

Planning Committee Meeting

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

Thursday, 25 May 2017 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 five working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. 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 Your Council> Councillors and Meetings>Have Your Say at www.colchester.gov.uk

Audio Recording, 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. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Councillors are permitted to use devices to receive messages and to access papers and information via the internet and viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, 21 Trinity Square, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call 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 water dispenser is available on the first floor and a vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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Colchester, CO1 1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call
e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

Material Planning Considerations

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

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

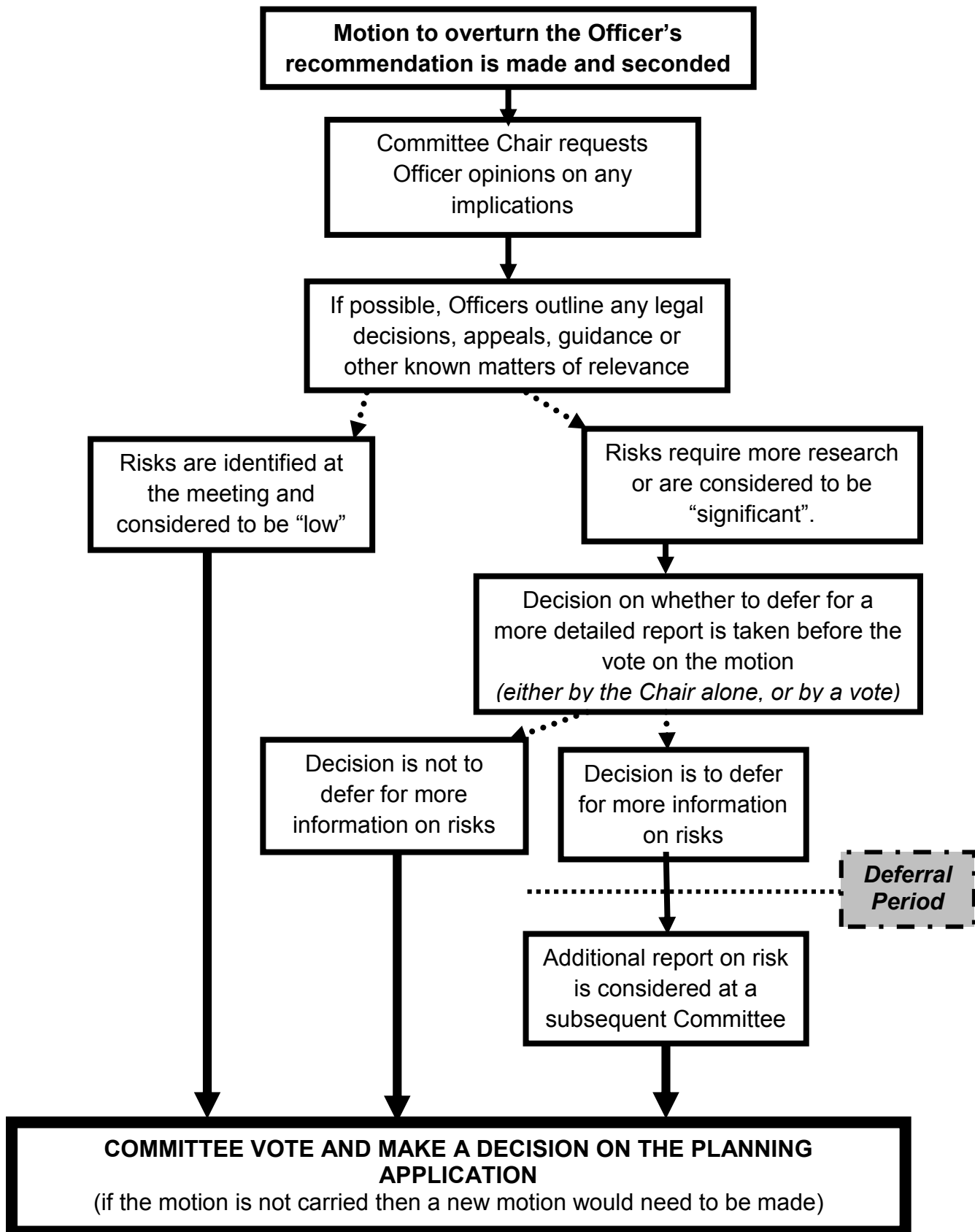
Interpretation of Class C4

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

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, 25 May 2017 at 18:00

Member:

Councillor Theresa Higgins
Councillor Cyril Liddy
Councillor Lyn Barton
Councillor Helen Chuah
Councillor Pauline Hazell
Councillor Brian Jarvis
Councillor Derek Loveland
Councillor Jackie Maclean
Councillor Philip Oxford
Councillor Rosalind Scott

Chairman
Deputy Chairman

Substitues:

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

Councillors Christopher Arnold, Roger Buston, Karen Chaplin, Nigel Chapman, Peter Chillingworth, Phil Coleman, Nick Cope, Robert Davidson, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dave Harris, Darius Laws, Mike Lilley, Sue Lissimore, Fiona Maclean, Patricia Moore, Gerard Oxford, Chris Pearson, Lee Scordis, Jessica Scott-Boutell, Lesley Scott-Boutell, Paul Smith, Martyn Warnes, Dennis Willetts, Julie Young and Tim Young.

AGENDA - Part A
(open to the public including the press)

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

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

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
 - action in the event of an emergency;
 - mobile phones switched to silent;
 - the audio-recording of meetings;

- location of toilets;
- introduction of members of the meeting.

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

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

interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

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

| | | |
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| 6 | Minutes of 13 April 2017 | 17 - 18 |
| | To confirm as a correct record the minutes of the meeting held on 13 April 2017 | |
| 7 | Planning Applications | |
| | In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee. | |
| 7.1 | 162925 57 Dunthorne Road, Colchester | 19 - 32 |
| | Proposed dwelling. | |
| 7.2 | 170170 Land adjacent to Colnehaven, Phillip Road, Wivenhoe, Colchester | 33 - 48 |
| | Erection of 3 bedroom house. | |
| 7.3 | 163158 5 High Street, Wivenhoe, Colchester | 49 - 56 |
| | Change of Use of rear of ground floor from A3 to C3, retention of A3 use to front of ground floor. Alterations comprising new window and roof lights, the removal and repositioning of internal wall partitions and insertion of new staircase. | |
| 7.4 | 163159 5 High Street, Wivenhoe, Colchester | 57 - 64 |
| | Listed Building consent for change of use of rear of ground floor from A3 to C3, retention of A3 use to front of ground floor. Alterations comprising new window and roof lights, the removal and repositioning of internal wall partitions and insertion of new staircase. | |
| 7.5 | 170266 7 Endean Court, Wivenhoe, Colchester | 65 - 72 |
| | Proposed single storey rear extension to existing dwelling, including part conversion of existing garage. | |
| 7.6 | 170480 11 Trinity Street, Colchester | 73 - 78 |
| | Change of use from A2 to C3, together with slight internal alterations and change to garden wall. | |
| 7.7 | 170481 11 Trinity Street, Colchester | 79 - 86 |
| | Listed Building consent for change of use from A2 to C3, together with slight internal alterations and change to garden wall. | |
| 7.8 | 170154 55 Keelers Way, Great Horkesley, Colchester | 87 - 94 |

Retrospective application: replacement of existing conservatory with a rear single storey extension and side single storey extension. (at the back of the garage)

| | | |
|-----|--|-----------|
| 7.9 | 171037 20 Ripple Way, Colchester | 95 - 100 |
| | Extension and conversion of a garage into an Annexe. | |
| 8 | Land north of Factory Hill, Tiptree – Section 106 Agreement | 101 - 104 |
| | See report by the Head of Professional Services | |
| 9 | Planning Performance Report - End of Year 2016-17 | 105 - 118 |
| | See report by the Head of Professional Services | |

Part B

(not open to the public including the press)

- 10 **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).

Planning Committee

Thursday, 13 April 2017

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Rosalind Scott

Substitutes:

457 Minutes of 30 March 2017

The minutes of the meeting held on 30 March 2017 were confirmed as a correct record.

458 170230 Pontoon opposite Yacht Club, Coast Road, West Mersea, Colchester

The Committee considered an application to extend the floating pontoon by 1.6m wide and 43m metres long opposite West Mersea Yacht Club, Coast Road, West Mersea, 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.

459 170466 George Street, Colchester

Councillor Higgins (by reason of her acquaintance with the author of the representation detailed in the amendment sheet) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Liddy (by reason of his directorship of Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the replacement of windows to flats in 9-13 (cons) George Street, 1-6 (cons) 9, 74, 75, 80-86 (cons) 89-100 (cons) Maidenburgh Street, 1-14 (cons) Roger Browning House, 1-8 (cons) Ryegate Road, 2, 3 and 4 Sanderson Mews, 15, 16, 17 West Stockwell Street and 20-23 (cons) Williams Walk,

Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Homes. The Committee had before it a report in which all the information was set out and amendment sheet which included details of changes to proposed Condition 2 to reflect the applicant's willingness to accommodate a resident's view regarding the type of replacement front door.

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

460 170488 Lancaster Toyota, Axial Way, Colchester

The Committee considered an application for the removal of condition 3 and variation of condition 2 following grant of planning permission, 160262, at Lancaster Toyota, Axial Way, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and amendment sheet in which all the information was set out.

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

461 170349 Southview, The Heath, Layer de la Haye, Colchester

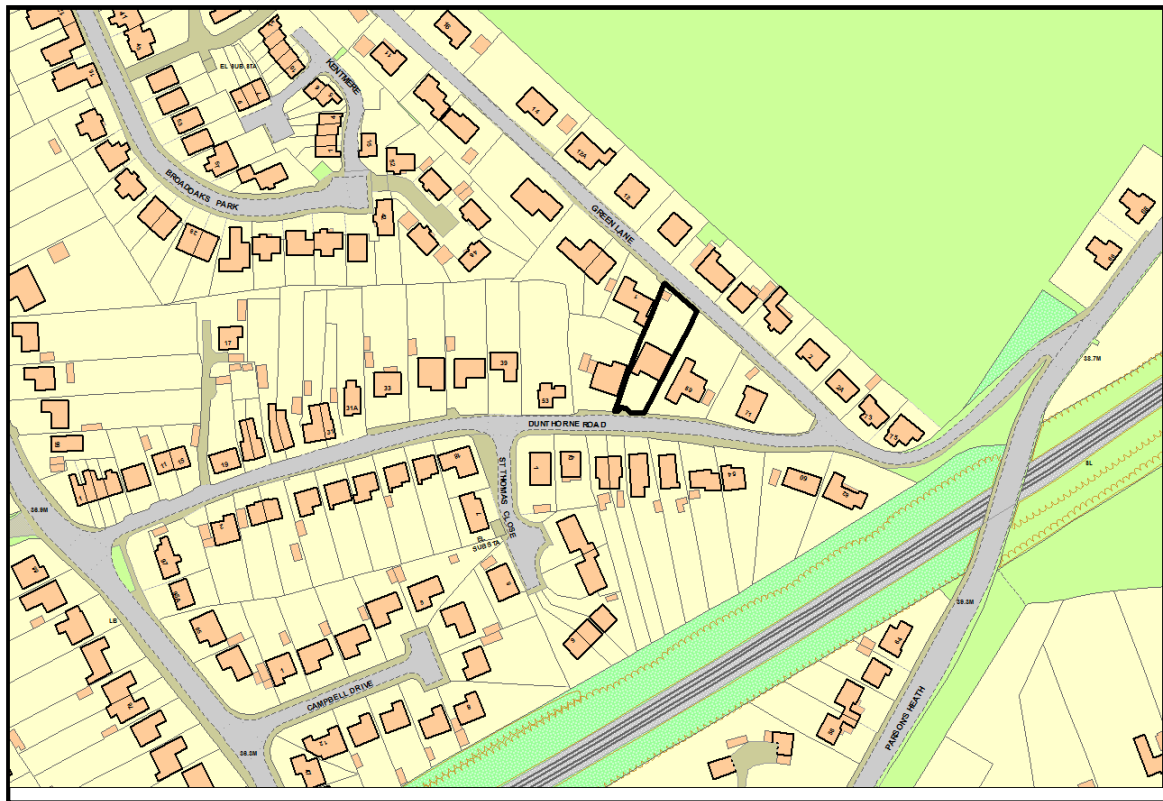
The Committee considered an application for a garden pavilion (resubmission of 162722) at the Heath, Layer de la Haye, Colchester. The application had been referred to the Committee because the agent undertook consultancy work for Colchester Borough Council. The Committee had before it a report in which all the information was set out.

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

462 170576 7 Broome Grove, Wivenhoe, Colchester

The Committee considered an application for a single storey front extension and replacement of stone cladding with render at 7 Broome Grove, Wivenhoe, Colchester. The application had been referred to the Committee because the agent undertook consultancy work 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.



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| | |
|------------------------|--|
| Item No: | 7.1 |
| Application: | 162925 |
| Applicant: | Mr Franco Murgia |
| Agent: | Mr Malcolm Ashenden, Ashenden Associates |
| Proposal: | Proposed dwelling. |
| Location: | 57 Dunthorne Road, Colchester, CO4 0HZ |
| Ward: | St Anne's & St John's |
| Officer: | Eleanor Moss |
| Recommendation: | Approval |

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Smith called this application in for the following reasons:

Reasons stated in residents objections. Design layout highway issues.

2.0 Synopsis

- 2.1 The key issues for consideration are the design and layout of the scheme, the impact it will have on highways safety and the impact the scheme will have on neighboring amenity.
- 2.2 The application is subsequently recommended for approval

3.0 Site Description and Context

- 3.1 The site lies within a predominantly residential area within which buildings vary in design, size, building line and appearance. Consequently, there is no obvious uniformity in the built form along Dunthorne Road and Green Lane, with the eclectic mix of properties creating some visual interest to the local street scene.
- 3.2 In this context there are few references that could be considered for new buildings and therefore applications should be appraised on the merits of the design and its relation to the site.
- 3.3 The site comprises a detached dwelling set in a large plot. The property has one existing vehicular access, via Dunthorne Road. The proposal seeks to appoint an access via Green Lane to serve the proposed dwelling. Currently there is no dropped kerb via Green Lane and applicant would need to apply to Essex County Council should they wish to create a dropped kerb.

4.0 Description of the Proposal

- 4.1 This application seeks planning permission for the erection of a detached dwelling to the rear of 57 Dunthorne Road, access is to be provided via Green Lane. The proposal includes an attached garage.

5.0 Land Use Allocation

- 5.1 Predominantly Residential

6.0 Relevant Planning History

6.1 An application for a detached bungalow on the site had previously been submitted in 2002. The proposal was refused and subsequently dismissed at appeal for the following reasons:

6. The appellant says that each of the 2 dwellings would have a garden area of over 100 sq.m. I am more concerned with the quality of that space. The plans do not show where the boundary between the gardens for No. 57 and the new cottage would be. I appreciate that the cottage would be for a parent and that the intention may be for garden space to be shared between the occupants of the 2 dwellings. But I agree with the Council that any such sharing would almost inevitably have to come to an end in the long term, irrespective of any planning condition. If the boundary between the 2 dwellings were to lie halfway between the shortest distance between them the resultant garden space for each would be no more than 2m deep for much of its width. That would be inadequate to serve much purpose, and a satisfactory standard of privacy for those garden areas could only be provided by screening that would result in an overwhelming sense of enclosure.
7. The proposed cottage would, admittedly, have a front garden area about 8m deep and nearly 5m wide to the west of the proposed vehicular and pedestrian access. But that would be an inadequately small area affording very little privacy from the road.
8. I conclude that the appeal project fails in relation to issue (a).

6.2 It is worth noting that this previous refusal pre-dates current adopted policy and the current scheme must be determined on different standards and up-to-date policy.

6.3 It is also worth observing that the previous refusal was not dismissed on the grounds that it was out of character for the area. The submitted scheme is two storeys in height and demonstrates garden sizes and parking in compliance with adopted standards.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

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

N/A

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Sustainable Construction
Sustainable Drainage Systems Design Guide

8.0 Consultations

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

8.2 Highway Authority – Revised comment, no objections

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

Conditions relate to the access being at right angles to a depth of 3.7 metres and with a dropped kerb; no unbound materials and parking provision being to standard as well as details of cycle storage being agreed. See conditions at the end of this report.

- 8.3 Urban Designer – no objections: The development is well designed to mitigate existing and proposed residential amenity (e.g. privacy, garden size, shadowing, outlook), at least seemingly to satisfy adopted policy. It would also be of reasonable visual design quality, subject to clarification on a number of details (e.g. eaves, door-surround, pentice board, carport door) which might be conditioned. However, I would query the proposal given the relatively narrow shared street (approximately 5m wide) which appears possibly unsuited to intensification taking into account the existing density of development and that the street doesn't appear to allow for adequate two-way vehicular access (e.g. when large vehicles are involved) and/or the likely demand for on-street parking (to allow large vehicles to pass). Notwithstanding this primary concern which should be checked with Highways, the rear parking should be clarified as a car port as implied by the site layout (i.e. with drive protruding to the rear), given it appears as a garage on the front elevation. I would also query the loss of trees and hedgerow with the relevant officer/s.

OFFICER COMMENT – The Highway Authority did not object to this aspect, therefore it cannot be carried forward as a reason for refusal. Similarly, tree issues have been resolved.

8.4 Landscape Officer – no objections

The following condition(s) are recommended once proposals have been agreed and/or as part of any planning consent given in order to secure a detail landscape scheme.

The condition relates to a landscaping scheme – see full condition at end of report.

8.5 Tree Officer – No objection

I am in agreement with the conclusions of the report provided. The proposal does require the felling of a number of trees within the garden area but none would merit tree preservation order.

Conditions at end of report.

9.0 Parish Council Response

9.1 Non-Parished

10.0 Representations from Notified Parties

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

- Concerns regarding privacy on the opposite side of Green Lane
- Concerns regarding emergency traffic hindrance
- Concerns regarding highways safety
- Proposal will make it harder for residents to park on their own drive safely
- Lack of adequate parking along Green Lane as it is
- Refuse collection and street cleaning along Green Lane is already difficult due to the narrowness of the road
- Discrepancies between boundaries
- Inaccurate drawings
- Proposed scheme is out of character with the area
- Impact upon visual amenity
- Concerns regarding height of the dwelling
- Proposal would create an overbearing impact
- Loss of trees
- Concerns regarding surface water drainage
- Overdevelopment of the site
- 'Garden grabbing'
- Previous refusal in 2002
- Dangerous increase in traffic utilising a narrow lane

11.0 Parking Provision

11.1 This scheme provides an attached garage and an off-road car parking space, totalling two off road car parking spaces which comply with car parking standards.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 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 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of Development

- 15.1 The redevelopment of this rear garden area of number 57 Dunthorne Road is acceptable in principle. This area is currently well-screened by existing trees and well maintained by the existing owners but this does not mean it cannot be developed sensitively.
- 15.2 As noted in the planning history section above, permission for a dwelling on this site was refused over 10 years ago. It is important to note that it was assessed against different policy criteria – in particular the area is located within the settlement limits and as such it is considered to be in a sustainable area. Furthermore, the site is not located in the Conservation Area.
- 15.3 The NPPF and Development Plan policies do require high quality design and also require development to respect and enhance the character of the area. It is held that this scheme allows one dwelling in a manner that reflects the character of the area. It is not considered that the garden area to the rear of number 57 is so important to the character of the area that the Council should attempt to preserve it as such.

Design and Layout

- 15.4 The application site is within the defined settlement limits where there is a presumption in favour of the development. The ribbon development and architecture give the surroundings an edge of settlement rather suburban character. The proposed designs are fairly modest and provide for a dwelling which has more of a rural cottage character. This is considered to be acceptable for this area.
- 15.5 Although there are a number of bungalows within the street, it is not harmful in itself to provide for two-storey dwellings within the application site. This is because older houses frequently appear within rows of ribbon development that have developed alongside them. The designs are not unattractive and the form, proportions and detailing are consistent with each other.
- 15.6 Next door (north-west), No.1 Green Lane is a modest, detached, single storey bungalow. The immediate area north of the site is primarily a ribbon of two-storey dwellings of modest height; dormer windows on the front elevation are a common feature here in order to provide for a first floor. Again, within sight of the plot are other single-storey bungalows and two-storey houses.

- 15.7 In conclusion, the area is mixed in character and a variety of dwelling types could be introduced without necessarily harming the character. A two storey building within this area, as proposed, would be in keeping with the area and would not have a negative impact upon the street scene when viewed from the public realm.

Impact on Neighbouring Properties

- 15.8 Guidance in Supplementary Planning document 'The Essex Design Guide' states that a 45 degree combined plan and elevation angle from the mid-point of windows should be preserved. This proposal complies with this test.
- 15.9 The proposal has been quite carefully designed so as to minimise harmful impacts on neighbour's amenities. There are no ground floor or first floor windows on the side elevations and as such there would be no loss of light, outlook or privacy to No.1 Green Lane.
- 15.10 The proposal includes first floor dormer windows on the front elevation and concerns have been raised that these will create direct overlooking to the opposite residents. 'The Essex Design Guide' stipulates that 10 metre spacing should be preserved between opposite house fronts in a street. In this instance, a separation distance of over 10 metres remains.
- 15.11 In summary, it is not considered that there would be any harm upon outlook or loss of light to the neighbouring properties and any impact upon residential amenity would be negligible.

Highways and Parking

- 15.12 A number of concerns have been raised regarding access and parking to the site creating an increased amount of traffic congestion, in turn adding to the existing on-road parking in the area. While this is noted, this is an existing problem within the area and a new dwelling on site would not create any undue increase in traffic congestion or off-road parking. The application provides for car parking provisions which comply with the standards and the Highway Authority has not objected to the scheme. Moreover, it is beyond the capabilities of the Local Planning Authority to overcome an existing on-road parking issue.
- 15.13 The application complies with the required car parking standards and as such the scheme is considered to be acceptable from a highways perspective.

Trees

- 15.14 Whilst there are various small garden trees and hedges bordering the site, none are protected and all could be removed at any time without the Council's permission. In any case, none are such that they could not be easily replaced with others of similar or better quality.
- 15.15 The proposal will result in the loss of trees facing onto Green Lane, however these trees are not of high quality to resist their removal. The Arboricultural Planning Officer has assessed the scheme and the submitted Tree Survey and is happy that the scheme can be built subject to tree protection measures being conditioned. On balance, the removal of trees on site is considered to be acceptable.

