0 Parish Council Response**

9.1 West Mersea Town Council has stated that it is unable to comment on this application.

## **10.0 Representations**

10.1 None

## **11.0 Parking Provision**

11.1 There is no requirement for parking in association with this proposal.

## **12.0 Open Space Provisions**

12.1 There is no requirement for open space provision in association with this proposal.

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

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

## **15.0 Report**

15.1 The CCTV cameras are proposed in order to deter anti-social behaviour from occurring within the vicinity of the floating pontoon at the end of the jetty on Coast Road, West Mersea. The anti-social behaviour ranges from boats being untied and set free, boats being vandalised and in some instances theft of outboard motors from moored boats. The cameras will also improve safety by minimising or eliminating vandalism of safety equipment or anti-social behaviour that endangers pontoon users. The pontoon area is accessible 24 hours a day to the general public and boat users.

- 15.2 Each of the four cameras will be mounted on metal poles. Three of these poles will be attached or immediately adjacent to the 2.65 metres high metal hammerhead structure at the end of the jetty and the other will be mounted on one corner of the brick and slate public convenience block. Each of the cameras will be positioned between 4.65 metres and 5.65 metres above ground level. Whilst there is an element of visual incongruity resulting from each of these structures, there is a number of other tall slim structures within the vicinity of each, such as a six metres high street lighting pole close to the public convenience block, five metres high wooden staves adjacent to the hammerhead structure at the pier end, and a number of 3.5 metres high lighting poles on the jetty. The masts of nearby sailing boats will also be close by. It is therefore considered that the visual impact of the proposed cameras will not be significant.
- 15.3 The jetty is within the Blackwater Estuary Site of Special Scientific Interest, a Special Protection Area, a Wetland of International Importance under the Ramsar Convention and a Special Area of Conservation. Natural England were consulted on the application and advised they are satisfied that the proposal will not damage or destroy the interest features for which the Blackwater Estuary SSSI has been notified.
- 15.4 Policy DP23 requires that development within the coastal protection belt will not be significantly detrimental to conserving important nature conservation, maritime uses and the landscape character of the coast. Proposals for all development on both the landward and seaward sides of Coast Road will be expected to enhance the existing traditional maritime character of the West Mersea Waterside Area of Special Character, and its role as a major yachting, fishing and boating centre. Whilst there is an element of visual incongruity associated with the proposed cameras, their purpose is to deter anti-social behavior associated with the yachting, boating and fishing activities at the heart of this area. The proposal is therefore consistent with the Council's adopted policies for the area.

## **16.0 Conclusion**

- 16.1 The proposed CCTV cameras will be mounted on metal poles and each camera will be sited between 4.65 metres and 5.65 metres off the ground. The cameras will be close to other street and jetty "furniture" and whilst there will be an element of visual incongruity associated with them this impact is not considered to be significant. The proposed CCTV cameras are proposed to deter anti-social behaviour and it is considered the benefits of this outweigh any minor visual impact and accord with the Council's adopted planning policies. The application is therefore recommended for approval.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions

## **18.0 Positivity Statement**

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

## 19.0 Conditions

### 1 - Time Limit for Full Permissions

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

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

### 2 - \*Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted location plan drawing and the appendices submitted with the application.

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

## 20.0 Informatives

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

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