

Planning Committee Meeting

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

Monday, 11 December 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. Usually, only one person for and one person against each application is permitted.

Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

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

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

Have Your Say!

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

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Access

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Monday, 11 December 2017 at 18:00

The Planning Committee Members are:

Councillor Theresa Higgins	Chairman
Councillor Cyril Liddy	Deputy Chairman
Councillor Lyn Barton	
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

The Planning Committee Substitute Members are:

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

Councillors;

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

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

Please note that Agenda items 1 to 6 are normally dealt with briefly.

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting here: <http://www.colchester.gov.uk/article/13489/Planning-Committee>

Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

6 Minutes

There are no minutes for confirmation at this meeting.

7 Planning Applications

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

7.1 163196 The Rising Sun and Maponite Buildings, 3 Hythe Station Road, Colchester 7 - 34

Conversion of Former Warehouses and Public House (The Rising Sun) to 27 no. Flats, 3 no. Commercial Units for A1, A2, A3, B1 or D1 Use, 33 No. Off-Street Parking Spaces and Amenity Areas. (Planning Permission)

7.2 163197 The Rising Sun and Maponite Buildings, 3 Hythe Station Road, Colchester 35 - 46

Conversion of Former Warehouses and Public House (The Rising Sun) to 7 no. Flats, 3 no. Commercial Units for A1, A2, A3, B1 or D1 Use, 33No. Off-Street Parking Spaces and Amenity Areas. (Listed Building Consent)

7.3 173000 Pontoon opposite West Mersea Yacht Club, Coast Road, West Mersea 47 - 54

Variation of condition 3 of planning permission 170230 to allow construction to commence in March 2018.

8 **Appeal Decisions Summary - September, October, November 2017** 55 - 64

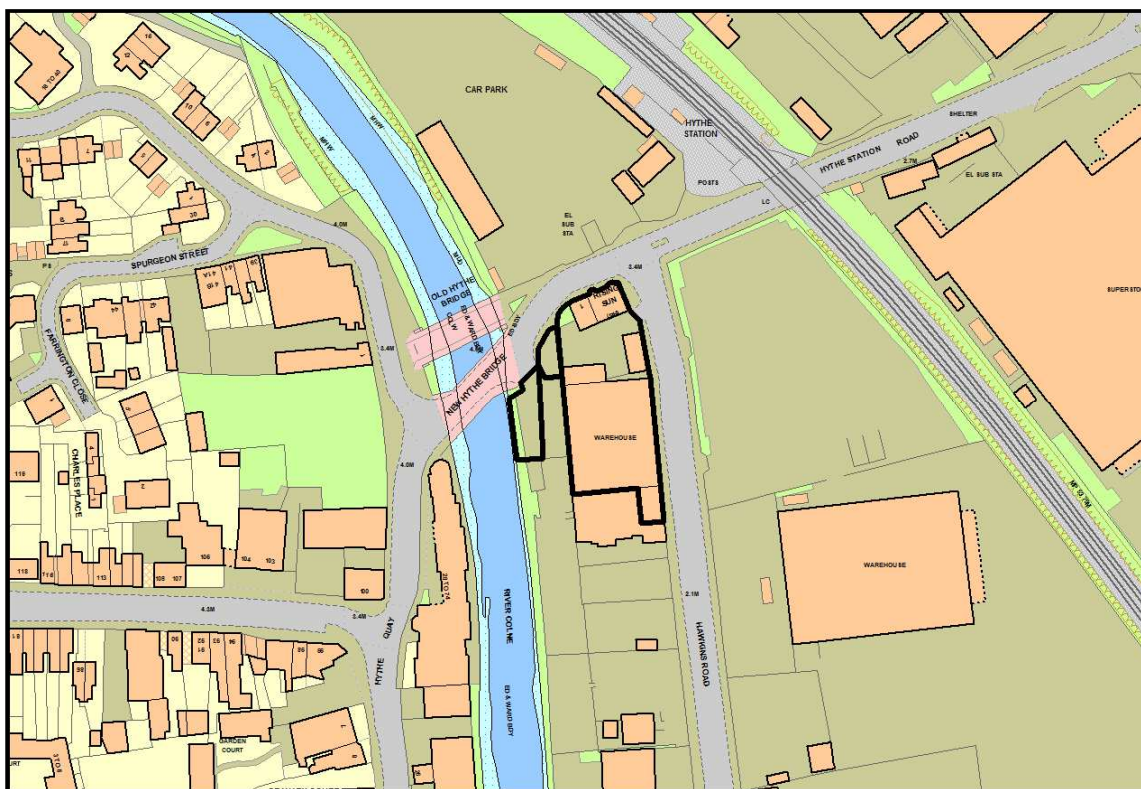
A report by the Assistant Director Policy and Corporate giving details of recent appeal decisions which had been received between 7 September and 14 November 2017.