16.0 Conclusion

- 16.1 To summarise, this development is proposed in a sustainable area of Colchester that does not benefit from any particular designation. The scheme proposes an attractive and well detailed dwelling befitting of the area. It is not held to cause material harm to the character of the area nor to neighbouring amenity. It would also provide a modest contribution to the Council's housing stock. The scheme is, therefore, held to comply with the NPPF, the PPG and the Development Plan and therefore an approval is warranted.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1096/1 (submitted on 16 January 2017), 1096/2A (submitted on 22 December 2016) and 1096/3 (submitted on 16 January 2017).

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

3. ZBC - Materials to be agreed

No works shall take place until 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.

4. Z00 – Bespoke - Removal of PD for Residential Extensions

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected, this also applies to the donor dwelling called 57 Dunthorne, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

5. ZFK - Smallscale Residential Boundary Treatments

No works shall take place until details of the provision, siting, design and materials of screen walls and fences have been submitted to and agreed, in writing, by the Local Planning Authority. The approved screen walls and fences shall then be erected prior to the first occupation of the dwelling to which they relate and shall thereafter be retained in the approved form.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to amenities and the surrounding context.

6. Z00 – Bespoke – Vehicle Access

Prior to first occupation of the proposed development, the proposed vehicular access onto Green Lane shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

7. ZIF – No unbound materials

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

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

8. Z00 – Bespoke – Parking Space

The parking space / vehicular hardstanding's shall be constructed to minimum dimensions of 6.0m x 3.0m.

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

9. Z00 – Bespoke – Cycle storage

Prior to commencement of the proposed development, details of the provision for the storage of bicycles, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

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

10. Z00 – Bespoke – Car Parking standards

All off street car parking shall be in precise accord with the details contained within the current Parking Standards.

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

11. ZDM - Retaining Garage for Parking

The garage accommodation forming part of the development 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.

12. ZIW - *Single Garage Dimensions*

The single GARAGE(S) shall have a minimum internal measurement of 7m x 3m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety.

13. ZFQ - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been protected as shown in the Arboricultural Impact Assessment produced by Oisín Kelly dated 14th March 2017 (Ref: 313). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

14. ZFS - Tree and Hedgerow Protection: General

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

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

15. ZFT - Tree and Hedgerow Protection: General

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

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

16. ZFU - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

17. ZFC - Simple Landscaping Scheme Part 1 of 2

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development. Any trees or shrubs which, within a period of 5 years of being planted die, are removed

or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

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

18.0 Informatives

18.1 The following informatives are also recommended:

1. Non Standard Informative – Highways

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

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

2. Non Standard Informative – Landscaping

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B @ <http://www.colchester.gov.uk/article/13592/Landscape-Guidance-for-Developers>.

Link to: [Notes for Applicant/Agent](#) – please refer to when instructing landscape consultant and/or before contacting landscape planning officer

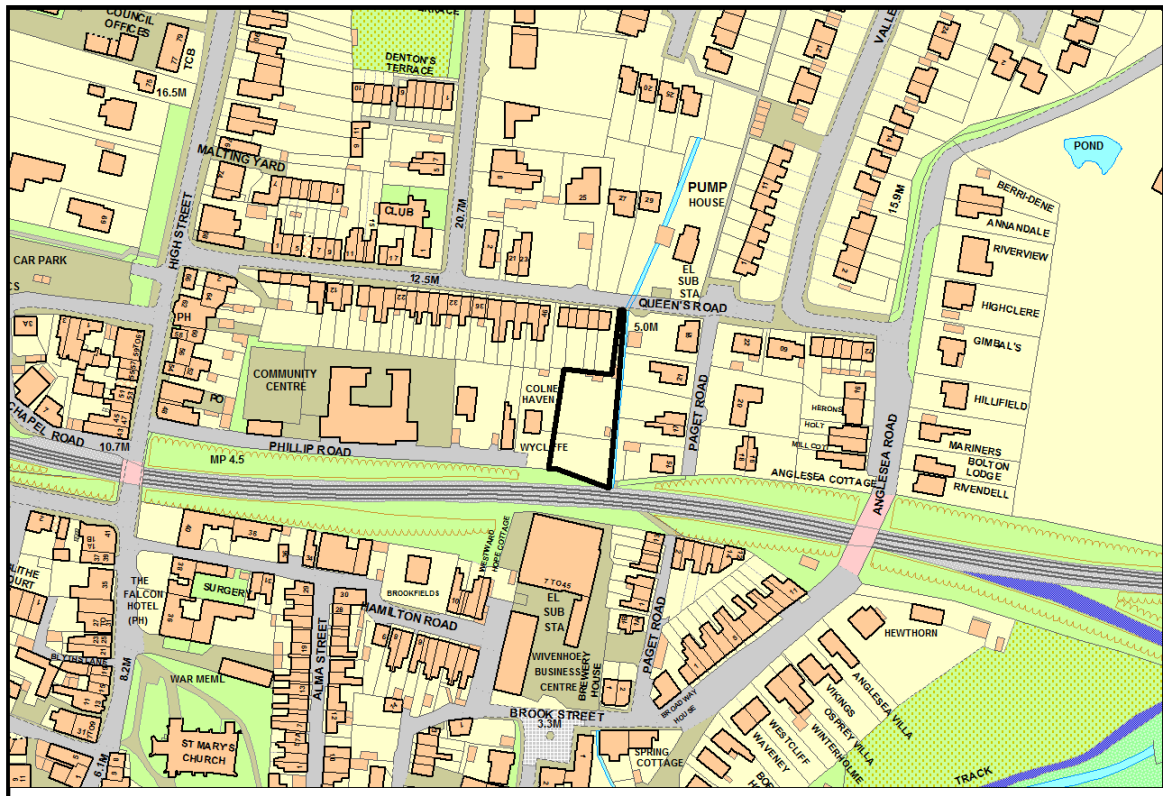
3. Non Standard Informative -Trees

It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional (i.e. Arboricultural consultant – details of local practices available through Arboricultural Officer on 01206 282469 (am only).

In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Arboricultural Consultant and the Council's Arboricultural Officer.

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

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



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Item No: 7.2

Application: 170170
Applicant: Mr & Mrs Ken Metcalf
Agent: Mr Gary Williams
Proposal: Erection of 3 bedroom house
Location: Land Adjacent, Colnehaven, Phillip Road, Wivenhoe, Colchester, CO7 9BA
Ward: Wivenhoe
Officer: Eleanor Moss
Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Scott has called it in for the following reason;

“WTC have cited over development and privacy issues by neighbours. The owner feels that they have addressed these issues. The design is considered inappropriate by WTC planning committee.”

- 1.2 OFFICER COMMENT – Your Officers concur with Wivenhoe Town Council with regard to design.

- 1.3 The following reason for call-in has also been provided by Councillor Scott;

“The applicant feels he has evidence that the risks of flooding are not high and the design and proportions are acceptable.”

- 1.4 OFFICER COMMENT - The Environment Agency as statutory consultee relating to flood matters has objected in principle to the proposal as it has not been sequentially justified.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of a new residential dwelling upon the character and appearance of the Conservation Area and Flood zone 3. Objections have been received from the Environment Agency and the Historic Buildings and Areas Officer.

- 2.2 The dwelling is considered to fail to enhance or preserve the Conservation Area and fails to demonstrate that the development will be safe and will not increase flood risk elsewhere.

- 2.2 The application is subsequently recommended for refusal.

3.0 Site Description and Context

- 3.1 The application site is located at the western end of Philip Road, which is located within the Conservation Area. Phillip Road is not a through route and has very few buildings along it, although it does contain the attractive red brick Victorian Board School, now converted to a Medical Centre. This is a relatively quiet street which is bordered by the railway.

- 3.2 The proposed property is in the last plot along Philip Road from High Street. To the West, are the rear gardens of properties along Paget Road of simple rendered and brickwork, with traditionally-pitched roofs and the red brick Victorian terraced buildings of Queen Street to the North.

- 3.3 The application site is currently a large side garden in association with Colnehaven. The site is adjacent to the Town Drain, with the majority of the application site located within Flood Zone 3.

4.0 Description of the Proposal

- 4.1 The proposal seeks planning permission for a large detached three-bedroom house, with a detached garage.

5.0 Land Use Allocation

- 5.1 Predominantly Residential.

6.0 Relevant Planning History

- 6.1 150983 – Application for a new dwelling. Withdrawn

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA5 - Parking
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

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

N/A

- 7.5 The Wivenhoe Town Plan and Executive Summary is also relevant. This forms part of the Development Plan in this area of the Borough.
- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Sustainable Construction
Sustainable Drainage Systems Design Guide
Wivenhoe Town Plan and Executive Summary

8.0 Consultations

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

8.2 Environment Agency – Objection

Our maps show the site lies within fluvial Flood Zone 3a, defined by the ‘Planning Practice Guidance: Flood Risk and Coastal Change’ as having a high probability of flooding. The proposal is a new dwelling, which is classified as a ‘more vulnerable’ development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG). Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA). We have not seen evidence that you have applied the Sequential and Exception Tests. This is your responsibly and we recommend you consider them before the applicants review their FRA. We have reviewed the following submitted documents:

- Flood Risk Assessment (FRA), referenced Colnehaven, Phillip Road, Wivenhoe, Essex, CO7 9BA and dated November 2016
- Flood Risk Assessment Addendum (FRAA) referenced Colnehaven, Phillip Road, Wivenhoe, Essex, CO7 9BA and dated March 2017
- Flood Risk Assessment (FRA), titled: Land adjacent 58 Queens Road, Wivenhoe, Essex, C07 9JJ referenced CE11/003/HJ and dated October 2011
- Appendix H Amazi Hydraulic Modelling Report, referenced AMA162 R2 Rev0 and dated May 2011

- 8.3 We consider they do not comply with the requirements set out in the Planning Practice Guidance, Flood Risk and Coastal Change, Reference ID: 7-030-

20140306. It does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

8.4 In particular, the submitted FRA fails to:

1. Assess the impact of climate change using appropriate climate change allowances. In this instance, according to 'Flood risk assessments: climate change allowances', the allowances that should be assessed are the Higher Central of 35% and the Upper End of 65%.
2. Provide Finished Floor Levels above the design level with climate change including a 35% allowance
3. Provide a topographic survey in order to correctly calculate the expected flood depths on site
4. Provide calculations to demonstrate adequate flood storage compensation for the proposed development
5. Provide details with regards to the proposed gabion baskets.

8.5 Conservation and Historic Buildings Officer – **Objection**

Until cavity wall construction became the norm in the early to mid 20C, building design was dictated as much by material availability and material properties as by legislative restrictions and taste. For example roofs were designed to a pitch that would hold the materials that would cover the roof, window pane sizes were generally based on availability of glass/type of glass available, and the depth of window reveals dictated by the Acts.

8.6 Given advances in building technologies and materials, we can now build almost anything in any way. The main constraints nowadays are different. They include the price of products, design of off the peg products, the need to comply with building control, and the desire to create buildings that preserve or enhance the character or appearance of conservation areas.

8.7 With this freedom and these limitations, the architect's role is to design a building that fits into its environment and which hopefully has architectural integrity. Unfortunately the building as proposed appears to not preserve or enhance the character or appearance of the conservation area nor does it in and of itself does have design integrity. It appears to tick too many boxes and as such ticks none.

8.8 The applicant appears to have taken a few design cues from the wider Essex vernacular – pitched and slate roofs and jettied first floor, and to have designed a house based around these two design elements. However as they are not detailed correctly the final result is one of pastiche.

8.9 **Detailed design:** The detailed design fails to preserve or enhance the character or appearance of the area as there are so many competing materials and shapes that the overall impression appears over busy and fails to create a sense of completion.

8.10 The windows are of themselves a complete mix of different designs and none of them relates to any other. As such one cannot read the building as complete.

- 8.11 To the southern elevation, at first floor level, the windows to the larger gable for example are wholly uncharacteristic of windows in a gable end although they are found in mid-20th century and onwards in suburbia – where we are not. The smaller gable has a very large window divided into squares - not an aesthetically pleasing proportion on its own, but perhaps acceptable if part of a larger window arrangement. The larger gable has a narrow, vertically proportioned window located in a subdivided, rendered part of the gable adjacent to a large, horizontally proportioned window which sits slightly lower than the western window and is further disjointed from it by the use of another material: vertical weatherboarding. In order to further confuse any possible sense of order the window to the west has a brick lintel and that to the east, no lintel. This mismatch of styles, shapes and types is disconcerting.
- 8.12 At ground floor level, we have two “modernist” undivided windows which are wholly alien in a building which ostensibly has a house form almost characteristic of mid-20th century and onwards suburbia – definitely more akin to Upper Wivenhoe rather than Lower Wivenhoe. Here, a horizontal window divided into four panes sits slightly off centre to the gable above which creates a sense of ‘contrived tension’. It is also not clear how this window will open to be in any way aesthetically pleasing.
- 8.13 Given the lack of ‘frieze’ space above the windows and the bottom on the first floor, means that the lintel essentially creates the bottom of the floor above and as such the ground floor appears squat. This configuration is characteristic of some cottages but if it is to be used it should be used as part of an entire aesthetic of apparently diminished floor to ceiling heights.
- 8.14 Similar concerns are raised in relation to the north elevation with a mismatch in the design of windows and doors. Notable is that the first floor, again has no ‘frieze’ space between the lintels and the eaves. Whilst this architectural solution is unfortunately a characteristic of later 20C “developer” architecture, and found in Upper Wivenhoe, it is an unattractive detail and best avoided.
- 8.15 **Materials:** Whilst the applicant has made efforts to use materials that are characteristic of the area, which is welcomed as their use to some degree reinforces the character of the area, they have been used in a rather chequerboard and haphazard fashion. A more reduced materials palette or a reconfigured materials palette would be appropriate.
- 8.16 **Way forward:** I believe the applicant has two options. Either to get its design inspiration from the neighbouring streets as per my initial comments, or to propose a contemporary building using traditional materials. The current designs have so many different design inspirations and so many different window types, windows to wall proportions and different roof pitches that it lacks design integrity or cohesiveness.
- 8.17 I have looked at the applicant’s architect’s website (gawdesign.co.uk) and am not convinced that a contemporary house using traditional materials may not be suitable on this site. ‘Moderniste’ architecture appears to be the expertise of this particular architectural practice. A contemporary building with clean lines may

be suitable here given the relatively isolated plot. The design and materials would need, in some way, perhaps via wall to window proportions or materials, to complement the character of the conservation area.

8.18 Urban Designer – Objection

I would object to the revised application, with revisions not responding to core design concerns I'd previously raised, e.g. with regard to form, massing, fenestration and detailing. In general the scheme appears distinctly inappropriate in response to the positive conservation area character. I'd suggest a rethink in approach is required, which perhaps might be best informed by context analysis (i.e. how might this translate and inspire), images of the type/s of architecture desired by the client and a pre-application meeting.

8.19 National Rail

The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- damage the company's infrastructure
- place additional load on cuttings
- undermine its support zone
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future.

Network Rail also gave lengthy comments relating to Future maintenance, drainage, plant & materials, scaffolding, piling, fencing, lighting, noise and vibration and landscaping. These comments can be viewed on the website.

10.0 Representations from Notified Parties

10.1 The application resulted in 12 objections being received from interested third parties including neighboring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Concerns regarding overlooking
- Concerns regarding flood risk
- Implications of Network Rail land
- Loss of light to neighboring properties
- Unattractive proposal
- Concerns regarding rubbish disposal
- Concerns regarding sewerage
- Loss of trees
- Loss of green amenity space

11.0 Parking Provision

11.1 The proposal is considered to be in compliance with car parking standards.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 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 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 Background

The application site has been looked at on a number of occasions and subject to much pre-application advice via the Council's pre-application procedure. Two meetings were also undertaken in order to provide advice on a residential dwelling within this site. On all occasions Your Officers advised against the design of the proposals.

15.2 It is also worth noting that flood risk on site has been previously been addressed within earlier pre-application advice (140342) and stressed the importance of addressing flood risk in accordance with the National Planning Policy Framework tests, this is detailed as follows:

“The Flood Risk Assessment (FRA) does not justify the dwelling in flood risk terms. It attempts to demonstrate that a flood proofed dwelling can be erected on site but does not detail why this site should be considered at all. It does not deal with the issue of sequentially preferable sites within the settlement limits that are not at risk of flooding from the river or sea.

The sequential test as set out in the NPPF is explained in detail in the recent National Planning Practice Guidance (still in Beta form but soon to be fully published). With regards to the sequential approach it states:

“What is the sequential, risk-based approach to the location of development? This general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3 and other areas affected by other sources of flooding) where possible”.

The National Planning Practice Guidance is a very useful resource when assessing a scheme in terms of flood risk (as well as many of the other facets of the NPPF). It deals with the sequential test and the exception test in detail and it is therefore strongly suggested that you assess the scheme in light of the new guidance prior any application being made.

In simple terms, this scheme constitutes a new dwelling in the area at risk of flooding from rivers and sea. Building a new dwelling here would put another family at risk in the event of flood. The Council would need to weigh up the benefits of the scheme – namely the small addition to the housing supply in the area - with the additional flood risk that does not currently exist on site.

I am aware that there has been development approved in Wivenhoe and across the Borough that sit in areas at risk of flooding. These have generally been larger schemes that make a significant contribution to the Borough’s housing supply and have also brought about other wider reaching benefits such as extensive works to the public realm and the provision of affordable housing, the latter being a Council priority.

I do not see that this scheme can be justified in flood risk terms as there is no overriding need for the dwelling to be located on this site. This issue is exacerbated if the only way around the flood issue to propose a contrived design in the Conservation Area.”

- 15.3 The position of your Officers is, thus, crystal clear – they will not support any dwelling in this location which creates a harmful impact upon the Conservation Area and cannot be justified in terms of flood risk. This position has been reached after many hours of consideration, meetings and discussion.

Impact upon Conservation Area:

- 15.4 In the exercise of Planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The objectives of Development Policy DP14 are consistent with this test.

- 15.5 The National Planning Policy Framework provides for detailed guidance on this Paragraph 126 of the Framework advises, amongst other matters, that the conservation of the historic environment can bring wide social, cultural, economic and environmental benefits. It also identifies that heritage assets are irreplaceable resources. Paragraph 132 advises that, when considering the impact of a proposed development on the significance of a designated heritage asset such as a Conservation Area, great weight should be given to the asset's conservation.
- 15.6 The application site is located within the Conservation Area of Lower Wivenhoe. The key building within Philip Road is the attractively detailed old school with its decorative brickwork and gabled elevations. Another traditional building along Philip Road is Wycliffe, a small turn of the C19/C20 painted property.
- 15.7 The predominant building type is red brick Victorian or rendered timber frame. The mid 20C building adjacent to the application site (Colnehaven) is the exception to this and design cues should not be inspired by Colnehaven. Colnehaven is more characteristic of Upper Wivenhoe than Lower Wivenhoe. Any new buildings should preserve and enhance the character of Lower Wivenhoe in which the plot is firmly planted respecting the character of the Paget Street and Queen Street houses.
- 15.8 In this instance, the proposal fails to preserve or enhance the character or appearance of the Conservation Area as there are so many competing materials and shapes that the overall impression appears over busy and fails to create a sense of completion. The proposal is considered to be a radical departure from the Conservation Area and fails the statutory test.
- 15.9 The proposal does not provide a materials palette which complements the Conservation Area and as the proposed materials are expressed in a chequerboard and haphazard manner. The windows are of themselves a complete mix of different designs and none of them relate to each other. The overall impression of the dwelling appears to be to be incongruous and out of keeping with the Conservation Area.
- 15.10 Because of its design, the proposal appears as uncoordinated and visually confusing with weakly expressed architectural merit, the resultant incongruous impact of the application building would therefore be to harmful the character and appearance of the Conservation Area.

Flooding:

- 15.11 As discussed above, there is a fundamental objection to placing a dwelling house in this location. The NPPF and the NPPG are clear that for residential development in Flood Zone 3 the applicant must conduct a sequential test to show that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If the sequential test can be passed then an exception test must also be passed to demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk overall.
- 15.12 The Framework is an important material consideration. Paragraph 101 of the Framework states that *development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding*. The Sequential Test should therefore be applied to all proposals for new development.
- 15.13 The applicant has not submitted information in relation to either a sequential test or the exception test. Furthermore, as the proposal is for a single open market dwelling it is considered very unlikely that the applicant would be able to demonstrate that there are no other reasonably available sites elsewhere in the borough that could accommodate the development. The fact that the applicant does not own other sites cannot be considered relevant in the application of a sequential test. As such, it is considered that there is no reasonable prospect of the development passing a sequential test, let alone the exception test, even if the applicant was to make such an attempt.
- 15.14 The Environment Agency has raised an objection to the scheme as the proposal does not comply with the requirements set out in the “Planning Practice Guidance, Flood Risk and Coastal Change”. It does not, therefore, provide a suitable basis for an assessment to be made of the flood risks arising from the proposed development.
- 15.15 It must, therefore, be concluded that the scheme has not properly assessed the development in terms of flood risk arising and is it considered the development will not be safe and could increase flood risk elsewhere.

Impact on amenity

- 15.16 Guidance in Supplementary Planning document 'The Essex Design Guide' is that a 45-degree angle from the mid-point of windows is required in order to preserve outlook. This SPD requires a combined plan and elevation 45 degree zone of protection to be preserved. This proposal complies with both those tests. A number of concerns from neighbouring residents have been received regarding the impact upon residential amenity.
- 15.17 There are no first floor windows on the side elevations (east and west) and as such there would be no loss of light, outlook or privacy to Colnehaven or Paget Road. The back-to-back distances between the proposed dwelling and the rear dwellings of Queen's Road are in excess of 25 metres and as such comply with the aforementioned SPD. The west-facing side elevation contains one small window which faces toward Paget Road, however this window is to serve a stairway and as such is unlikely to generate any overlooking.
- 15.18 In summary, it is not considered that there would be any harm upon outlook or loss of light to the neighbouring properties and any impact upon residential amenity would be negligible. However, this does not outweigh the harm identified above and the proposal is thus recommended for refusal.

Trees

- 15.19 Whilst there are various small garden trees and hedges bordering the site, none are such that they could not be easily replaced with others of similar or better quality.
- 15.20 The proposal will result in the loss of trees within the application, however these trees are not of a high enough quality to resist their removal. The Arboricultural Planning Officer has assessed the scheme and the submitted Tree Survey and is happy that the scheme can be built subject to tree protection measures being conditioned. On balance, the removal of trees on site is considered to be acceptable.

16.0 Conclusion

- 16.1 To summarise, the proposal is considered to be fundamentally unacceptable in terms of flood risk and would create a harmful impact upon the Conservation Area.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for REFUSAL of planning permission for the reasons set out below:

1. Flood Risk

The NPPF and the NPPG are clear that for residential development in Flood Zone 3 the applicant must conduct a sequential test to show that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If the sequential test can be passed then an exception test must also be passed to demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk overall.