Planning Committee Information Pages 65 - 74

9 **Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

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



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Item No: 7.1

Application: 163196

Applicant: Prospect Farm Property Ltd

Agent: Robert Pomery

Proposal: Conversion of Former Warehouses and Public House (The Rising Sun) to 27 no. Flats, 3 no. Commercial Units for A1, A2, A3, B1 or D1 Use, 33 No. Off-Street Parking Spaces and Amenity Areas. (Planning Permission)

Location: The Rising Sun & Maponite Buildings, 3 Hythe Station Road, Colchester, CO2 8JZ

Ward: Greenstead

Officer: Bradly Heffer

Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it relates to a major application proposal to which material planning objections have been received and which is recommended for approval.
- 1.2 Additionally, the recommendation to Members includes concluding an s106 agreement and Committee's authorisation is necessary to commit the Council to this type of agreement.

2.0 Synopsis

- 2.1 Members should note that this report relates to an application for planning permission for a proposed development. An associated application for listed building consent is also included on the agenda. The key issues for consideration are the impacts arising from the proposed conversion works to the existing buildings – one of which is listed and the other locally-listed – in order to create a new residential development and commercial uses. The proposals would, in the opinion of your officers, constitute a sensitive and sympathetic re-use of the identified buildings which are established, heritage assets within the former port conservation area of the Hythe.
- 2.2 The application is consequently recommended for approval, subject to the imposition of conditions as listed at the end of this report and subject to the completion of an s106 agreement.

3.0 Site Description and Context

- 3.1 The site for this proposal contains two buildings, together with associated courtyard and external hardstanding areas, located at Hythe Station Road Colchester. Specifically, the subject buildings are the Rising Sun public house (grade II) and an adjacent group of Victorian warehouse buildings, known locally as the Maponite warehouses (locally listed). Both buildings are currently unused – the public house having been empty for a period in excess of 20 years and subsequently fallen into disrepair. In the case of the warehouses these have been empty following the relocation of the former occupier (Williams and Griffin – now Fenwick) to alternative premises in Colchester.
- 3.2 The subject buildings occupy a prominent location in the former port area of the Hythe, positioned at the junction of Hythe Station Road with Hawkins Road. The two-storey public house faces Hythe Station Road and an associated single storey outbuilding, located in a walled courtyard area, abuts the eastern boundary of the site with Hawkins Road. A gated access to the courtyard is located close to the Hythe Station Road/Hawkins Road junction.

- 3.3 The majority of the remainder of the site is occupied by a linear group of three storey, brick warehouse and ancillary buildings that face and abut Hawkins Road. The red-line that defines the extent of the application site also includes a vehicular access from Hythe Station Road that leads to a linear hardstanding area between the subject buildings and the river Colne. An area of the hardstanding is also included within the application site.
- 3.4 The development surrounding the application site consists of a mix of commercial, industrial and residential uses. Immediately to the south, (and physically attached to the warehouse buildings) is a plant and tool hire use. On the opposite (east) side of Hawkins Road is land used for the storage of cars. Recently, residential redevelopment has taken place on land to the west, on the opposite bank of the river.