Paragraph 101 of the NPPF states that development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Sequential Test should therefore be applied to all proposals for new development.

The applicant has not submitted information in relation to either a sequential test or the exception test. Furthermore, as the proposal is for a single open market dwelling it is considered very unlikely that the applicant would be able to demonstrate that there are no other reasonably available sites elsewhere in the borough that accommodate the development. The fact that the applicant does not own other sites cannot be considered relevant in the application of a sequential test. As such, it is considered that there is no reasonable prospect of the development passing a sequential test, let alone the exception test, even if the applicant was to make such an attempt.

For all of these reasons the proposed development would fail to minimise flood risk by locating new housing development in an area of higher flood risk contrary to the Sequential Test. As a consequence, it would be contrary to policy DP20 of the Development Policy (Adopted 2010; Revised 2014) of Colchester Borough Council's Local Development Framework and also contrary to the National Planning Policy Framework.

2. Impact on Conservation Area

The detailed design fails to preserve or enhance the character or appearance of the area as there are so many competing materials and shapes that the overall impression appears over busy and fails to create a sense of completion. The windows are of themselves a complete mix of different designs and none of them relate to each other. As such one cannot read the building as complete.

To the southern elevation, at first floor level, the windows to the larger gable are wholly uncharacteristic of the area. The smaller gable has a very large window divided into squares which appears to be very suburban in appearance and not characteristic of the area. The larger gable contains a narrow, vertically proportioned window. This is located in a subdivided, rendered part of the gable adjacent to a large, horizontally-proportioned window which sits slightly lower than the western window and is further at odds due to vertical weatherboarding. The overall appearance of this gable is chaotic and is exacerbated further by the disorganised approach to the use of lintels. The overall effect of the mismatch of styles, shapes and types appears jarring and disorganised.

At ground floor level, there are two “modernist” undivided windows which are wholly alien in a building which ostensibly has a house form almost characteristic of mid-20th century and onwards suburbia – more akin to Upper Wivenhoe rather than Lower Wivenhoe. Here, a horizontal window divided into four panes sits slightly off centre to the gable above which creates a sense of ‘contrived tension’. It is also not clear how this window will open to be in any way aesthetically pleasing.

Similar concerns are raised in relation to the north elevation with a mismatch in the design of windows and doors. Similarly, the first floor has no ‘frieze’ space between the lintels and the eaves. Whilst this architectural solution is a characteristic of later 20C architecture, and found in Upper Wivenhoe, it is an unattractive detail and not characteristic of Lower Wivenhoe and the Conservation Area.

The proposal fails to express a strong architectural approach. A number of materials have been proposed for the dwelling, and a selection of these could be suitable for the Conservation Area, however the three different types of finishing material are excessive. The proposed materials have been used in a rather chequer board and haphazard fashion, the overall affect is an incongruous feature that is alien to the local area and harmful to the character of the Conservation Area.

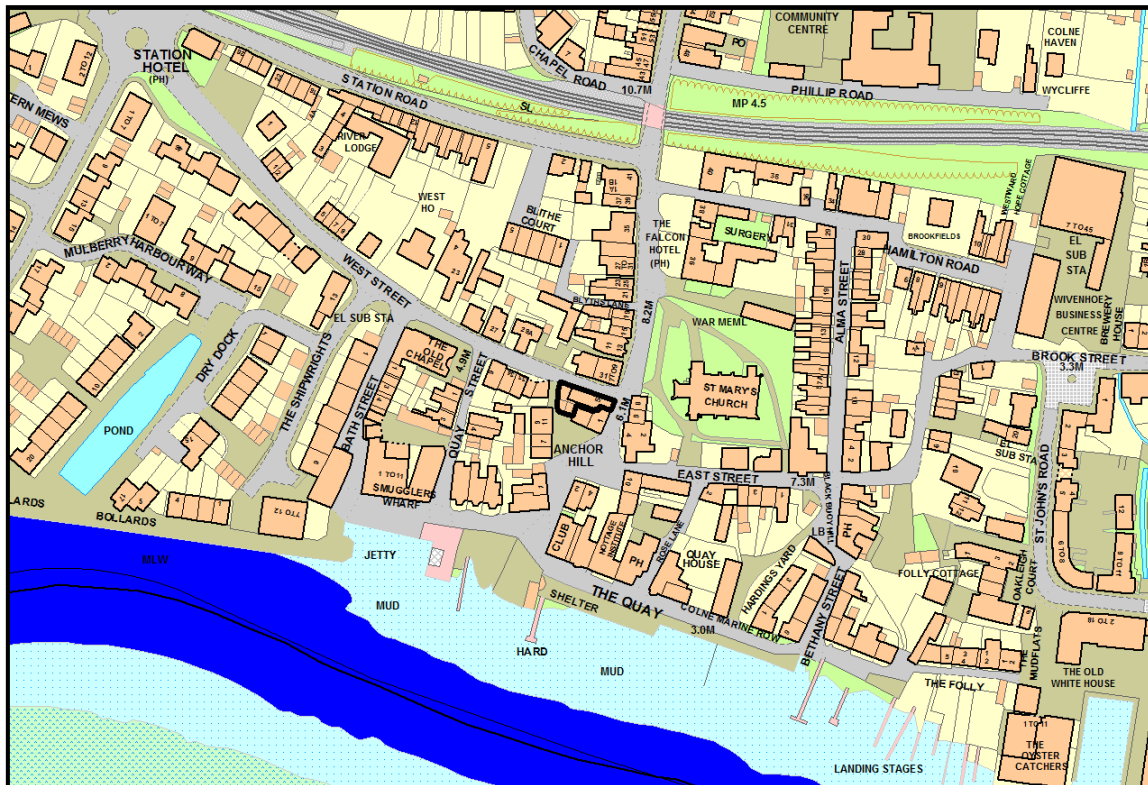
For these reasons, the proposed development fails to enhance and protect the conversation area by providing a dwelling which appears incongruous within its setting. Consequently, the proposal is contrary to Local Development Framework Core Strategy Policy UR2, Development Policy DP1 and Development Policy DP14 the provisions of which seek to protect the Council’s Conservation Areas from inappropriate development and seek to ensure that developments respect and enhance their site, context and surroundings.

18.0 Informatives

18.1 The following informatives are also recommended:

ZTB - Informative on Any Application With a Site Notice

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



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Item No: 7.3

Application: 163158

Applicant: Mrs C. Cottey

Agent: Mr Edward Gittins

Proposal: Change of Use of rear of ground floor from A3 to C3; retention of A3 use to front of ground floor. Alterations comprising new window and roof lights, the removal and repositioning of internal wall partitions and insertion of new staircase.

Location: 5 High Street, Wivenhoe, Colchester, CO7 9BJ

Ward: Wivenhoe

Officer: Bruce O'Brien

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as it has been called in by Councillor Rosalind Scott. The Councillor reflects the objection statements made by Wivenhoe Town Council that are mentioned below.

2.0 Synopsis

- 2.1 The key issues for consideration are the proposed change of uses within the building and the suggested alterations to the Listed Building. Issues regarding parking provision, amenity space and designated use are also addressed.
- 2.2 The application is subsequently recommended for approval.
- 2.3 Listed Building application 163159 is also before Members as a separate, but linked, item.

3.0 Site Description and Context

- 3.1 The site is within the historic core of Wivenhoe, a Conservation Area. The site contains a semi-detached listed building, previously trading as 'The Old Bake House' restaurant, with one residential flat covering the first and second floors.
- 3.2 The building has two-storey and single-storey extensions to its rear and a courtyard area. To the Southern side of the courtyard is an attached, double garage building which has access onto Anchor Hill. There is a small roadway to the West that serves a rear courtyard area.
- 3.3 The surrounding area has a mix of other eateries, retail and residential use buildings, many listed, all historic.
- 3.4 The building is timber-framed, rendered with a clay peg roof. Windows are of timber and multi-paned. The rear extensions are finished in a combination of weatherboard and render, with clay peg and pantiled roofs.
- 3.5 The front of the building is currently in the form of a traditional retail/commercial frontage.

4.0 Description of the Proposal

- 4.1 The proposal is for a change of use within the rear of the ground floor of the building and minor internal and external alterations. This application deals with the proposed change of use.

5.0 Land Use Allocation

- 5.1 The land is currently designated as a mixed use site, comprising A3 restaurant use and C3 residential use. The site, though on High Street and comprising a commercial element, is designated within the Colchester Borough Council Proposals Map as being within a predominantly residential site.

6.0 Relevant Planning History

- 6.1 The site has an extensive history some of which is relevant to the decision regarding this proposed development.
- 6.2 In 1984 the building was given approval to become a restaurant from a shop. In 2005, an application for a scheme to change the building to wholly residential, was approved, as below:

C/COL/05/1117 - Change of use from mixed use of Classes A3 (Restaurant) and C3 (Dwelling) to Class C3 - two dwelling units. Approved 16/08/2005.

LB/COL / 05/1228 - New windows. Removal and repositioning of internal wall partitions and insertion of new staircase. Approved 20/10/2005.

- 6.3 In 2016, eleven years after the previous approval, a scheme to change the building to two residential flats, both of two/three bedrooms, was refused under application number **161761**.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE2b - District Centres
UR2 - Built Design and Character
TA5 - Parking

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

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP7 Local Centres and Individual Shops
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Sustainable Construction
Wivenhoe Town Plan and Executive Summary

8.0 Consultations

8.1 None received.

9.0 Parish Council Response

9.1 Wivenhoe Town Council (WTC) has objected, referring, in the main, to the previously refused application which was for the change of use of the building to two residential units.

9.2 WTC also refers to a previous refusal reason relating to the mix on the High Street and the maintenance of vibrancy and vitality, and it states that there is a demand for restaurants in Wivenhoe.

9.3 WTC has also raised the issue of parking for the building.

OFFICER COMMENT - The applicant has provided proof that the restaurant was not a viable business and it has now closed. The applicant aims to resume a small restaurant business, trading under a different business model, within the amended space.

The applicant has agreed to alter the scheme to bring in part of the courtyard, for use as a parking space.

The retention of the commercial unit would mean that the change of use would not contravene the policies mentioned by the Town Council, which relate to the prior application. This will be discussed in more detail.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations

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received is available to view on the Council's website. However, a summary of the material considerations is given below.

Three local residents have objected to the loss of a restaurant in the area and its subsequent, possible loss of employment. However, the restaurant is no longer a viable business and fails to compete with other local establishments and any replacement business may provide an employment alternative.

- 10.2 The Wivenhoe Society (WTS) has also stated that it objects to the proposal due to the loss of commercial space and the intended uses that are proposed. It feels that the proposed development would take economic and social aspects away from the High Street.
- 10.3 The Society believes that a four bedroom dwelling is proposed and that parking will be adversely affected.
- 10.4 WTS also lodged a second objection to amendments relating to the proposed parking space.
- 10.5 The Society also object to the replacement of the tiles on the lean-to section of the roof, from clay pantiles to slate.

OFFICER COMMENT - The issue of roofing materials is dealt with within the Listed Building application.

The claim that there will be a reduction in employment remains to be proven, depending on the future success, or not, of the proposed business.

WTS' reference to four bedrooms is an error; the proposal is for a two bedroom dwelling, the same bedroom arrangement as is existing, and a further parking space will be provided.

11.0 Parking Provision

- 11.1 There is currently no parking provision for the users or occupants of the building. Despite the scheme remaining as a two bedroom property, the proposal suggests the use of part of the courtyard, as a parking space. This has been agreed as the best option with the Highways Authority.

12.0 Open Space Provisions

- 12.1 The property has a courtyard amenity area. This facility will now only be accessed by the residential part of the building. Part of the space would be used for parking, the other part as a sitting-out area. Such limited, courtyard, amenity space is not out-of-keeping with the historic grain of the area.
- 12.2 The applicant has submitted revised plans for the storage of refuse from the new restaurant space. This is provided by an area adjacent to the commercial space, within a side alleyway.

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 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 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

The Principle of Development

15.1 The principle of the development is acceptable within this area. The proposal aims to retain a commercial element and thus maintain the commercial mix within the High Street. The change to C3 at the rear of the ground floor, requires planning permission. The building is designated in the proposals map as being in a predominantly residential area.

15.2 There is an argument that the loss of a larger restaurant would adversely affect the vitality of the High Street. Whilst it is accepted that District Centres require an eclectic mix of businesses that serve the community, unfortunately, the ‘Old Bakehouse’ restaurant failed in its previous form, and alternatives are now sought.

15.3 It is also important to re-iterate – *this site is outside of the local district centre.*

Design and Layout

15.4 After a number of negotiated changes, the design is now considered acceptable. External features of the Listed Building would remain largely unchanged, apart from minor alterations. These are dealt with more closely in the Listed Building report.

15.5 The internal layout proposes an A3 commercial unit to the front of the building and C3 residential provision to the rear. The commercial unit would be approximately 19m², reduced from approximately 54m². The residential part of the property, though larger, would remain as a two-bedroom dwelling with one parking space and a courtyard garden. Refuse and parking provision is included in the plans.

Impact on the Surrounding Area and Neighbouring Properties

- 15.6 There will be minimal impacts on the surrounding area or neighbours. Although parking needs may increase as a result of a larger dwelling, one space would be provided.
- 15.7 The scale and form of the existing building will remain and in its current form poses no threat to overshadowing or overbearing to neighbours. Any new windows that may be inserted will not overlook neighbouring gardens.

Private Amenity Space Provision

- 15.8 Part of the courtyard garden will provide amenity space for the dwelling house.

Highway Safety and Parking Provisions (including Cycling)

- 15.9 The proposal aims to create a parking space within the rear courtyard area, accessed via existing gates from the roadway to the West of the site. This is an improvement on the current parking provision position.

16.0 Conclusion

- 16.1 To summarise, the proposal aims to retain an A3 presence on the High Street through the provision of a smaller eatery within a commercial unit. The current building houses a two bedroom apartment. A larger two bedroom dwelling is proposed through the change in use of the rear of the building to C3, using a proportion of the existing yet unused A3 space.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1 - ZAA - Time Limit for Full Permissions

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1606/02/E, 1606/03/B, 1606/07/B and 1606/05/B unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

18.0 Informatives

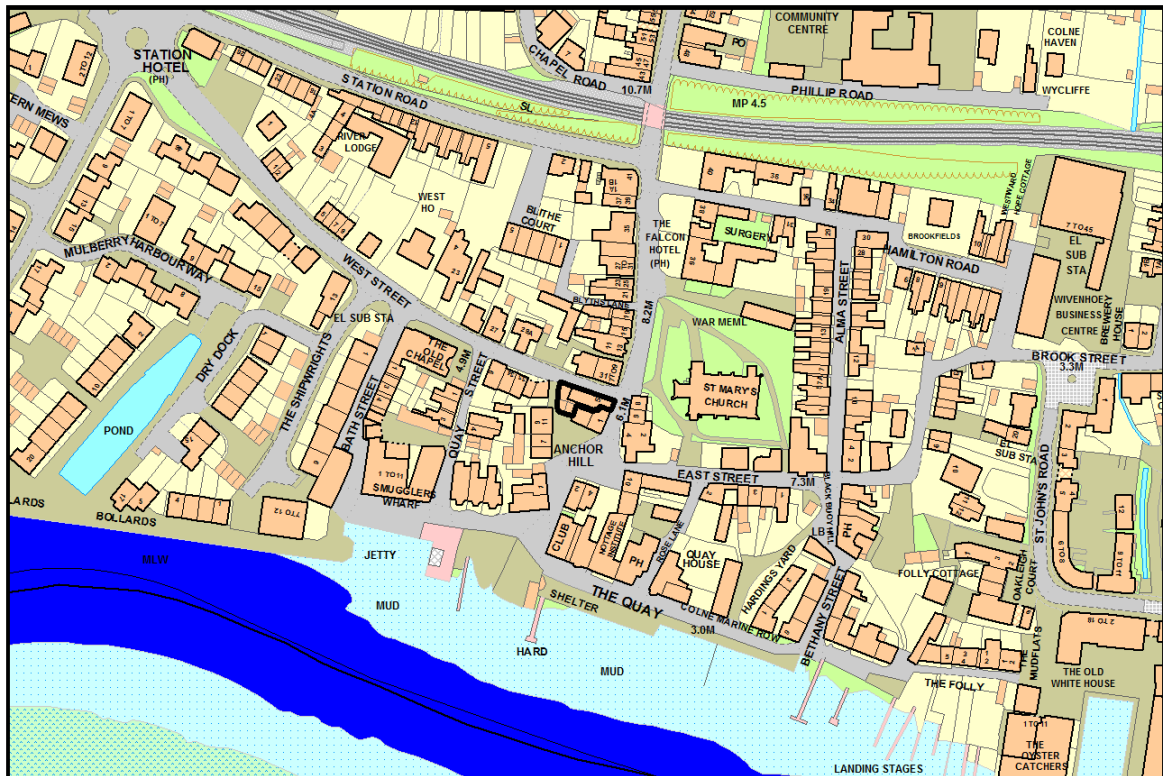
18.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

ZTB - Informative on Any Application With a Site Notice

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Item No: 7.4

Application: 163159

Applicant: Mrs C. Cottey

Agent: Mr Edward Gittins

Proposal: Change of Use of rear of ground floor from A3 to C3; retention of A3 use to front of ground floor. Alterations comprising new window and roof lights, the removal and repositioning of internal wall partitions and insertion of new staircase.

Location: 5 High Street, Wivenhoe, Colchester, CO7 9BJ

Ward: Wivenhoe

Officer: Bruce O'Brien

Recommendation: 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 Rosalind Scott along with application 163158.

2.0 Synopsis

- 2.1 The key issues for consideration are the possible internal and external alterations to the Listed Building.
- 2.2 The Listed Building application is subsequently recommended for approval.
- 2.3 The broader Planning issues are dealt with under Planning application 163158, which is also before Members tonight.

3.0 Site Description and Context

- 3.1 The site is within the historic core of Wivenhoe, a Conservation Area. The site contains a semi-detached listed building, previously trading as 'The Old Bake House' restaurant, with one residential flat covering the first and second floors.
- 3.2 The building has two-storey and single-storey extensions to its rear and a courtyard area. To the Southern side of the courtyard is an attached, double garage building which has access onto Anchor Hill. There is a small roadway to the West that serves a rear courtyard area.
- 3.3 The surrounding area has a mix of other eateries, retail and residential use buildings, many listed, all historic.
- 3.4 The building is timber-framed, rendered with a clay peg roof. Windows are of timber and multi-paned. The rear extensions are finished in a combination of weatherboard and render, with clay peg and pan-tiled roofs.
- 3.5 The front of the building is currently in the form of a traditional retail/commercial frontage.

4.0 Description of the Proposal

- 4.1 The proposal is for minor internal and external alterations to the Listed Building. These alterations would include the insertion of a new internal staircase, the formation of new stud walling, the insertion of two windows within the walls of the dwelling, roof lights to the rear elevation of the garages and new slate tiles to the lean-to section of the rear of the building.

5.0 Land Use Allocation

- 5.1 The land is currently designated as a mixed use site, comprising A3 restaurant use and C3 residential use. The site, though on a High Street and comprising commercial element is designated within the Colchester Borough Council Proposals Map as residential.

6.0 Relevant Planning History

- 6.1 The site has an extensive history some of which is relevant to the decision regarding this proposed development.
- 6.2 In 1984 the building was given approval to become a restaurant from a shop. In 2005, an application for a scheme to change the building to wholly residential, was approved, as below:

C/COL/05/1117 - Change of use from mixed use of Classes A3 (Restaurant) and C3 (Dwelling) to Class C3 - two dwelling units. Approved 16/08/2005.

LB/COL / 05/1228 - New windows. Removal and repositioning of internal wall partitions and insertion of new staircase. Approved 20/10/2005.

- 6.3 In 2016, eleven years after the previous approval, a scheme to change the building to two residential flats, both of two/three bedrooms, was refused under application number **161761**.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Sustainable Construction
Wivenhoe Town Plan and Executive Summary

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Our Historic Buildings Officer did not object.

9.0 Parish Council Response

- 9.1 Wivenhoe Town Council:
The Town Council do not refer to Listed Building issues within their objection statements.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 The Wivenhoe Society has objected to the replacement of the tiles on the lean to section of the roof, from clay pantiles to slate.

OFFICER COMMENT - This change of roofing material is deemed acceptable by the Conservation Officer at CBC.

11.0 Parking Provision

- 11.1 Not relevant to this listed building application.

12.0 Open Space Provisions

12.1 Not relevant to this listed building application.

13.0 Air Quality

13.1 Not relevant to this listed building application.

14.0 Planning Obligations

14.1 Not relevant to this listed building application.

15.0 Report

15.1 The main issues in this case relate to the special interest of the Listed Building. Our Historic Buildings Officer has assessed the scheme and does not have any objections. The principle of the development is, therefore, acceptable in Listed Building terms.

15.2 As outlined in the submitted Heritage statement, all alterations, both internal and external are minor and will not create substantial harm. Conditions will be placed on any approval in order to address any issues that have not been raised in the Heritage statement.

15.3 The external features remain largely unchanged apart from minor alterations that would have limited detrimental effects to the building. It is not believed that any historic fabric will be unduly disturbed as a result of the proposed scheme, though an investigative condition will be placed on any approval.

16.0 Conclusion

16.1 To summarise, the proposed Listed Building alterations are minimal and would be considered acceptable by the CBC Heritage Officer.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAB - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1606/02/E, 1606/03/B, 1606/07/B and 1606/05/B unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3. ZOO- Joinery Details

Prior to the commencement of any works, 1:5 elevations and 1:2 sections of glazing bars including glass details for all new windows shall have been submitted to and approved in writing, by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

4. ZOO- Staircase Details

Prior to the commencement of any works, 1:5 sections of staircase and balustrade details shall have been submitted to and approved in writing, by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

5. ZMU- Roof lights

The roof lights hereby approved shall be of the “conservation” type with a single vertical glazing bar and mounted flush with the roof slope with flush flashing kit coloured black.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

6. ZOO- Making Good

All new and disturbed surfaces shall be made good at the time of development using materials of matching finish and composition to that found in adjacent areas of undisturbed historic fabric.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

18.0 Informatives

18.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

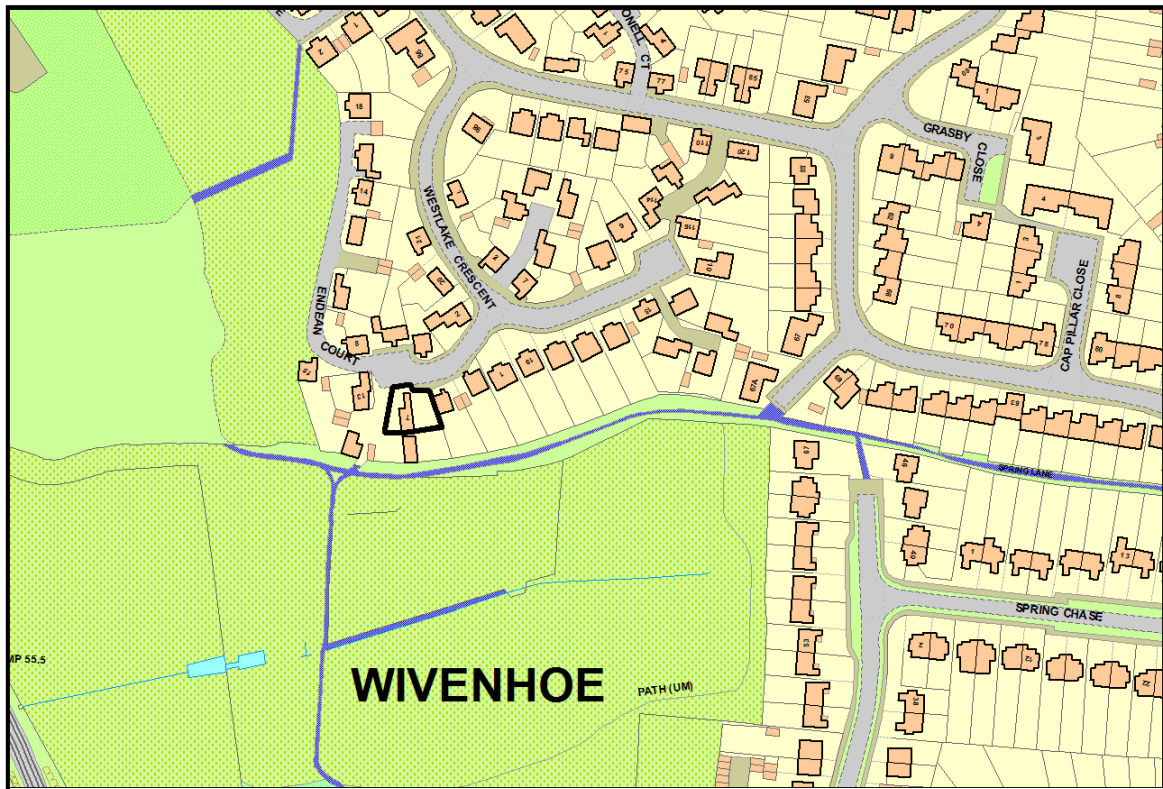
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

ZTB - Informative on Any Application With a Site Notice

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| | |
|------------------------|--|
| Item No: | 7.5 |
| Application: | 170266 |
| Applicant: | Mr & Mrs J Carter |
| Agent: | Mr Matthew Kennington |
| Proposal: | Proposed single storey rear extension to existing dwelling, including part conversion of existing garage |
| Location: | 7 Endean Court, Wivenhoe, Colchester, CO7 9SG |
| Ward: | Wivenhoe |
| Officer: | Bruce O'Brien |
| Recommendation: | Approval |

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is an employee of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the design of the proposal and any possible effects on neighbouring amenity including parking provision.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site is an irregular square shaped site containing a single, detached dwelling, and lies within a residential area.

4.0 Description of the Proposal

- 4.1 The proposal is in two parts. One, for a garage conversion from garage space to a split storage space and accommodation (utility and dining areas). Two, for a single storey side extension, pitch roof extension that would adjoin the existing garage.

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Relevant Planning History

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

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
TA5 - Parking

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

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

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Sustainable Construction
Wivenhoe Town Plan and Executive Summary

8.0 Consultations

- 8.1 None.

9.0 Parish Council Response

- 9.1 Wivenhoe Town Council have stated that they have no objections.

10.0 Representations from Notified Parties

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

- 10.2 Wivenhoe Society have responded thus:

The application involves the loss of a garage and only appears to show one parking space. The norm for a property of this size is that there should be parking provision for at least two vehicles. In the application form the applicants state that they do not currently use the garage for parking and that parking arrangements will not change. However possible future owners could well need two parking spaces.

11.0 Parking Provision

- 11.1 Only one parking space will remain on the site should the development go ahead. Notably, the conversion of the garage to living accommodation, without the provision of an additional parking space, can be carried out under permitted development.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 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 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of Development:

- 15.1 The principle of the development is acceptable. There is an argument that the whole development proposal could be carried out under permitted development rights. However, because of the dwelling in relation to the road (the extension would be forward of the principle elevation fronting a highway) and the difference between the existing materials on the house and the proposed materials on the extension, a planning application was requested

Design and Layout:

- 15.2 The design of the extension is acceptable. The extension would have a lean-to roof that would adjoin the roof of the garage and the side elevation of the main dwelling. To the side of the extension would be two sets of double doors that lead to the garden.
- 15.3 The materials to be used would be concrete tiles to match existing to the roof and vertical cedar cladding to the external walls. The change of materials to the external walls of the extension are in line with the Essex design Guide that indicates that:

‘Any changes in facing material on a house should occur in a logical fashion, e.g. from one storey to another or to articulate a part of the structure, a front facade, or an architectural feature, such as a gable triangle, a bay window or a plinth.’

Material changes and detailing should be used in such a way as to explain the building.

And: ‘It is appropriate to have different facing materials on different houses in a development, and to change materials between parts of a house.’

- 15.4 It is therefore considered that the change of materials is appropriate. The contrast signposts the evolution of the building and denotes a lighter appearance of the cedar clad extension as opposed to the brick built dwelling.

- 15.5 The up and over garage door facing the highway would be replaced with double doors that open outwards, thus allowing easier access to the proposed storage space.

Scale, Height and Massing:

- 15.6 The scale of the proposed extension is acceptable. It would be 8.17 metres long and 2.3 metres wide. The height at the eaves would be 2.2 metres and at its highest point, the extension would be 3.33 metres high.

Impact on the Surrounding Area:

- 15.7 The proposed extension would be barely visible behind a high wall that exists to the boundary of the site. Approximately half a metre of the side elevation would be visible and a metre of the end of the extension, facing. The materials to be used, whilst not common, would be complimentary to the building.

Impacts on Neighbouring Properties:

- 15.8 There would be little impact on neighbouring properties. The proposed development avoids overlooking, overshadowing and overbearing. There is a loss of a parking space on the site. However, as mentioned, that part of the development could be carried out under permitted development rights.

Landscape and Trees:

- 15.9 No trees would be affected by the proposal. A section of boundary wall would be removed as part of the scheme but would be replaced after building works are completed.

Private Amenity Space Provision:

- 15.10 The development would retain adequate amenity space. The rear garden would retain approximately 125 m² of open space.

Parking Provision:

- 15.11 The site would retain a driveway parking space. On road parking is available and used in the area.

16.0 Conclusion

- 16.1 To summarise, the proposal is acceptable. Despite the regrettable loss of parking provision, the part of the proposal that lessens parking provision could be carried out as permitted development.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number 255-03-A unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

18.0 Informatives

18.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

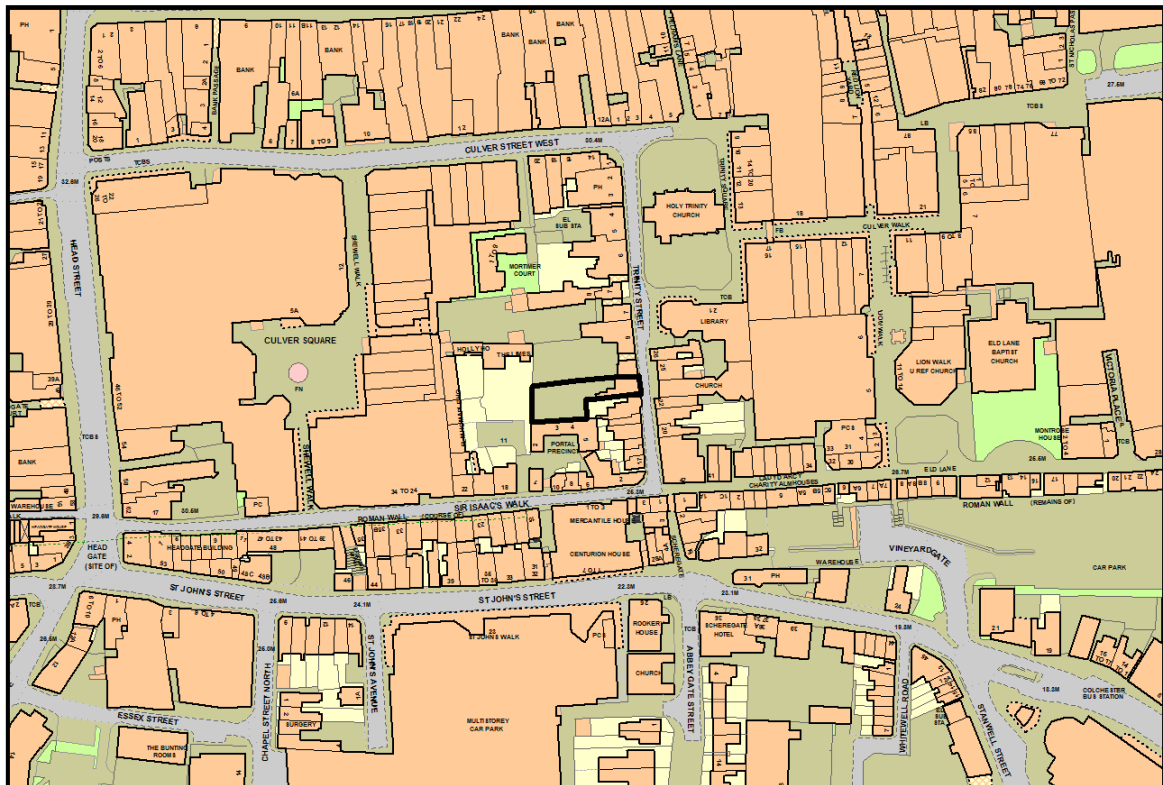
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Item No: 7.6

Application: 170480

Applicant: Mr G Phillips

Agent: Mr Chris Robards

Proposal: Change of use from A2 to C3, together with slight internal alterations and change to garden wall

Location: 11 Trinity Street, Colchester, CO1 1JN

Ward: Castle

Officer: Mark Russell

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is an employee of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issue for consideration is the principle of the change of use of this town centre building to a class C3 (dwellinghouse).
- 2.2 It is explained that a separate application (170481, also before Committee for the same reason) deals with the listed building aspects.
- 2.2 It is explained that, whilst the application might be seen to conflict with town centre policies (in particular DP6), the proposed use of this building (originally built as a dwellinghouse and having no meaningful windows to facilitate use as a shop) is the best viable use for this Grade II listed building.
- 2.3 Permission is then recommended.

3.0 Site Description and Context

- 3.1 This is a Grade II listed building, in a group with numbers 12 and 13, C16 origin but considerably altered. The house has what is described as a “modern” (Victorian) brick front.
- 3.2 This is within Colchester Conservation Area 1 in a very high quality of built environment, with almost the entire western side of Trinity Street (2-14 consecutively) being listed and much of the opposite side being similarly classified. The street boasts II* listed buildings, such as Tymperleys and has as its jewel the Grade I listed medieval Holy Trinity Church with its Saxon flint tower. Surrounding streets such as Sir Isaacs Walk, Eld Lane and Scheregate boast a similar pedigree.
- 3.3 The building itself immediately fronts Trinity Street with no footway and has a generously-sized garden (approximately 300m²) which wraps around the rear of 12 Trinity Street.

4.0 Description of the Proposal

- 4.1 The proposal is to convert this former professional services (A2) building, previously occupied by Marshalls Solicitors, to a single C3 dwellinghouse.
- 4.2 The application also proposes internal alterations not requiring of Planning permission, but Listed Building Consent; as well as alterations to the garden wall at the rear.

5.0 Land Use Allocation

- 5.1 Town Centre (Inner Core).

6.0 Relevant Planning History

- 6.1 160429: Listed building application to remove existing ceiling in first floor and replace. Approved 20th April 2016;

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations

CE2a - Town Centre

H1 - Housing Delivery

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP6 Colchester Town Centre Uses

DP14 Historic Environment Assets

DP16 Private Amenity Space and Open Space Provision for New Residential Development

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

n/a

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

The Essex Design Guide

External Materials in New Developments

Planning Out Crime

Town Centre Public Realm Strategy

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Our Major Development & Projects Manager has responded to the Listed Building proposal. No comments have been received from any party with regard to this full Planning application.

9.0 Parish Council Response

- 9.1 n/a

10.0 Representations from Notified Parties

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

11.0 Parking Provision

- 11.1 No parking is provided in this town centre location.

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

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

14.0 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 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of Development:

- 15.1 The site is within the Central Core of Colchester town centre within the main shopping area. This is covered by Development Policies policy DP6.
- 15.2 This policy states: *“In the Inner Core the Council will seek to maintain a high level of retail use with at least 85% A1 retail use on each street frontage.”* This part of the policy is not relevant as the “lost” use is not A1, but A2.

- 15.3 However, the next limb of the policy states: *“Alternative appropriate non-retail uses, particularly A3 uses will also be supported provided that they contribute to the vitality of the Town Centre.”*
- 15.4 Clearly the proposed use is not A3 and, whilst the supporting text of DP6 does recognise that “a lower amount of retail exists” on Trinity Street as well as Sir Isaacs Walk, a residential use does need to be carefully considered on its merits.
- 15.5 There are several factors which militate in its favour: The first is that this is a listed building and it is crucial to find a beneficial use for it. It is worth remembering that 11 Sir Isaacs Walk was originally built as a dwellinghouse and the use most appropriate to its layout and to the form of its rooms is as residential, with a single unit of accommodation.
- 15.6 The Listed Building issues are covered at greater length in the Listed Building report, suffice it to say here that the proposal offers sympathetic improvements to the building.
- 15.7 Also in its favour is the fact that the frontage of the building makes it difficult to use as a retail or other town centre use.
- 15.8 It must also be noted that the previous use (Marshalls Solicitors) did not contribute to any active frontage on Trinity Street.
- 15.9 The proposals also include a rebuilding of the garden wall which will assist in improving the setting of this listed building within Colchester Conservation Area 1 in a generally high quality built environment.
- 15.10 Additional works to a newer section of the building at the rear include the removal of a door and its partial infilling and the widening of another door.

16.0 Conclusion

- 16.1 In summary, whilst not contributing to the “vitality” of the town centre in the traditional sense (other than bringing extra residents to a town centre street), the proposal would represent the best use of this largely unspoilt listed building within Colchester Conservation Area 1 without requiring any invasive work which would undermine its special interest.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1 - ZAA - Time Limit for Full Permissions

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

2 ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1972/03 rev A. Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3 Z00 – (non-standard) ONE dwelling.

The permission hereby granted is for the property to be ONE single dwelling house only.

Reason: For the avoidance of doubt as to the scope of this permission as the Council would wish to control the extent of use of this building.

4 - Z00 – (non-standard) default change of use.

Should residential use cease, the default use of this building shall be either a continuation of use as a single C3 (dwellinghouse) or as A1 or A2 use. Reason: The Council would wish to facilitate a beneficial use for this listed building within Colchester Conservation Area 1.

18.0 Informatives

18.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

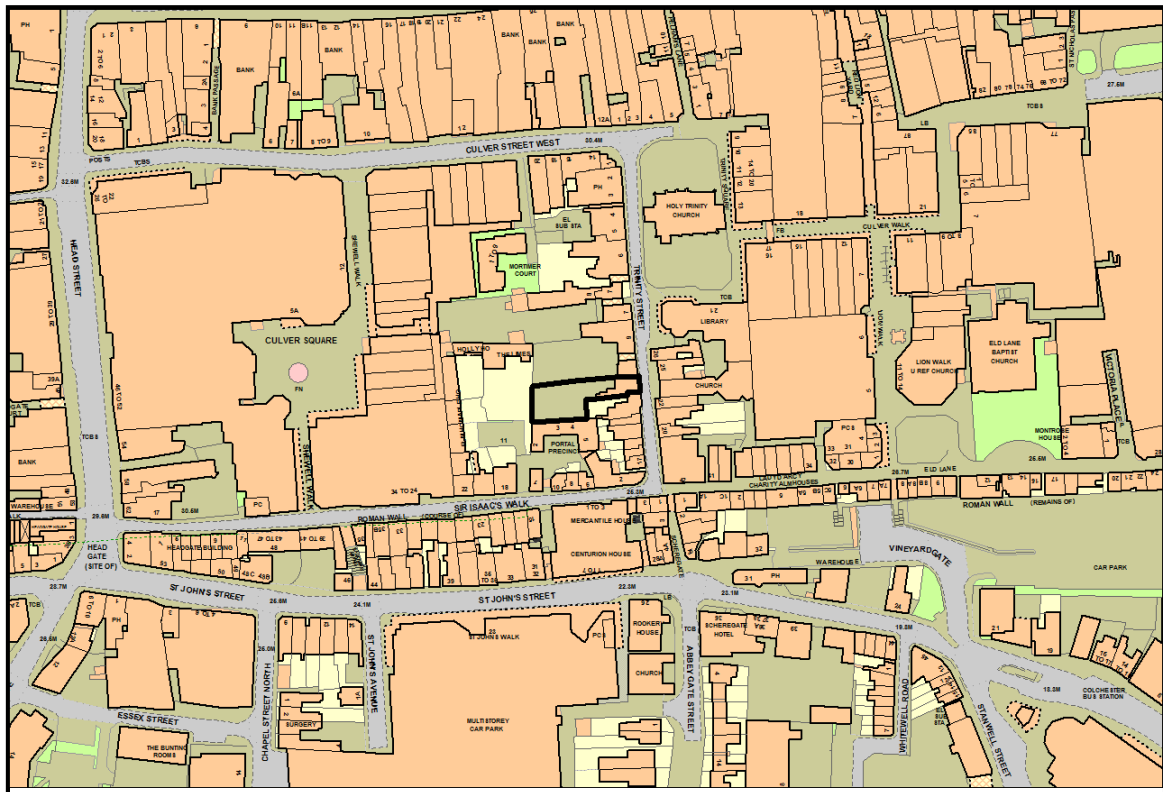
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

INS – Non-standard Informative.

Please be advised that the Council would be unlikely to support a subdivision of this property because this would result in works which would affect its special interest and would undermine the form and function of Trinity Street and the wider Colchester Conservation Area 1. Permission has only been granted for residential use in the interests of preserving this special interest and conservation area setting.

ZTB - Informative on Any Application With a Site Notice

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



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Item No: 7.7

Application: 170481

Applicant: Mr G Phillips

Agent: Mr Chris Robards

Proposal: Change of use from A2 to C3, together with slight internal alterations and change to garden wall

Location: 11 Trinity Street, Colchester, CO1 1JN

Ward: Castle

Officer: Mark Russell

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is an employee of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issue for consideration the work required to facilitate a change of use of this listed town centre building to a class C3 (dwellinghouse).
- 2.2 It is explained that a separate application (170480, also before Committee for the same reason) deals with the principle of this change of use.
- 2.3 It is explained that the proposed works do not harm and in fact enhance the special interest of this Grade II listed building, representing the optimum use for it.
- 2.4 Listed Building Consent is then recommended.

3.0 Site Description and Context

- 3.1 This is a Grade II listed building, in a group with numbers 12 and 13, C16 origin but considerably altered. The house has what is described as a “modern” (Victorian) brick front.
- 3.2 This is within Colchester Conservation Area 1 in a very high quality of built environment, with almost the entire western side of Trinity Street (2-14 consecutively) being listed and much of the opposite side being similarly classified. The street boasts II* listed buildings, such as Tymperleys and has as its jewel the Grade I listed medieval Holy Trinity Church with its Saxon flint tower. Surrounding streets such as Sir Isaacs Walk, Eld Lane and Scheregate boast a similar pedigree.
- 3.3 The building itself immediately fronts Trinity Street with no footway and has a generously-sized garden (approximately 300m²) which wraps around the rear of 12 Trinity Street.

4.0 Description of the Proposal

- 4.1 The proposal is to convert this former professional services (A2) building, previously occupied by Marshalls Solicitors, to a single C3 dwellinghouse.
- 4.2 Consent has already been granted in 2016 for a replacement ceiling following damage. The further works now applied for are relatively minor and detailed in the main report section below. The most obvious of these will be the making up of a garden wall.

5.0 Land Use Allocation

- 5.1 Town Centre (Inner Core).

6.0 Relevant Planning History

- 6.1 160429: Listed building application to remove existing ceiling in first floor and replace. Approved 20th April 2016;

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.

Also of relevance is the PPG and the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990

Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

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

UR2 - Built Design and Character

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

DP1 Design and Amenity
DP14 Historic Environment Assets

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

n/a

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

External Materials in New Developments
Town Centre Public Realm Strategy

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Our Major Development & Projects Manager looked at this site prior to the application being submitted and advised as follows:

“The only question related to the rear kitchen single storey projection and doors/window arrangement. Not of great significance to juggle.”

- 8.3 He also advised that the boundary treatment (originally proposed as a fence) should in fact be a wall.

9.0 Parish Council Response

- 9.1 n/a

10.0 Representations from Notified Parties

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

11.0 Parking Provision

- 11.1 n/a

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

- 13.1 n/a

14.0 Planning Obligations

- 14.1 n/a

15.0 Report

- 15.1 This application deals solely with Listed Building issues. Other matters are covered in the companion application 170480.
- 15.2 Our historic buildings specialist has supported the scheme and given advice as to how best it can be achieved.
- 15.3 Proposed works to the historic part of the building itself are minimal, due to the fact that it has largely retained its original layout. This includes the retention of an attractive Georgian staircase.
- 15.4 It is proposed to remove some internal walls, but these are non-load bearing and lightweight, dating from the late 20th century. The removal of these will enable the occupiers to enjoy a larger kitchen and bathroom and will also be more sympathetic to the original layout of the building.

- 15.5 The main intervention is to the rear, where it is proposed to close the existing rear door to the property and to provide a rear lobby entrance where currently there is a small window.
- 15.6 Where the existing back door is removed the brickwork will be reinstated with closely matching bricks. It is also proposed that the new sliding sash window will have side margins “in order to echo the designs of the majority of the sliding sash windows within the property.”
- 15.7 The new timber door to the rear will also be panelled and of traditional build, similar to the existing.
- 15.8 In addition, the thin 20th century wall boarding is to be removed and the walls restored to plaster finishes which will closely match the existing.
- 15.9 The applicant has mentioned “Strapping” and more details of this will be required by condition.
- 15.10 The applicant has also stated “Wherever possible all the original door and door frame components are to be retained and restored”. This phrase does raise some concerns and the consent should be conditioned to preclude the removal and replacement of any of these elements unless our Historic Buildings experts are in agreement.
- 15.11 Overall, the proposal offers sympathetic improvements to the building.
- 15.12 The proposals also include a rebuilding of the garden wall which will assist in improving the setting of this listed building within Colchester Conservation Area 1 in a generally high quality built environment.

16.0 Conclusion

- 16.1 In summary, the proposal would represent the best use of this largely unspoilt listed building within Colchester Conservation Area 1 without requiring any invasive work which would undermine its special interest.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of Listed Building Consent subject to the following conditions:

1. ZAB - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1972/03 rev A.

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

3 - Z00 – (non-standard) doors/frames

Prior to any works to doors/door-frames being agreed, the applicant shall provide full details of those to be replaced or altered to the Local Planning Authority to its satisfaction. Only those works agreed shall then be carried out.

Reason: To avoid unnecessary harm to this listed building.

4 Z00 – (non-standard) strapping

Prior to any works to any strapping work being undertaken, the applicant shall provide full details of these works to the Local Planning Authority to its satisfaction. Only those works agreed shall then be carried out.

Reason: To avoid unnecessary harm to this listed building as there is insufficient information provided with this application.

5 ZMC - Details of Brickwork, Mortar Mix Bond, Joint Profile etc

Prior to the commencement of works on the bricked up door, full details of all new brickwork, including the bond, mortar mix and joint profile shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be constructed in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and appearance of the building where there is insufficient information within the submitted application

6 ZMC - Details of Brickwork, Mortar Mix Bond, Joint Profile etc (wall)

Prior to the commencement of works on the garden wall, full details of all new brickwork, including the bond, mortar mix and joint profile shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be constructed in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and appearance of the building where there is insufficient information within the submitted application

7 Cleaning/redecorating details to be agreed

Prior to any works to any redecorating taking place, the applicant shall provide full details of these works to the Local Planning Authority to its satisfaction. Only those works agreed shall then be carried out.

Reason: To avoid unnecessary harm to this listed building as there is insufficient information provided with this application.

8 ZMO - External Joinery to be Painted Timber

All external joinery shall be of painted timber, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.

18.0 Informatives

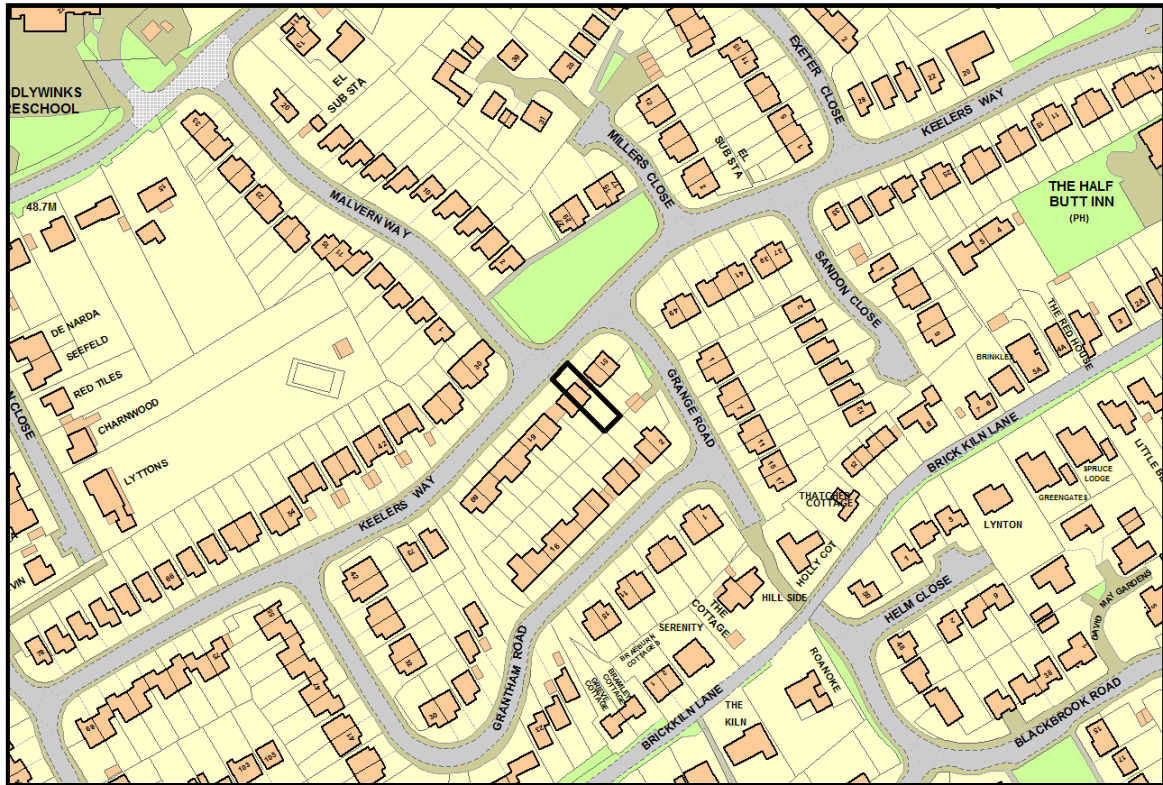
18.1 The following informatives are also recommended:

ZUC - Informative on Listed Buildings Where Cleaning May Occur.

PLEASE NOTE: Listed building consent is required for any abrasive cleaning/sand-blasting of any part of this building. The carrying out of such work without listed building consent may constitute an offence under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and may render the applicant, owner(s), agent and/or contractors liable for enforcement action and/or prosecution.

ZTB - Informative on Any Application With a Site Notice

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



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Item No: 7.8

Application: 170154

Applicant: Mrs Claire Ferguson

Proposal: Retrospective application : replacement of existing conservatory with a rear single storey extension and side single storey extension (at the back of the garage).

Location: 55 Keelers Way, Great Horkesley, Colchester, CO6 4EF

Ward: Rural North

Officer: Benjy Firth

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant works for the Council.

2.0 Synopsis

- 2.1 The key issues explored below are the design of the proposal and its impact on the amenity of the neighbours, both of which are considered to be acceptable. It is set out how the proposal complies with adopted design guidance and is not harmful to the appearance of the dwelling, or to local character. It is furthermore established that, whilst there will be some harm to neighbours' outlook and light, such harm would be within acceptable bounds.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site sits on the south side of Keelers Way, within the defined settlement boundary of Great Horkesley and contains a single semi-detached residential property. Significantly varied ground levels can be observed along Keelers Way and as such the rear garden of number 55 sits at a higher level than at the front of the house and the neighbouring adjoined property at number 57.

4.0 Description of the Proposal

- 4.1 The proposal seeks permission for a single storey rear and side extension alterations to the existing porch. The application is retrospective as the majority of the work has been completed.

5.0 Land Use Allocation

- 5.1 The site is within the defined settlement limits and has no relevant allocation.

6.0 Relevant Planning History

- 6.1 Planning permission was previously granted (142910) for a single storey rear and side extension, and a two storey side extension. The previous permission would not be implementable were this application to be approved.

7.0 Principal Policies

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

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

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

The Essex Design Guide

External Materials in New Developments

8.0 Consultations

- 8.1 No comments were received.

9.0 Parish Council Response

- 9.1 No comments were received.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. One consultation response was received, an objection, from the occupants of the neighbouring property at 57 Keelers Way. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- The objection highlighted inaccuracies in the applicants planning statement regarding conversations between the two neighbours and the description of the extensions location
- The objection stated that the proposed pitched roof over the porch would not match the existing porch at number 57 and would be out of keeping with the surrounding area.
- The objection highlighted variances between the previously approved permission and what has been built. Including, increased height, length and proximity to the boundary.
- The objection raised concerns that the neighbours had not had the opportunity to comment on the extension subject of this application.
- The objection highlighted that the building was built without planning permission.

- The objection raised concerns regarding a loss of light to the garden of number 57.
- The objection raised concerns regarding a loss of outlook from the French doors on the rear elevation of number 57.
- The objection raised concerns regarding the length of time the construction works have taken and the hours at which they have been conducted.

11.0 Parking Provision

11.1 The proposal retains adequate parking provision to the front of the property to comply with policy.

12.0 Open Space Provisions

12.1 The proposal retains adequate private amenity space to comply with policy.

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 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 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

The Proposal

15.1 The proposed rear extension comprises of two elements essentially, an extension to the rear of the dwelling and an extension to the rear of the garage. The extension to the rear of the dwelling extends beyond the width of the dwelling to overlap and connect with the extension to the rear of the garage. The key dimensions of note relate to the extension to the rear of the dwelling which is 4m deep, 6.1m wide and 2.4m tall at its rear. It should be noted the ground level to the rear of the host dwelling is 60cm lower than the garden (at which point the height of the extension is measured), the neighbouring garden sits at this lower level.

15.2 The proposed alterations to the porch involve a new pitched roof and changed fenestration.

15.3 It is worth noting that under permitted development rights the applicants could build an extension to the rear of their property 3m deep and 3m tall, without any requirement for planning permission or any input from the LPA. If this were to occur the height of the extension would be measured from the point at which the ground level is highest adjacent to the building, in line with the DCLG Technical

DC0901MWeV9.3

Guidance. As such a taller extension could be built along the boundary line without any consideration of neighbouring amenity.

Design

- 15.4 The alterations proposed to the porch are minimal and in keeping with the host dwelling in terms of scale and materials. The resulting porch would be similar in design to others within the street. As such it is considered it would have a neutral impact on the street scene and would be in keeping with the surrounding area.
- 15.5 Public views of the rear extension would be limited and as such it would not have a significant impact on the surrounding area. The design and size of the extension are not unusual for extensions of this type. The scaling of the extension in comparison to the host dwelling is not ideal due to the varied ground levels. However, bearing in mind that something of similar size, of poorer design could be built under permitted development rights and in light of the limited public views, this is not considered to cause significant harm. The materials used for the extension are in keeping with the materials palette of the surrounding area.
- 15.6 The proposal is therefore acceptable in terms of design.

Impact on Neighbouring Amenity:

- 15.7 The proposed alterations to the porch have no impact on neighbouring amenity.
- 15.8 The proposed single storey rear extension will have no impact on the privacy enjoyed by neighbouring properties.
- 15.9 It is noted that the extension is likely to have an impact on the outlook enjoyed by the neighbouring property at number 57. In terms of outlook, Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and this is impinged upon marginally by the proposal. However, this angle is impinged upon less by the rear extension subject of this application than the existing boundary fence. Similarly an extension could be constructed under permitted development rights which would impinge further upon this angle. As such, it is acknowledged that the extension subject of this application will have an impact on neighbouring outlook, however on balance this impact would not be significant and is far less harmful than what could be achieved under permitted development.

- 15.10 Similarly, it is noted that the extension is likely to have an impact on the light enjoyed by the neighbouring property. In this regard, as above, the extension subject of this application marginally breaches the plan test, which guards against a loss of light for a 45 degree angle on a horizontal basis. However, the elevation test, which guards against a loss of light at a 45 degree angle on a vertical basis, is not breached. As a result the extension subject of this application complies with Council standards as set out in the Essex Design Guide, which requires proposals to meet one of these tests.
- 15.11 Likewise it is considered that the rear extension is unlikely to have a significant impact on the light enjoyed within the neighbouring garden as the elevation test set out above is met.
- 15.12 The proposal is therefore acceptable in terms of impacts on neighbouring amenity.

Other Issues Raised

- 15.13 Concerns were raised regarding variances to the previously approved permission and the conservatory previously in situ at the property. However, this application is judged on its own merits and as such this is not a material consideration.
- 15.14 Concerns were raised regarding inaccuracies within the planning statement. However, the proposal has been constructed in accordance with the plans submitted on which the assessment of this application has been based.
- 15.15 Concerns were raised that the extension has been constructed without permission and without opportunity for neighbours to comment. Planning legislation allows for retrospective permission to be granted such as in this instance, which allows opportunity for consultation with neighbouring properties. It is noted that the neighbours have participated in the consultation of this application and as such have had an opportunity to comment on the proposal.
- 15.16 Concerns were raised regarding the excessive duration of the works to conduct the development subject of this application. It is noted that these works have been delayed due to the need to obtain a new permission and the requirement for that application to be put before the planning committee. There is also no mechanism within the remit of planning policy or legislation to limit the duration of time that the works should be conducted within.

16.0 Conclusion

- 16.1 This proposal is of an acceptable design and, whilst there would be impacts upon the amenities of the occupiers of neighbouring properties, such impacts would be within acceptable bounds.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1 - ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers FG-02, FG-03 and 'proposed' unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

2 - ZBB - Materials As Stated in Application

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

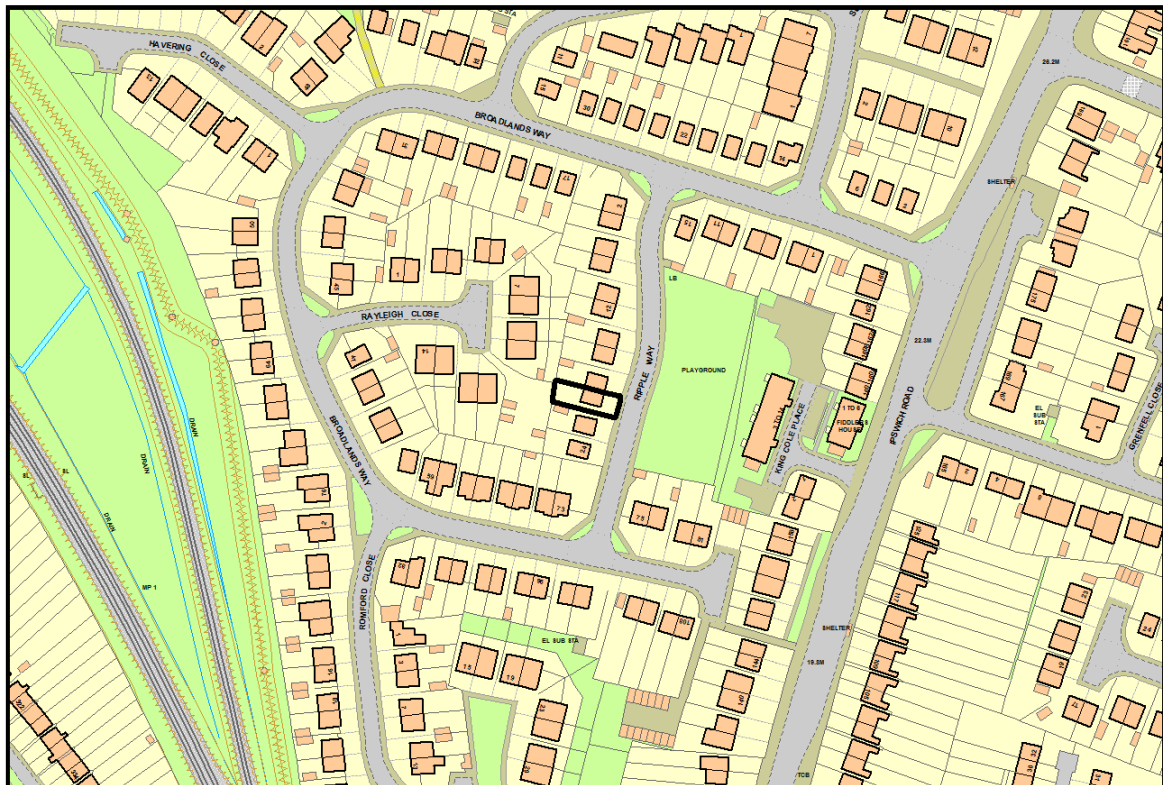
Reason: To ensure that materials are of an acceptable quality appropriate to the area.

18.0 Informatives

18.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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



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Item No: 7.9

Application: 171037

Applicant: Miss Helen O'Halloran

Proposal: Extension & conversion of a garage into an annexe.

Location: 20 Ripple Way, Colchester, CO4 0AW

Ward: St Anne's & St John's

Officer: James Ryan

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant works for the Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact the scheme will have on neighbouring amenity, the design and the proposed use in this location. These matters are held to be acceptable in this instance.
- 2.2 The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 Number 20 Ripple Way is a semi-detached dwelling located opposite the open space/play area on the Broadlands development. A parking court and other garages are located to the rear. The dwelling has hardstanding to the front for car parking and the garage which is the subject of this application is set in the garden to the side of the dwelling. It is used for domestic storage.
- 3.2 Broadlands sits on a slope. There is a change in levels from north to south. This means the garage and the garden in which it is located sit at a slightly higher level than the neighbour to the south.

4.0 Description of the Proposal

- 4.1 The proposal is to extend the garage forwards and convert into a small annexe for a family member.

5.0 Land Use Allocation

- 5.1 Predominantly residential, within the defined settlement limits.

6.0 Relevant Planning History

- 6.1 None of relevance.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

UR2 - Built Design and Character

TA4 - Roads and Traffic

TA5 - Parking

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

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP14 Historic Environment Assets

DP15 Retention of Open Space and Indoor Sports Facilities

DP16 Private Amenity Space and Open Space Provision for New Residential Development

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

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

8.0 Consultations

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

- 8.2 Archaeology: No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

9.0 Parish Council Response

- 9.1 Non-parished.

10.0 Representations from Notified Parties

- 10.1 No representations have been received.

11.0 Parking Provision

- 11.1 The conversion of the garage will still leave space on the frontage for two cars to be parked off-street. It is noted that the garage, which is set behind gates in the garden and is clearly not used for parking, does not comply with the current adopted standards to count as a parking space in any event.

12.0 Open Space Provisions

- 12.1 This scheme raises no issues in this regard.

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 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 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

The Principle of Development

- 15.1 This scheme proposes the extension of an existing garage. The garage measures 2.63 metres in width and is 2.6 metres high to the ridge. The garage is currently 5.6 metres long and will be extended forwards to be 7.2 metres long with the same ridge height and same width.
- 15.2 The extended garage will be converted into a small annexe, with a bedroom, lounge, hall and shower room/WC. The garage door will not be reinserted – a pedestrian door will be inserted into the new east-facing elevation. The whole building will be clad in hardiplank.
- 15.3 The scheme is very modest and will be used by a family member in a manner that is ancillary to the main dwelling. This is acceptable in principle. Design and Layout
- 15.4 The scheme is very simple in design terms. The small extension has been designed to replicate the shape of the existing building and therefore the proposal is held to acceptable in design terms. The cladding of the building will be an improvement over the current prefabricated concrete.

Scale, Height and Massing

- 15.5 The new section of garage will have a ridge and eave that are the same as the existing and therefore the scale, height and massing are held to be acceptable.

Impact on the Surrounding Area

- 15.6 This proposal is entirely in keeping with the existing garage and is therefore acceptable in terms of the impact on the surrounding area.

Impacts on Neighbouring Properties

- 15.7 This scheme pulls the garage forward by 1.6 metres at the same height to the eaves and ridge as the existing situation. It is not held that this scheme will cause materially harmful loss of outlook or light to the neighbour at 22 Ripple Way or to other neighbours. No windows are proposed to face the neighbour at 22 and therefore it is not held that this scheme will cause materially harmful overlooking. The modest addition is not considered to result in a development that is oppressive to the neighbour at 22 or any of the other neighbours. At the time of writing, no representations had been received.

Landscape and Trees

- 15.8 The proposal does not require the removal of any important vegetation. It does not necessitate the need for additional landscaping.

Highway Safety and Parking Provisions (including Cycling)

- 15.9 The application raises no highway safety issues. The applicant is a keen cyclist and has confirmed that there is space in the main dwelling to house her bicycle which currently is kept in the garage.

Private Amenity Space Provision

- 15.10 The dwelling in question has a small but square private amenity space and a full width raised deck area to the rear of the dwelling. The extended element of the garage will not reduce any area that is considered to be private amenity space. The new patio doors will open out onto the existing private amenity area so the annexe will enjoy access to shared outside space.

16.0 Conclusion

- 16.1 To summarise, this modest scheme is held to be acceptable subject to a condition restriction the use to one that is ancillary to the main dwelling.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. **ZAA - Time Limit for Full Permissions**

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 01, 02 and 03.

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

3. **ZBB - Materials As Stated in Application**

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

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

4. **ZDQ - *Urban Annexes***

The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 20 Ripple Way.

Reason: For the avoidance of doubt as to the scope of the permission, as this is the basis upon which the application has been submitted and subsequently considered and any subdivision of the site into independent units would require the careful consideration against the current policies of the Local Planning Authority at such a time as any proposal were to come forward as the annexe is constrained by the site characteristics and may not be satisfactory as a stand-alone dwelling.

18.0 Informatives

18.1 The following informative is also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

Planning Committee

Item
8

Date 25 May 2017

| | | | |
|----------------|--|--------|------------------------------|
| Report of | Head of Professional Services | Author | Mark Russell 01206 506941 |
| Title | Amendment to section 106 in relation to land to the north of Factory Hill, Tiptree (subject to Planning permission 130245) | | |
| Wards affected | Tiptree | | |

This report concerns a request for a new legal agreement in relation to Planning permission for 126 dwellings to the north of Factory Hill

1.0 Decision(s) Required

- 1.1 Members are requested to endorse the requested new s.106 agreement, replacing that dated 17th September 2013. This is in order to reflect the changed circumstances described below which have come about as a result of Wilkin & Sons' decision not to proceed with building a brand new jam factory to the south of the existing – instead electing to rebuild and refurbish the existing. As a result, there will be no new housing built on the existing factory site. There will be unchanged 126 dwellings on the northern housing land and the legal agreement requires updating to reflect this fact.
- 1.2 In the interests of clarity and given the extensive amount of changes, the document is presented as a stand-alone replacement s.106 rather than as a deed of variation to the previous agreement.

2.0 Reasons for Decision(s)

- 2.1 The reason for the decision is so that W&S may proceed with the sale of the northern housing land to provide capital for its on-site factory re-building/re-furbishment. A new s.106 is required to allow W&S to do this without obligation to build a new factory on land to the south of the existing site.
- 2.2 The reasons given by the applicant for the new s.106 are financially-based and full details are given below:

The project was predicated on the construction of a new factory at a cost of no more than £15m (infrastructure works added a further £10m to this cost) with the bulk of the factory development costs funded through enabling development on two housing sites (the Northern Housing Land and on the existing factory site). The balance of any ancillary expenditure would be financed through bank borrowing and trading cash flow. At this level of cost/risk W&S was confident that the project was viable, deliverable and not a threat to the company's long term security.

The original plan was to construct the factory in two phases with the initial phase @ 8000m² securing the necessary production capacity for business needs to 2020. As the business continued to grow and the architects gained a better understanding of how the new factory would need to look and work, it became apparent that the original plan for phase 1 was undersized by more than 30% which had a direct impact on total cost. After some painful

reflection the phase 1 cost was deemed to be too high and had the potential to leave the business exposed in the event of adverse trading movements. It was at this point that W&S reluctantly took the decision not to progress with construction of the planned new factory.

The requirement for an enhanced factory however remains the same, the business continues to expand and the need for renewed/refreshed infrastructure remains paramount. It is with this in mind that W&S has now developed a plan for refurbishment/rebuild of its existing facilities on its current site. Unlike the plan for building on a new factory site, this revised plan sees the business rebuilding and refurbishing on site over a much longer timescale and according to its ongoing means. While much of the ancillary infrastructure works (water treatment plant, roundabout, services, drains) has already been completed or is nearing completion, the next phase of refurbishment and build is expected to be completed by the end of 2020 at significant cost. W&S will invest the money secured from the sale of the Northern Housing Land in the rebuilding and refurbishment works. Beyond this, the project in its entirety stretches to 2027 and will see W&S investing on a piecemeal basis as trading cash flow permits.

Based on current valuations there is expected to be a net gain from the sale of the Northern Housing Land of £5.5m (this is after the discharge of all sec 106 obligations and includes the cost of setting out the Public Open Space). The infrastructure costs for the refurbished/rebuilt factory to date show a spend of £3.6m beyond which, a further £2.85m is authorised to the end of 2017. Thereafter, work continues with another £3.15m to be invested (subject to the sale of the Northern Housing Land) out to 2020 with a further £13.5m out to 2027 subject to continued successful trading.

The Brexit vote on the 23rd June 2016, lends further weight to W&S' cautious approach, particularly given longer term market uncertainty. W&S recognises that factory improvements are essential and that a programme of delivery needs to start now given the enabling infrastructure works that have already been undertaken at significant cost in recent years. Having assessed the options W&S has concluded that the lower risk approach in delivering these requirements is through a longer phased development on the existing site with lower borrowing commitments.

This still enables W&S to realise a capital receipt from the sale of the Northern Housing Land (though not now from housing on the existing factory site) which will assist early delivery up to 2020 and will include a new Energy Centre and Production Hall at a footprint in excess of 3500m² and a refurbished packhouse at 600m² all of this while maintaining full operations on the rest of the site.

This is all very much in line with the requirements of the original planning permission which required receipts from the sale of the land for housing to be re-invested into the business. Further commitment beyond 2020 will then be subject to on-going trading cash flow. If current momentum is maintained, financial projections show that W&S will be able to deliver the full programme of works by 2027 which will ultimately result in up to a further 80 jobs on the site.

Wilkin & Sons is extremely disappointed that this approach will not present the opportunity to provide a landmark building for the company and Tiptree. However, the overriding priority is to safeguard the operations of the business and its employees and to react accordingly when market conditions dictate. The company remains committed to its operations in Tiptree which supports local people and the local economy and considers that this is the most effective way forward to secure its future.

3.0 Alternative Options

- 3.1 If the new s.106 is not endorsed by the Council, W&S will be faced with a series of choices. One is to build the factory to the south of the existing, as per the original agreement. It has given reasons why it would not wish to do this, therefore it is reasonable to presume that this will not occur.
- 3.2 It may, alternatively, decide to do nothing. However, it has highlighted “dated infrastructure and inefficiency of operating on the site.” Therefore, it is reasonable to presume that this will not occur either.
- 3.3 The third option is that W&S may elect to move some or all of its activities elsewhere. The company already has storage facilities at Beckingham Business Park and operations in Witham (in the Maldon district and the Braintree district respectively). Whilst the company does not appear to wish to relocate, given that the other two options at paras 3.1 and 3.2 do not appear to be realistic, there is a chance that this could occur entirely or in part. However, as highlighted in para 2.2 the company has already made considerable financial commitment to upgrading and refurbishing the existing factory and stresses its continuing commitment to its long term future in Tiptree

4.0 Supporting Information

- 4.1 In the next five years Wilkin & Sons (W&S) states that it will spend a sum which is claimed to be far in excess of the likely net receipt to the company from development at the northern housing land. This will be spent on refurbishment and enhancements to the existing factory in order to achieve the aims of the Tiptree Jam Factory Plan (adopted February 2013) and to secure the long term future for the company in Tiptree and therefore long term employment prospects in Tiptree.

5.0 Proposals

- 5.1 The new Schedule 1 has been amended from the original to reflect the fact that there will no longer be a new factory site to the south of the existing. It sets out works that will be carried out at the existing factory site prior to occupation of any dwelling on the northern housing land (Phase 1 Works), works that will be carried out at the existing factory site by summer 2018 (Phase 2 Works) and works that will be carried out at the existing factory site by summer 2021 (Phase 3 Works).
- 5.2 Financial contributions in the proposed agreement are 52% equivalent of the figures in the original agreement to reflect the fact that housing numbers on the northern housing land are 52% of the previously proposed total housing numbers (which included housing on the existing factory site which will no longer be built).
- 5.3 The amount of open space and the number of allotments has not been changed even though they both exceed what would normally be required for 126 dwellings.
- 5.4 The sum of money to equip the play area has not been reduced. Even though the woodland, reservoir and Factory Hall will remain in W&S’s ownership, the commuted sum for future maintenance has not been reduced to reflect that fact — it has simply been reduced to 52% of the previous figure due to the lower number of housing units. It is for future maintenance of the open space allotments and play area
- 5.5 References to the Woodland and the Reservoir have been removed as W&S will retain ownership of these areas.
- 5.6 References to the “Hall Road Agreement” (a linking agreement relating to the International Farm Camp application) have been removed.

- 5.7 References to the Factory Hall have been removed as this will continue to form an integral part of the factory.
- 5.8 References to the Southern Open Space and the Wilkin Open Space have been removed as they do not relate to the Northern Housing Land and, in any event will not now be provided.
- 5.9 The amount of on-site Affordable Housing is to increase by **FOUR** units. The housing for W&S employees is reduced by four units to make provision for the extra four affordable housing units. Whilst the Council notes and welcomes the continued provision of housing for employees, this does not count towards the Affordable Housing provision.
- 5.10 The land that was to be made available as a dental surgery is instead be made available for more affordable housing subject to the grant of appropriate planning permission
- 5.11 All triggers have been altered so that they all now relate to Northern Housing Land.
- 5.12 All indexation will run from September 2013 (the date of the existing agreement).
- 6.0 Strategic Plan References**
 - 6.1 A key aim of the Strategic Plan (2015-18) is to “Promote Colchester to attract further inward investment and additional businesses, providing greater and more diverse employment and tourism opportunities.”
 - 6.2 On that basis, the Council should encourage existing businesses to remain within the Borough and to thrive and expand, as is the case here.
- 7.0 Consultation**
 - 7.1 Housing: The Housing Strategy Team has reviewed the amendments and, whilst noting that the allocation is still below the Policy threshold, does not object to the new s.106.
 - 7.2 Tiptree Parish Council: TPC has been in discussions with the Council and with W&S, culminating in a final meeting on 16th May 2017 between your Officers and TPC’s representatives, where the latter gave verbal agreement to most matters, but still wished to explore one item with their Members. TPC will have a full meeting on Monday 22nd May and its comments will be reported on the amendment sheet.
- 8.0 Publicity Considerations**
 - 8.1 Liaison and discussions with TPC.
- 9.0 Financial Implications**
 - 9.1 None, other than Officer time in overseeing this matter.
- 10.0 Equality, Diversity and Human Rights Implications**
 - 10.1 None
- 11.0 Community Safety Implications**
 - 11.1 None
- 12.0 Health and Safety Implications**
 - 12.1 None
- 13.0 Risk Management Implications**
 - 13.1 None

25 May 2017

| | | | |
|----------------|---|--------|----------------|
| Report of | Head of Professional Services | Author | Andrew Tyrrell |
| Title | 2016-17 End of Year Planning Performance Report | | |
| Wards affected | All Wards | | |

This report sets out the figures for planning performance for the period 1 April 2016 to March 31st 2017. This includes speed of planning application decisions, which is how we are measured by the Government, appeals, enforcement actions and tree related works with some comparative data.

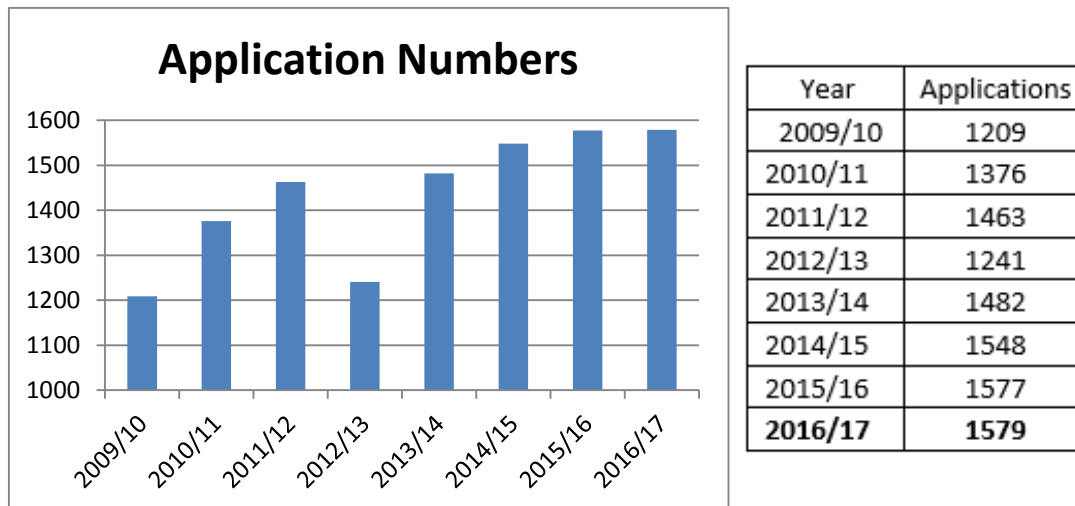
1.0 Introduction

- 1.1 The below report sets out the performance measured for various indicators of performance in the Planning service. The Government measures planning services on their level of delegation, the overall speed of decision making (National Indicator 157, or NI157) and on appeal success rates. The Council also monitor application numbers, approval rates, numbers of enforcement actions taken, tree preservation orders and various other statistics that demonstrate how the service is working efficiently and, most importantly, effectively. For comparison, performance figures have been compared back from year to year too.
- 1.2 The Growth and Infrastructure Act gave the communities secretary the option to designate any local authority that is not "adequately performing its function of determining planning applications" as underperforming, allowing planning applications to be submitted directly to the Planning Inspectorate. Councils are rated on the speed of their decision-making over the previous two years, which is measured as a percentage of major planning applications decided within 13 weeks, or any other individually agreed timescale. They are also rated on the quality of their decision-making, by reference to the percentage of major planning applications subject to a successful appeal. Several Authorities have been designated in the last few years.
- 1.3 Colchester Borough Council has good planning performance and is not under threat of being designated, or losing its planning powers. The performance is explored in detail below.

2.0 Planning Applications: "Timely Decision Making"

- 2.1 The primary measurement the Government monitors for each Local Planning Authority is the speed of their decision making. This forms National Indicator 157, or NI157. The number of applications received that count towards the National Indicators increased by a total of just 2 from the previous year and was 1,579. This was then highest number of applications since the economic downturn in 2008, albeit only just beating the previous year.

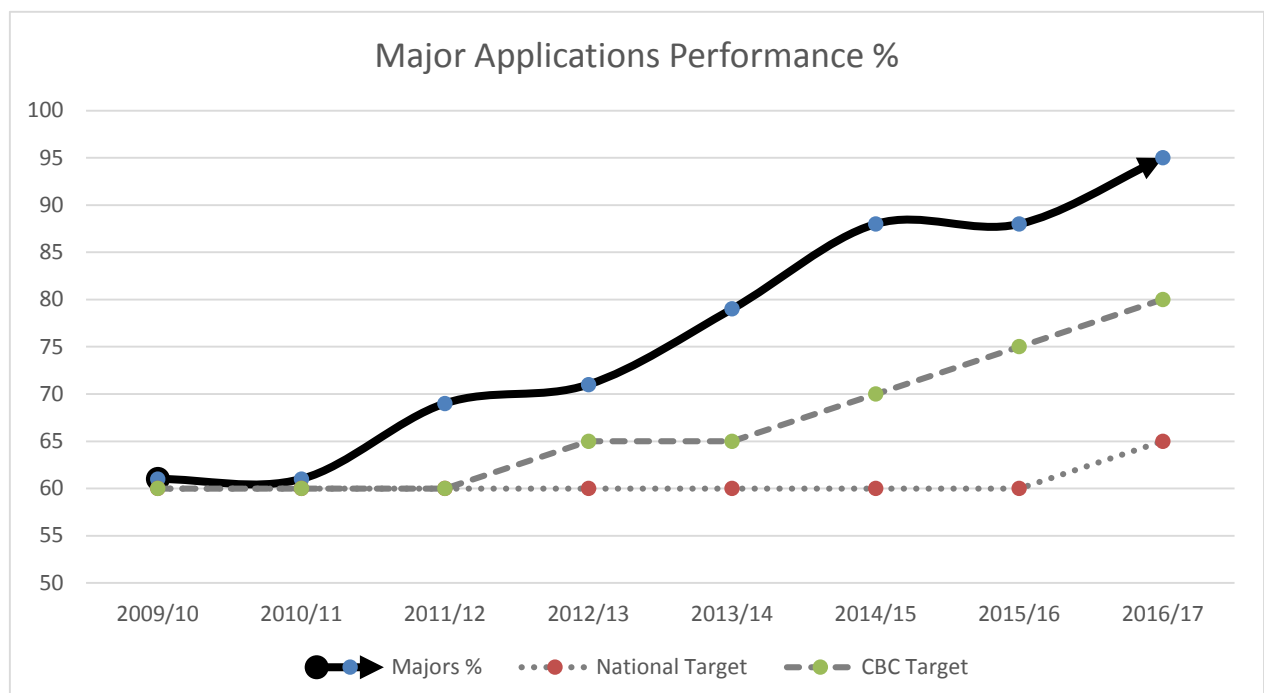
2.2 The number of applications received over recent years is shown in the table below:



2.3 This NI157 figure does not include types of application that do not count towards the Government statistics. It also does not include non-planning application work such as applications for discharge of conditions or preliminary enquiries, which are also rising and represent other work that the team undertakes. This would take the figure well over 2,000 cases per year. However, the Planning Service is monitored and measured by Government on its speed of determining certain types of application only. These are the ones included above, and break down into three types of national Indicator (NI 157) figure for “Majors”, “Minors” and “Others”.

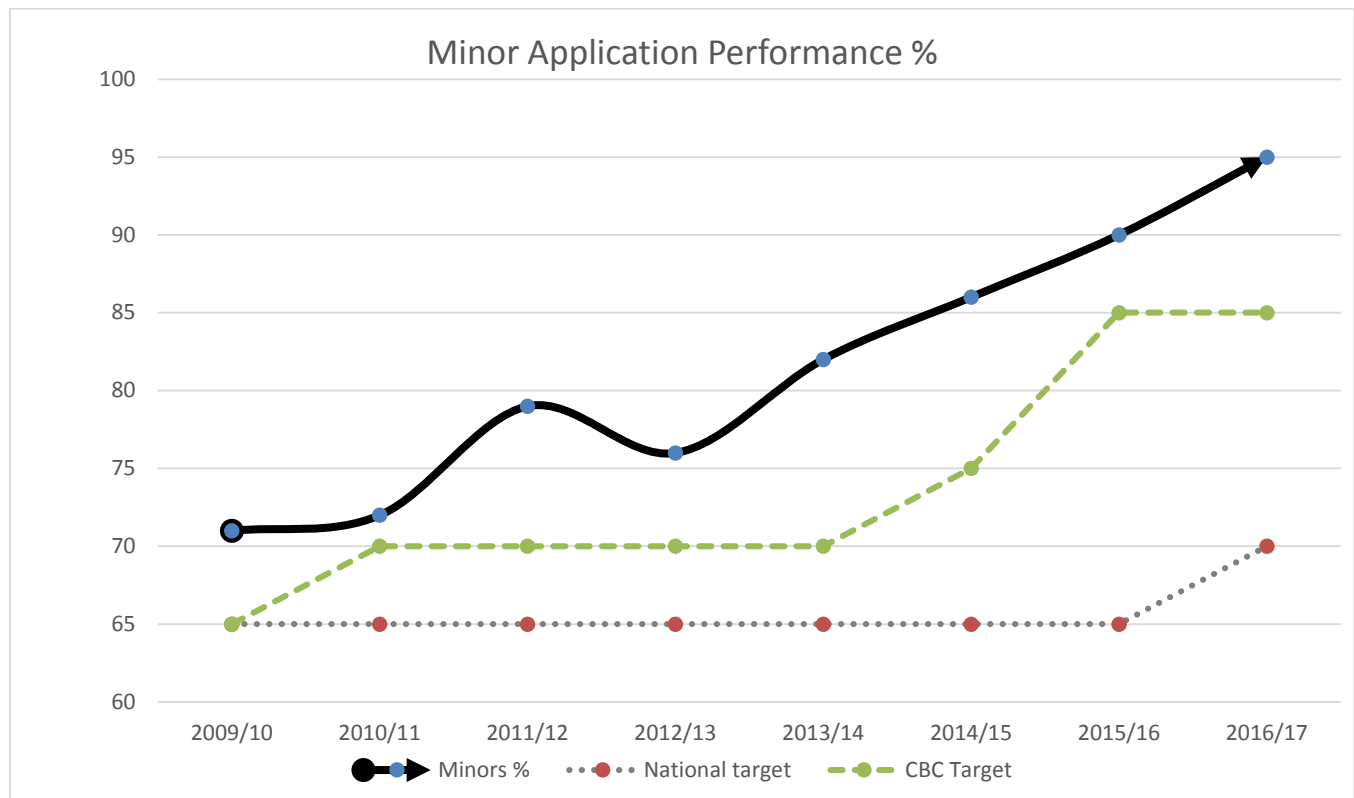
2.4 “Major” development includes residential development of 10 or more dwellings, housing sites where the number is unknown but the site area is over 0.5 hectares, non-residential development where the floorspace created is over 1,000m² and/or where the site area is over 1 hectare. It also includes gypsy/traveller sites with 10 or more pitches. The Government target is that 65% of our Major applications must be determined within 13 weeks. We would be deemed to be poorly performing if less than 60% of our major applications were determined within 13 weeks. At Colchester, we have set a more challenging internal target of 80%.

2.5 This year we finished with an achievement of 95% of major applications being determined “on (or before) time”. This is well above all targets set. This is also an improvement on previous years,

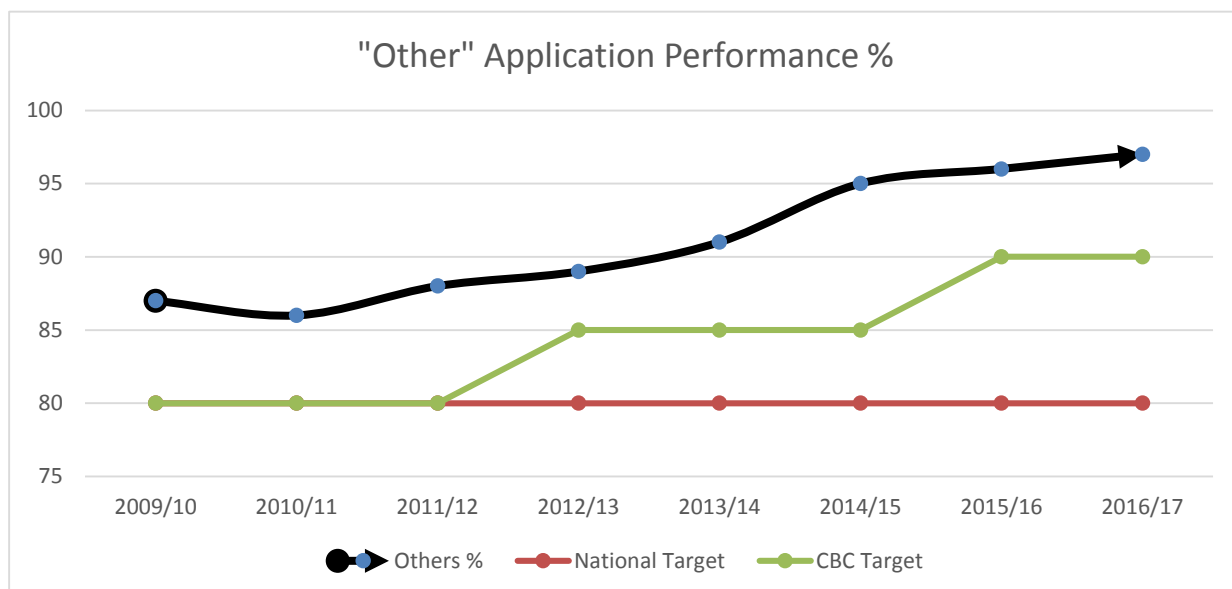


which have also seen a steady upward trend as we have improved our efficiency and made procedural changes to the way we work:

- 2.6 “Minor” applications are defined as development for 1-9 dwellings, retail/office/light industrial and other non-residential uses with floorspaces of up to 999 m², or sites under 1 hectare in area, as well as gypsy/traveller sites with 1-9 pitches. The Government deems satisfactory performance to be 70% of the minor applications decided within 8 weeks. At Colchester we have set a higher target of 85% within 8 weeks. This year we achieved 95% of our “Minor” applications being decided before their target deadlines. This is also a new record level of performance at Colchester, beating the previous years’ records as shown below:



- 2.7 “Other” applications is a category that includes householder applications (domestic extensions), change of use (with no operational development), adverts, listed building works, demolition works, certificates of lawfulness and notifications. This is the largest category in terms of quantity. The Government consider 80% should be decided within 8 weeks to be satisfactory, while we have set a target to achieve at least 90% of decisions on other applications within 8 weeks. Again, in this category we saw a new record performance level set, at 97% of applications being decided on or before their targets.



2.8 Therefore, in all three categories of planning applications we achieved our highest recorded performance levels once again. This continues a trend of faster decision making, achieved through streamlined processes, and without more resources. Overall, for 2016-17, in these categories the performance for 2016/17 was as follows:

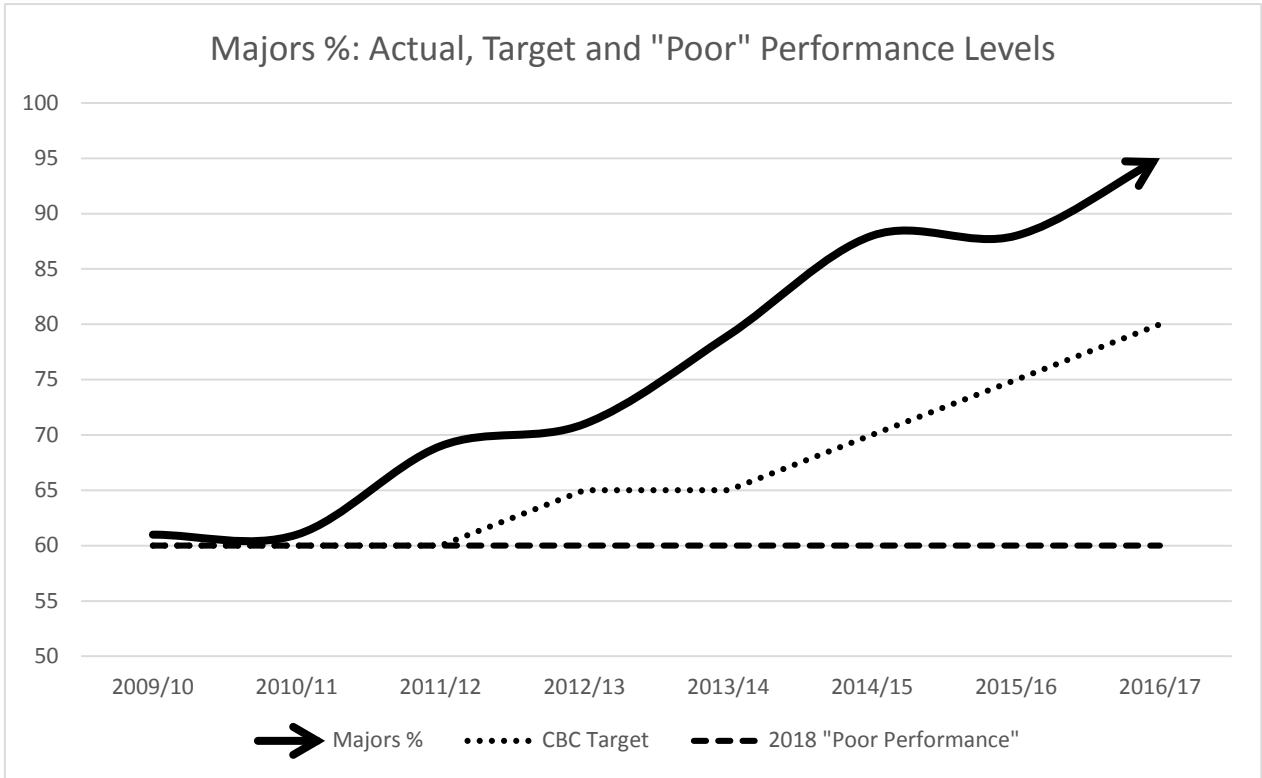
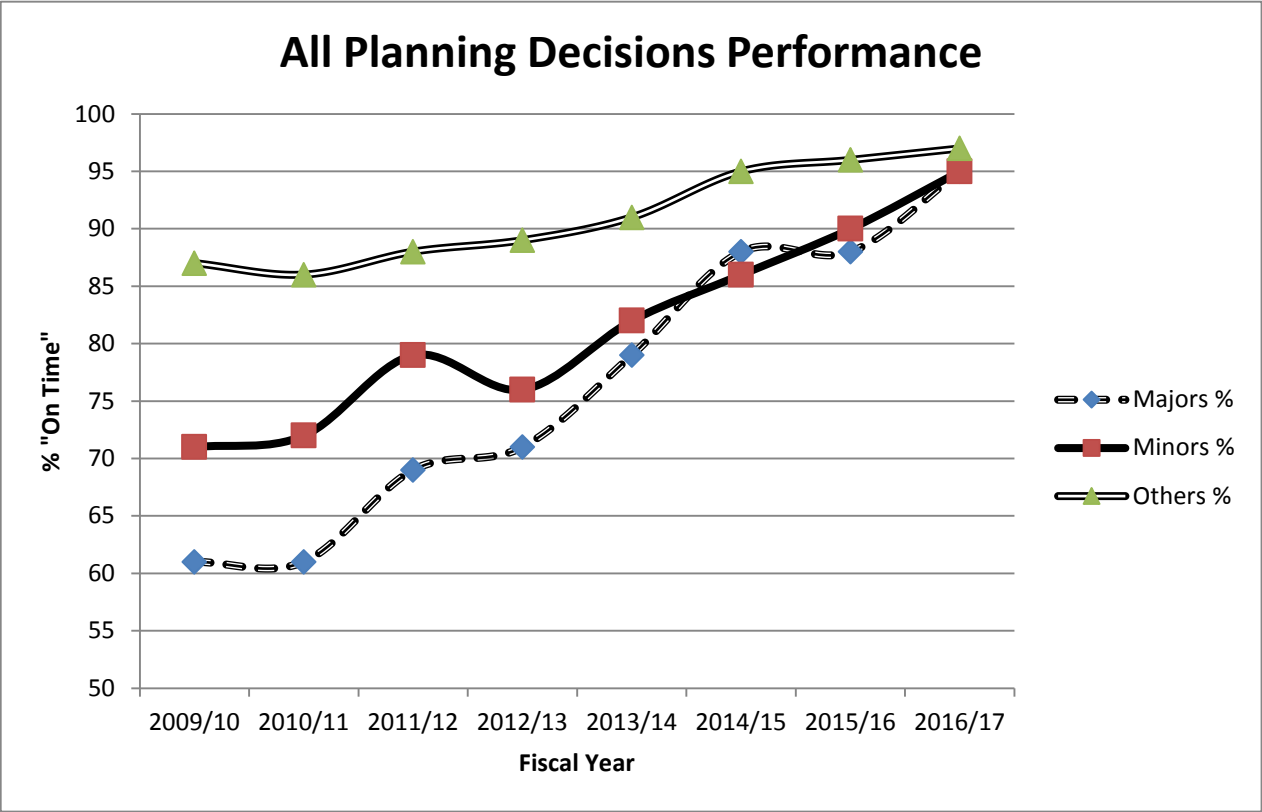
| "Majors" decided "on time" | "Minors" decided "on time" | "Other" decided "on time" |
|-----------------------------------|-----------------------------------|----------------------------------|
| 95% | 95% | 97% |

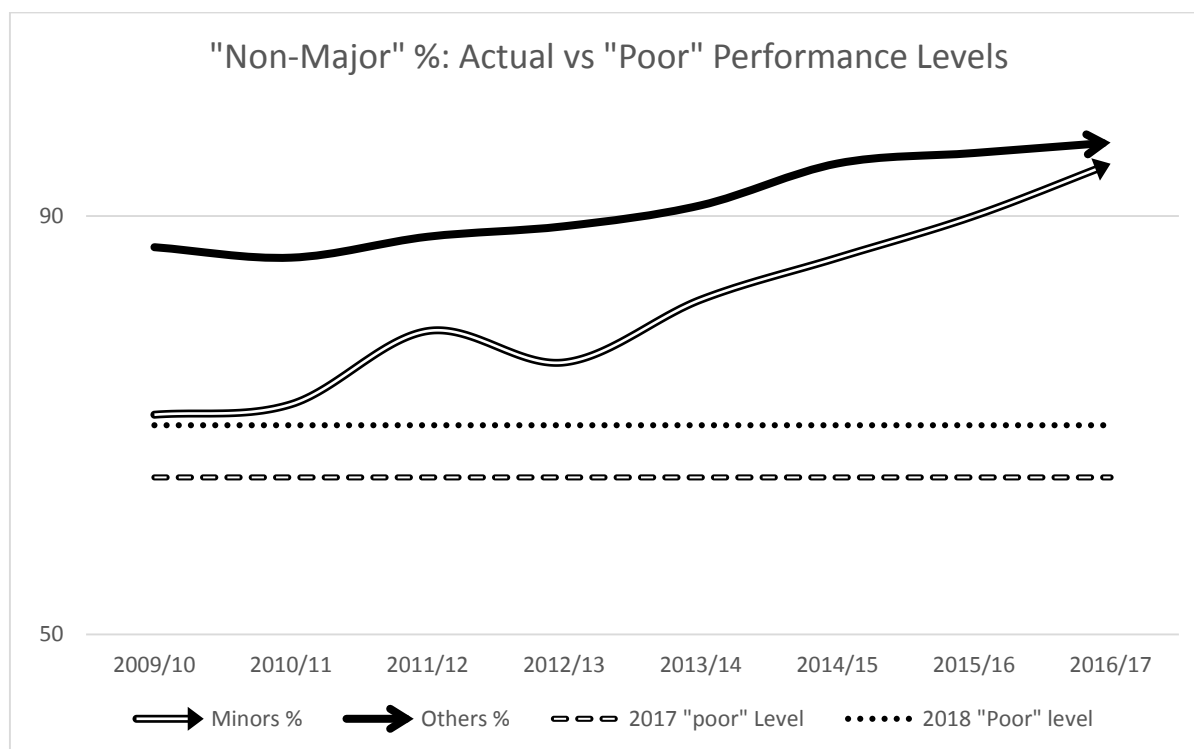
2.9 As a comparison, there has been a significant increase in planning performance since 2009, when there were restructuring and then rebuilding in light of the economic downturn in 2008. Colchester has made a number of changes to the way we work, refining processes and ensuring that they are as slick as possible so that Officers can maximise the time they spend on improving applications and negotiating improvements to the schemes we determine. The chart and table below shows all three NI157 categories over time:

| Year | Majors % | Minors % | Others % |
|----------------|-----------------|-----------------|-----------------|
| 2009/10 | 61 | 71 | 87 |
| 2010/11 | 61 | 72 | 86 |
| 2011/12 | 69 | 79 | 88 |
| 2012/13 | 71 | 76 | 89 |
| 2013/14 | 79 | 82 | 91 |
| 2014/15 | 88 | 86 | 95 |
| 2015/16 | 88 | 90 | 96 |
| 2016/17 | 95 | 95 | 97 |

2.10 Colchester has established itself a good reputation. From 2017/18 there will be a new "poor performance" level on minor and other applications of 65%, increasing in 2018/19 to 70%. The Government will designate Councils who fall below these targets as poorly performing authorities and then applicants can choose to apply directly to the Inspectorate to decide their applications instead of the local Council. This loss of planning powers is the same penalty to the LPA if they are deemed to be poorly performing on majors (a penalty that has now existed on that front for 3 years). The figures for last year suggest that 17 Planning Authorities will lose their planning powers this year after falling below the performance thresholds over a 2 year period. At present, being designated as a poorly performing Council is not something that is a concern to Colchester. The performance figures are very high, and well above the poor performance thresholds being set as shown in the chart below for ease of viewing. For majors and minors/others Members will see that

CBC are operating well above the levels required to ensure that a good level of service is being provided. See below:





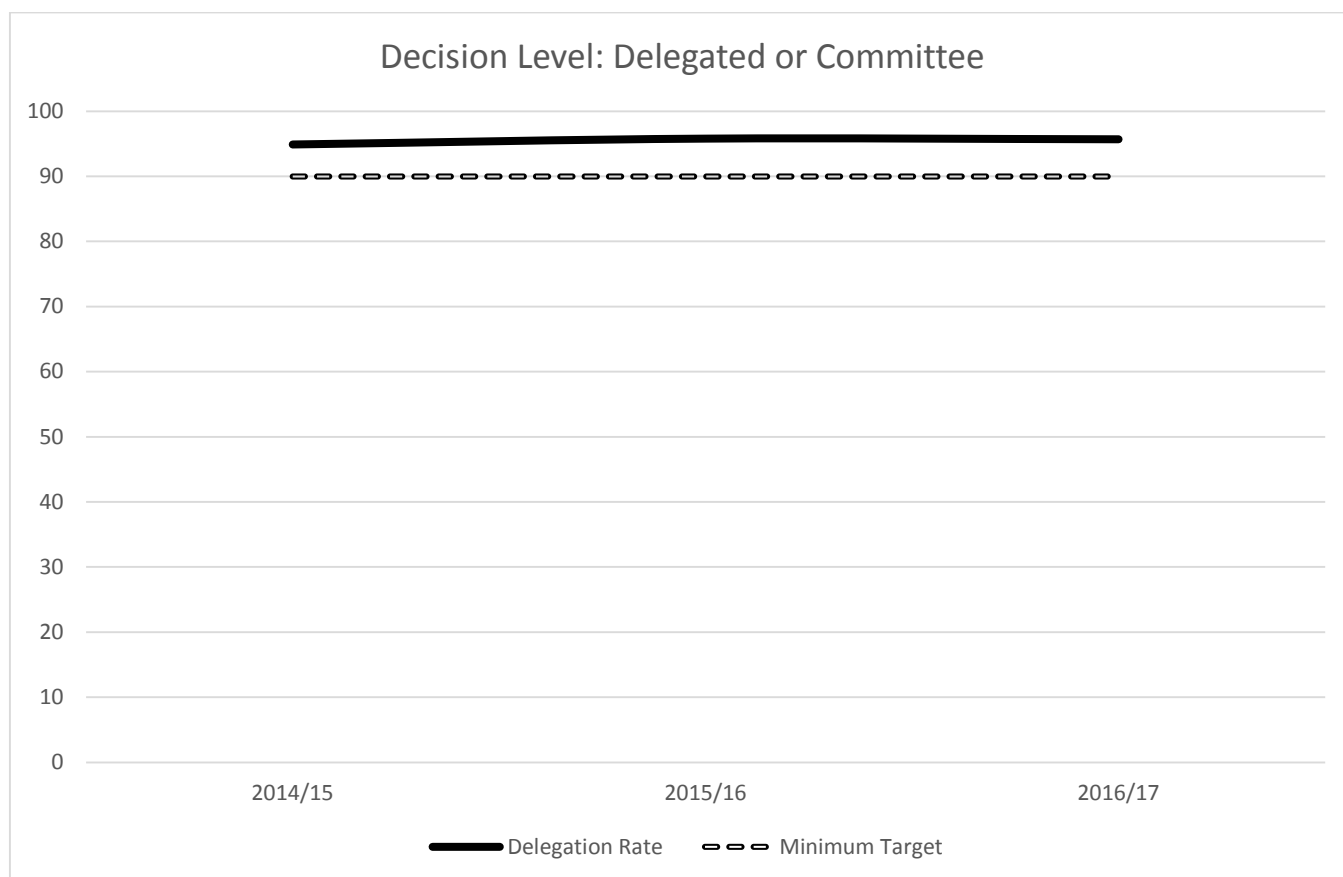
2.11 Nationally, the latest information from the Government is still that from the end of Quarter 3, from 31st of December 2016. At this time, Colchester made the 26th highest number of “minor” and “other” decisions on planning applications in the country, out of 336 Local Planning Authorities. This demonstrates how busy the Authority is and places us in the top 1% of authorities in terms of number of planning decisions taken. Colchester was 23rd in the ranking for speed of decision. This means that we receive the 26th highest number of applications in the country and are the 23rd fastest authority on deciding minor and other applications. The only Council from within East Anglia to better our 95% performance was Thurrock, who achieved 96.9%; although they decided less than half as many applications and do not have a comparable workload. The next best authority from Essex was Epping Forest, who achieved a performance of 93.6% and were ranked 35th. Chelmsford were ranked 43rd, and achieved 93.2% of their decisions on time, while Ipswich placed 47th on 92.8%.

2.12 On other issues, the Council had a number of complaints against its decisions from third parties. This is not unusual. A few of these proceeded to the Local Government Ombudsman. Whilst details of those cases cannot be detailed herein, the Council has not had any faults found in the way that it operates and all cases against the Council have been thrown out by the Local Government Ombudsman. This has been the case for several years now too.

3.0 Level of Delegation

3.1 The Government advocate that most decisions should be taken by professional planning officers. However, they also advocate that planning should be open to democratic decisions because of the impacts that they can have on so many people and for so long. They set a target that at least 90% of decisions should be taken by officers, whilst no more than the 10% most controversial or significant applications should be subject to the full scrutiny of the Planning Committee and its elected Members. That ensure that delays and expense are avoided on most cases but ensure that there remain public accountability for contested or major decisions.

3.2 Colchester historically struggled to achieve this, but since call-in procedures were introduced (approximately 6-7 years ago) it has since met this target. The chart below shows the level of delegation, and demonstrates that last year 95.7% of decision were taken under delegated powers. This means that the Scheme of Delegation meets the targets set for efficient planning practice and ensures that the Committee was able to focus on the applications that mattered most to the public.



- 3.3 Over the last three years the rate of delegation has stayed fairly constant around 95%. In the 2014/15 year 94.9% of decisions were taken by officers (5.1% by the Committee), which rose to 95.8% in 2015/16 and then fell slightly to 95.7% last year (2016/17).

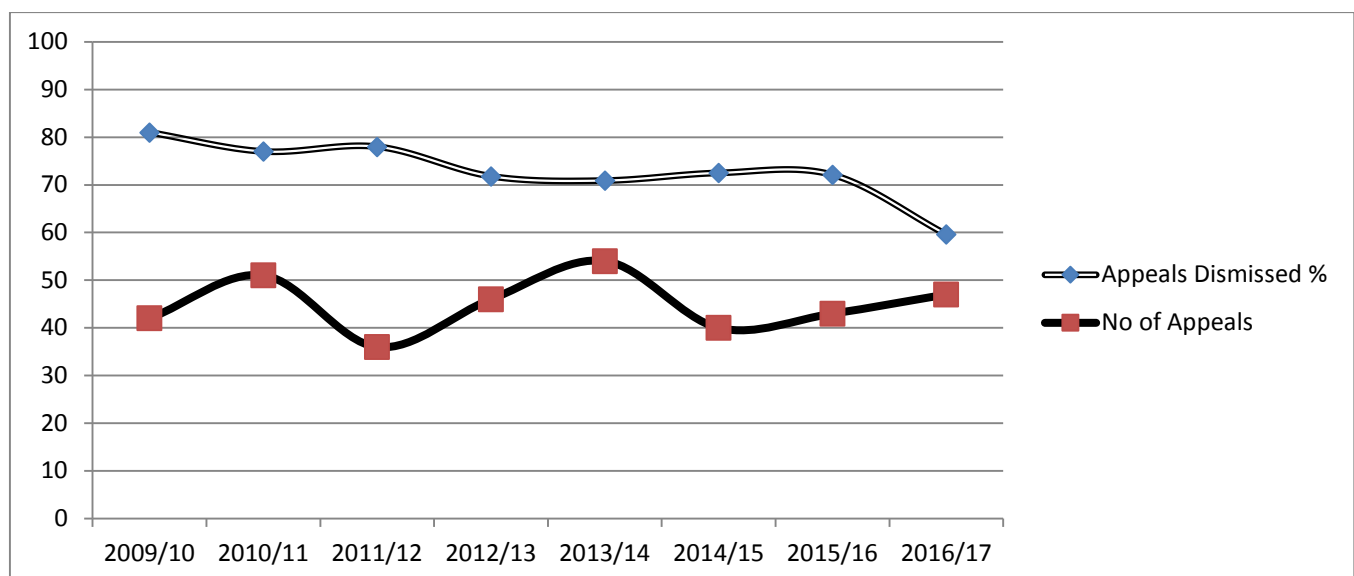
4.0 Appeals

- 4.1 In terms of Appeals, performance the number of appeals has been reasonably constant year upon year. In terms of fiscal year, the last year saw 47 appeal decisions, which was equivalent to 3% of our decisions being appealed. Nationally the figure is 3.4% on average, so the number of appeals against our decisions was lower than the national average.
- 4.2 The Planning Inspectorate can deal with an appeal in one of three ways; through written representations, an informal hearing or by ordering a public inquiry. In all cases the function of an appeal is to examine the local authority's decision on the planning application and an inspector is appointed to preside over the appeal and take the final decision. Written representations is the most common appeals method, wherein the inspector reaches a decision based on written submissions from the planning applicant, the local authority and any objectors. If an informal hearing is called, evidence for and against the development is given orally, but in a less formal setting than at a public inquiry. If a planning application is controversial, it may be dealt with at a public inquiry, the most formal and adversarial of the three options. This later route involves cross examination by legal professionals in most cases and can last several days or even weeks.
- 4.3 The data we hold on types of appeal is recoded by calendar year (not fiscal year). The calendar year figures for the type of appeal, are given below:

| Type of Appeal | 2013 | 2014 | 2015 | 2016 | 2017 to date |
|-------------------------|------|------|------|------|--------------|
| Written Representations | 63 | 36 | 44 | 40 | 10 |
| Informal Hearing | 4 | 3 | 5 | 0 | 0 |
| Public Inquiry | 2 | 1 | 2 | 3 | 0 |
| Grand Total | 69 | 40 | 51 | 43 | 10 |

The above is solely based on decisions received, so does not include undecided cases such as Tollgate (which was a substantial Public Inquiry within this year). What can be seen from this is that, typically, most of our appeals are dealt with through the written representations procedures, where there is usually a reliance on the officer reports and the decision notice, as opposed to any additional statements or evidence.

- 4.4 Looking at appeal performance, in 2017 the final appeal success rate was 59.6%, measured against a target of 70%. This means that the performance on appeals was below target for the first time in many years. This is also now fairly typical of the national trends, with the average number of appeals dismissed by the Planning Inspectorate falling to 66% this year, from 68% the year before. This does put Colchester below average on appeals, though far from any risk of being designated.
- 4.5 It is clear is that the Inspectorate are being more permissive, which we are informed follows Government instructions to encourage more growth, allow more jobs and build more homes. The issue with this is that it should not be at the cost of quality, or “anything anywhere”. We have tried to hold a constant line with previous years in terms of what we deem to be acceptable, and have continued to allow development when it is the right development in the right place at the right time.
- 4.6 To demonstrate this, Colchester has allowed 87% of the planning applications decided last year. Nationally the average permission rate is 88%, so directly comparable to the rate of approval at Colchester. The rate of appeal is also comparable. So while Colchester is allowing as much as it usually does, and receiving the same rates of appeal that we have, we are now finding that the Inspectors are allowing more development that we consider to be unacceptable. Despite this, the inspectorate are not awarding costs against us, which means that they still consider our decisions to be logical and sound in planning terms. We have recently challenged two decision which were of particular concern but await the outcome of this. We are also monitoring the qualifications of Inspectors, as they do not seem to be as well-matched to the issues being appealed as was the case a few years ago.
- 4.7 Whilst performance has dipped, the intention is to “hold the line” and insist on the same amount of quality in our developments as we have previously sought, as a minimum. We do not intend to follow the more permissive approach at this time. This is because we are worried at the legacy that this will leave for the next hundred years, and beyond. To put the appeal performance into context, and to compare the decline in appeal success rates over previous years, the chart below shows both the number of appeal decisions receive year on year, and the percentage of those appeals dismissed.

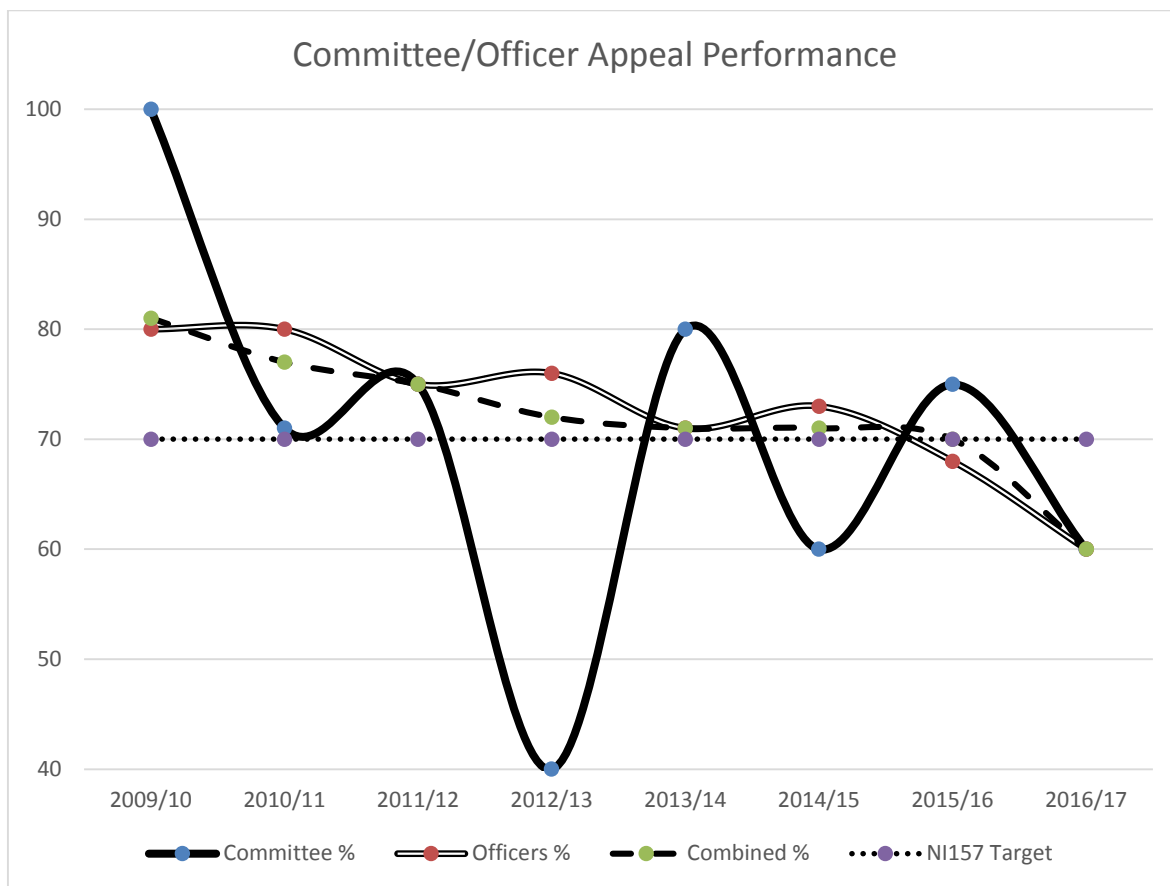


- 4.8 As stated above, despite the downturn in performance at appeal in terms of outcomes, the Council is not getting cost awards against us. There are only 2 costs awards against us from last year; one of which relates to a Committee decision at Holmwood Solar Farm. Members will recall that this

was allowed because the Council could not evidence a claim that it would cause highway safety issues for pedestrians who would have no path to walk on when construction vehicles passed. Officers had advised at the time that the Highway Authority had raised no concerns, but the officer recommendation to approve the application was overturned by the Committee against that advice. Officers are still disputing the costs with the appellants so we cannot provide any figures for this decision yet. A second costs claim was awarded against the decision to refuse the extended hours at Qube after our Environmental Protection team recommended refusal based on noise and disturbance. At appeal they could not prove that noise complaints nearby had originated from people leaving Qube, and not other premises in the town. Consequently the Inspectorate allowed the appeal and gave a costs award against us for failure to Evidence this reason for refusal. Again, this has not been settled yet.

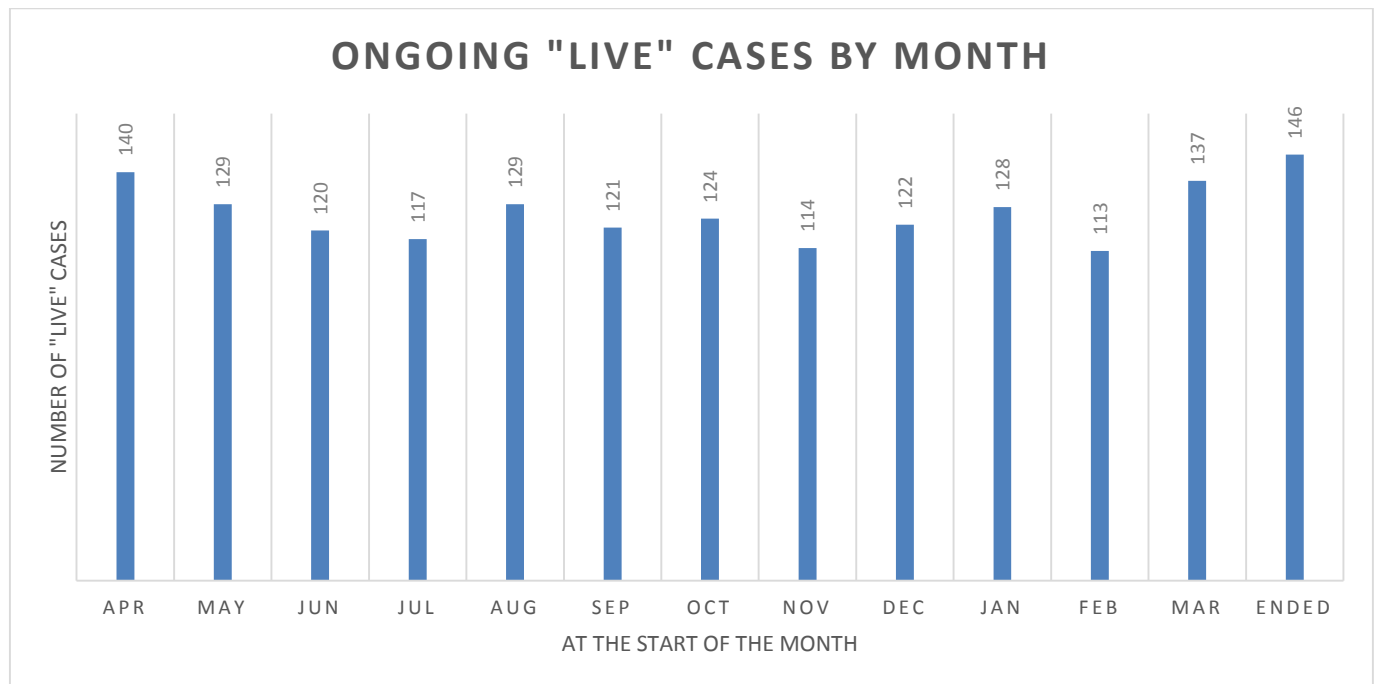
4.9 We have also broken down the appeals record over this time into officer decisions, committee decisions, and the combined levels. The figures for this are set out in the table below:

| Fiscal Year | Committee % dismissed | Officers % dismissed | Combined % dismissed | NI157 Target | Number of Committee Decisions Appealed |
|-------------|-----------------------|----------------------|----------------------|--------------|--|
| 2009/10 | 100 | 80 | 81 | 70% | 1 |
| 2010/11 | 71 | 80 | 77 | 70% | 7 |
| 2011/12 | 75 | 75 | 75 | 70% | 4 |
| 2012/13 | 40 | 76 | 72 | 70% | 5 |
| 2013/14 | 80 | 71 | 71 | 70% | 5 |
| 2014/15 | 60 | 73 | 71 | 70% | 5 |
| 2015/16 | 75 | 68 | 70 | 70% | 4 |
| 2016/17 | 60 | 60 | 60 | 70% | 5 |



5.0 Enforcement

- 5.1 There were 518 new enforcement cases reported during the year. There were 512 cases closed during the year. There were consequently 6 more cases somewhere within the process of being investigated and resolved at the end of the year than compared to the start of the year. In total the number of "live" enforcement cases at the close of day on 31st of March 2017 was 146. This is quite high, however there was a "spike" in February through some connected work with licensing unauthorised dog kennelling/boarding activities that are now under investigation for not having planning permission. There were 27 cases to investigate, which remain ongoing at year end.



- 5.2 Within these cases there are several ongoing legal cases, which are either awaiting hearings or trial at court and cannot be closed, or where notices have been served but the time for compliance has not yet expired, as well as cases that are relatively new or under discussions to seek amicable resolutions if this is possible.
- 5.3 Generally the team is able to resolve cases as quickly as they receive new cases to investigate. The level of resources for planning enforcement therefore seems to be appropriate for the amount of work generated by current levels of complaints. However, capacity is limited for any additional proactive enforcement work, such as actively monitoring conditions on approved schemes, where we still rely on public reports of wrong-doings. The team is resources as it has been for a decade now, with 3 members of staff, which is enough to respond reactively and on the basis that if something is causing harm then someone will tell us. This is the current reality for most Councils and is not an unusual situation.
- 5.4 Work that has been done this year includes some strong activities. The figures for notices served are set out in the table below:

| | |
|--|----|
| Planning Contravention Notices (PCNs) | 6 |
| Enforcement Notices | 7 |
| Breach of Condition Notices (BCNs) | 9 |
| Stop Notice | 0 |
| Temporary Stop Notice | 1 |
| Demolition Notice | 0 |
| Injunctions | 0 |
| Section 215 Notice ("Untidy Sites") | 0 |
| Section 330 (Requisite Information Notice) | 5 |
| Total | 28 |

- 5.5 The figures highlighted in bold in the table are ones that have “more significant” consequences. BCNs are served when planning conditions imposed on approved developments have not been complied with. There is no right of appeal against a BCN, therefore the service of a notice results in compliance with the condition or prosecution for failure to comply. All 9 of these notice represent either resolutions to breaches, or have resulted in people being prosecuted (or in the process of being prosecuted). The Council has not lost any court cases related to enforcement cases within recent years, including last year when only one case needed to be taken and court and has already had an outcome (there are some pending cases awaiting trial dates, or for verdicts on penalties to be issued following guilty pleas, that will now roll into the current year although they were instigated last year).
- 5.6 An Enforcement Notice for works in the curtilage of a listed building had also been prepared but was not served within the last year so will carry forward into this current year’s figures.
- 5.7 With regard to Enforcement Notices, these result in breaches of planning control being resolved through formal action. They are used when there is no relevant condition to apply (because the breach may not be on a site that had planning permission). Although they also result in unauthorised development being removed, they have the disadvantage that they can be appealed. This can add delays between serving a Notice and seeing the harm resolved. Last year there were 2 Enforcement notices that were appealed and the appeals on these were both dismissed. At the year-end there were 3 ongoing appeals that we were awaiting decisions from the Inspectorate. There were also 2 more Enforcement Notices that have not been appealed, but where the time for removing the breach has not yet expired. It is hoped that they will be complied with but if not these will turn into prosecutions within the current year.
- 5.8 At the year-end we had not lost any appeal against an Enforcement Notice, which is a stretch that has lasted for some years now. The enforcement team “won” both appeals against Notices issued. Regardless of the delays, this still means that the Notices served by the enforcement team have resulted in the removal of unauthorised buildings, or the cessation of unauthorised uses of land without planning permission on 16 occasions last year. These actions have removed breaches that were causing grievances to adjacent residents and land owners, and have restored some “quality of life” for those suffering from the results of breaches.
- 5.9 Added to this, a number of breaches were also removed without the need to serve a formal notice upon the offending parties, and through use of negotiations to get the unauthorised building removed, or unauthorised uses ceased amicably. We have no way to record these in the current system but we are moving to a new system later this year when it will be possible to record resolutions without formal notices. These would be significantly more than the 16 formal actions.
- 5.10 In addition, the Temporary Stop Notice had a significant effect. A Temporary Stop Notice means that work on a site must be ceased immediately and for a period of 28 days. This is used on urgent occasions to either (1) bridge a gap until a permanent notice takes effect (because a minimum of 28 days must be given before the enforcement notice takes effect); or (2) where works are taking place that could cause irresolvable damage to planning interests if they continue. As well as the Stop Notice that was issued, another site saw the breaches ceased after just the threat of us issuing a Stop Notice, which demonstrates that we do not always have to issue a notice to achieve the outcomes we seek.
- 5.11 The prosecution the Council succeeded in was against an estate agent who displayed more than one advert at a house for sale which is contrary to the advert regulations and therefore an offence immediately without needing to serve any Notice. The court success resulted in a £600 fine for the offence itself, with a £60 victim surcharge and the offenders being forced to pay our legal costs of £350 (£1010 in total costs). There are 6 more Estate/Letting Agents that are facing prosecutions 2 have already said they will be pleading guilty, whilst 1 is contesting the charge that they displayed unauthorised adverts and will therefore face trial. As we have clear evidence of offences being committed, we expect to be successful in all cases (as there is no defence if an offence occurred, it either did or did not happen).

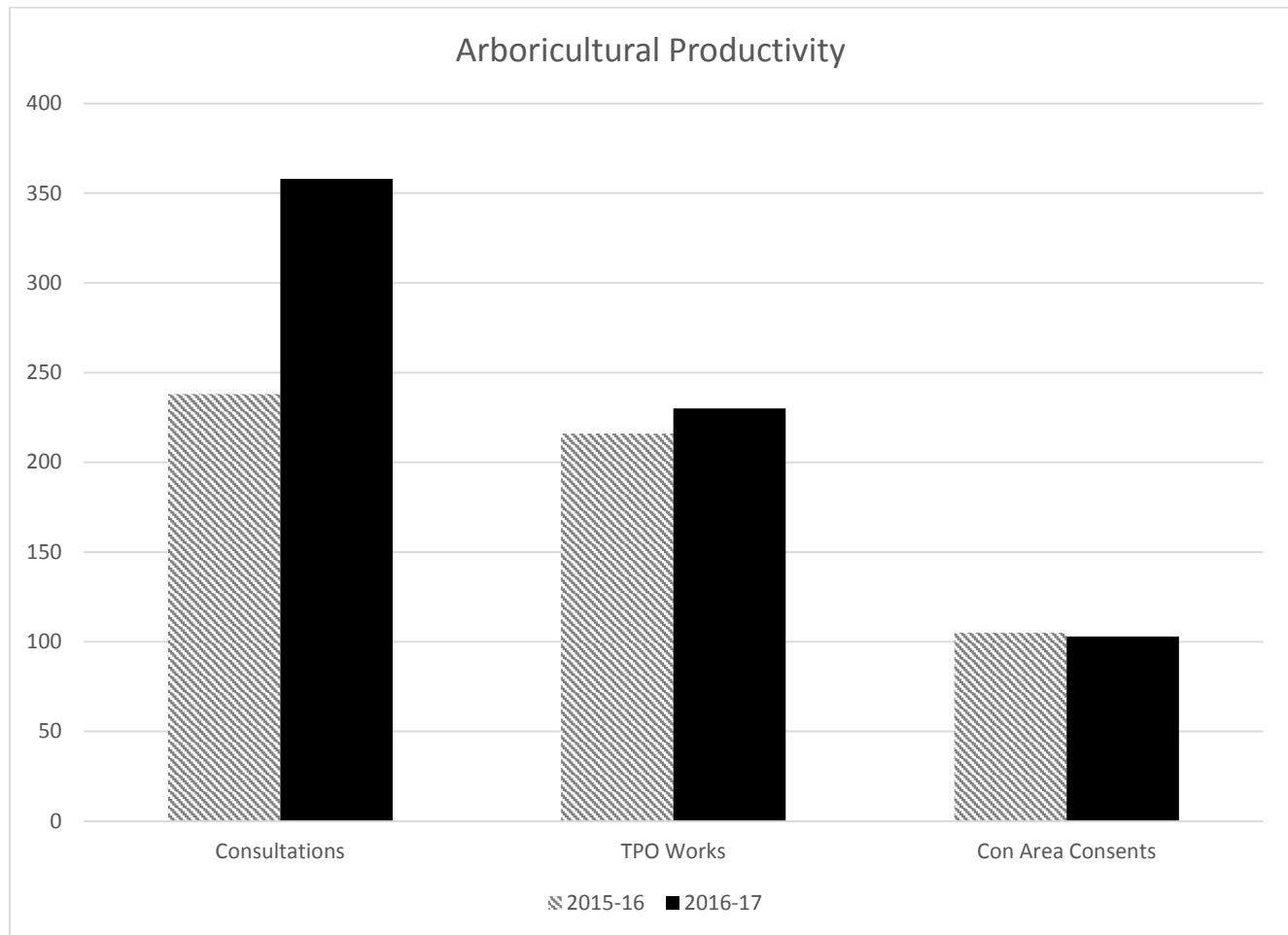
- 5.12 In terms of ongoing court actions at the year-end (31st of March); a hearing held at Colchester Magistrates on 21st March led to a full trial after a “not guilty” plea. This will now roll into the 2017/18 year, whilst Tesco (Highwoods) hearing was adjourned on the same day, but Tesco have now indicated that they will be pleading guilty at the hearing that is now scheduled for May but that falls outside of this year end performance report as do several others. We had a number of prosecutions in April 2017 for example that are not included in this report although the work was initiated last year. Finally, there are 2 pending applications for court injunctions, which will now fall within 2017/18 figures.
- 5.13 That said, in all cases, the enforcement team has to decide if a breach is expedient to enforce. Sometimes a breach may cause no harm, other than a sense of wrong-doing because the right processes have not been followed (for whatever reason). Even when we ask for an application to be submitted to regularise development that has no planning permission but is considered to be potentially acceptable, we do not receive the applications. In those cases we have to take a decision whether or not to serve a Notice, or to close the case because although there is a technical breach, there is no actual harm being caused. The Planning Committee may recall that we introduced a clear policy on how we will operate that system, and this allows us to decide when to take no action against a breach. People who are then aggrieved because they expected us to take action but we have chosen not to can complain to the Council, and ultimately they can complain to the Local Government Ombudsman.
- 5.14 The enforcement team was found to have “No Faults” within Local Government Ombudsman investigations into complaints about the service, when we had not taken action because we felt that there was no resultant harm caused to anyone. Details of cases reported to the LGO are to be kept confidential, so unfortunately no further information can be given about any specific complaints about the service in case they would help identify the complainant. What we can say is that there were few cases where decisions not to act were not accepted by the original complainants, but that when this has happened in the last year we have been found to have made logical decisions, based on evidenced justifications, and to have acted entirely appropriately in closing cases without further “action”.
- 5.15 We are therefore satisfied that, based on all of the above, we act when breaches warrant action, we can justify when we feel it is not appropriate to take action, and our general enforcement practices are robust, and sound in the approaches taken. This year’s 16 formal notices is less than, although comparative to last year, when we served 18 formal notices. As a comparison benchmark to other Local Planning Authorities, Members will recall that last year we were ranked 18th in the highest number of enforcement actions of all of the planning authorities in the country (including the London Boroughs, national parks and other authorities who may not be comparable to us) and that we were the 2nd most active in serving notices of the “shire districts” behind only Stratford-upon-Avon. The end of year stats will not be available until later in this year, however at the end of the Q3 figures (to December 31st 2016) we were ranked against 201 LPAs the Government were benchmarking us against and were 37th in the table for Enforcement Notices (ENs), and were again 2nd highest in terms of the number of Breach of Condition Notices (BCNs). We also made the 10th spot for serving “stop notices or temporary stop notices” from the single Notice we served (i.e. only 10 LPAs had used this more extreme measure within the first 9 months of the year).

6.0 Trees

- 6.1 At the start of the last fiscal year the Arboricultural Planning Officer was moved back into the planning service, from Community Services (after 3 years away). This move has seen a number of changes to the way we work, and alignment of some tree and associated planning procedures.
- 6.2 The work produced this year (and last year) is set out in the table below:

| Type of Work Produced | 2015-16 | 2016-17 |
|--|---------|------------|
| Planning Application Consultation Responses | 238 | 358 |
| Decisions on Applications for TPO Works | 216 | 230 |
| Determined Consents for Works to Trees in Conservation Areas | 105 | 103 |
| New Tree Preservation Orders Issued | 3 | 11 |

This is then shown in the chart below:



- 6.3 What can be seen from the data above is that this past year has seen a rise in the productivity and output in terms of planning related tree work. There was a 49.5% increase in the number of planning applications that the tree officer was able to provide expertise on from 2015/16. There was also a 266% increase in the number of Tree Preservation Orders served, some of which were generated directly from sites that were under pressure of development without the trees being retained. There was a 6% increase in the number of people who applied for works to TPO trees, and this saw a 12% increase in the number of people we were able to work with to ensure that trees were pruned or maintained with the correct approval. At the same time there was an increase of 7% in the number of refusals to do works to TPO trees. The increase in both refusals and approvals was coupled with a reduction in withdrawn applications, meaning more people got an answer, one way or the other.

7.0 The Planning Website

- 7.1 In other work areas, at the start of the performance year we had just introduced some wholesale changes to the website in order to make it easier to “self-serve”. Other websites were checked for things that other Councils did that we did not, as well as a raft of new pages written to help members of the public understand the planning process more easily. A Forum was held to launch this to architects and agents, whilst it was also used in the new member training after the 2016 elections. The feedback on this from regular customers (who Officers have been directing to use the website to find answers to general questions and other policies and guidance) was also good. This has helped free time for officers which they spend negotiating more changes to improve schemes, adding more value to the planning process than offered by general enquiry contact.
- 7.2 The service does not have data on contact recorded, but the Customer Service Centre, who also benefitted from the changes do. Their data shows that there has been a reduction on contact via telephone despite the fact that application and preliminary enquiry (PEs) numbers have increased.

Therefore while we have been dealing with more customers we have had less calls from them to find answers.

- 7.3 The number of phone contacts was reduced by 7.5%. This in turn meant that the CSC recorded 55% less calls being abandoned by customers compared in February to the previous year (before the changes) and an average wait time for planning calls of 30 seconds, compared to 64 seconds for the same month a year earlier (before the website changes), a 54.5% improvement in the waiting time for customers making calls about planning.
- 7.4 There are a number of further improvements planned for this next year as we change our IT systems and benefit from the removal of some constraints from our current packages.