4.0 Description of the Proposal

- 4.1 Under the submitted application planning permission is sought to convert the identified buildings to create 27 no. flats, with ancillary commercial uses proposed within 3 no. ground floor units. The bulk of the proposed residential development would be created within the converted warehouses – with a further 3 no. flats proposed for part of the public house building. 2 no. commercial units are proposed in the ground floor of the converted warehouses, with a further commercial unit proposed in the remainder of the public house – together with ancillary storage areas.
- 4.2 Parking spaces (including cycle and PTW facilities) to serve the proposed uses would be located in the courtyard area behind the public house and in part of the ground floor area of the warehouses – accessed via the existing gateway to the rear of the public house.
- 4.3 The submitted scheme proposes the provision of an enclosed amenity area to serve the occupiers of the converted warehouse buildings – located in the roof space. Additionally part of the courtyard to the rear of the public house building would also be used for this purpose.
- 4.4 This application submission is accompanied by a Planning Statement, Flood Risk Assessment, Design and Access Statement, Heritage Impact Assessment and Bat Assessment.
- 4.5 The following comments are included within the Planning Statement accompanying the planning application submission:

‘...The proposals are important, as they will see a historic building at risk restored, they involve a new use for locally listed buildings, they will enhance a Conservation Area and deliver low cost accessible housing in a highly sustainable location, within a regeneration area. In fact the proposals represent the very embodiment of regeneration development. On this basis, the proposals are in principle compliant with planning policy. In terms of their impact on heritage assets, the Heritage Impact Assessment submitted with the proposals considers the impact of the works proposed to result in some modest enhancement to the significance of

the heritage assets. This resultant enhancement is therefore entirely consistent with the aims of the historic building and Conservation Area policy...the site is within a highly sustainable location with excellent accessibility to frequent bus and train services. There are also on-street parking opportunities nearby, particularly at evenings and weekends when visitors are more likely. The applicant owns property in Colchester of a similar nature, which is let to the rental housing sector. In their experience, parking provision in these locations is not entirely taken up, as residents do not feel the need to own cars. The scheme is also a little light in the amount of amenity space, although good quality amenity space is provided within the scheme. Other amenity areas are accessible on foot nearby. These minor shortcomings in these provisions need to be considered against the challenging constraints of the site and the buildings concerned. The desire to bring back to life neglected listed buildings and find new life for non-designated heritage assets is a strong planning policy objective...Overall, it should not be forgotten that the development will provide 27 lower cost, high quality homes in a sustainable location, whilst enhancing heritage assets and making a meaningful contribution to housing supply in Colchester...'

- 4.6 The full text of all documents that comprise the planning application and associated listed building application submission are available to view on the Council's website.

5.0 Land Use Allocation

- 5.1 Within the adopted Local Plan the application site is located within an area allocated for Predominantly Residential use. Furthermore it is located in the East Colchester Special Policy Area – Area 4 Hawkins Road, as well as a designated Conservation Area.

6.0 Relevant Planning History

- 6.1 Prior to the submission of this application, the site has been subject to various applications related to the former uses of the buildings. None are considered to be specifically relevant to the current application proposal.

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- CE1 - Centres and Employment Classification and Hierarchy
- CE2a - Town Centre
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- TA1 - Accessibility and Changing Travel Behaviour
- 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
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP25 Renewable Energy

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

- SA EC1 Residential development in East Colchester
- SA EC2 Development in East Colchester
- SA EC6 Area 4: Hawkins Road
- SA EC8 Transportation in East Colchester

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
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
ECC's Development & Public Rights of Way
Colne Harbour Masterplan
Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

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

8.2 The **Landscape Planning Officer** has advised that conditions should be attached to a grant of planning permission. It is also proposed that a feature tree is provided in the amenity area serving the former public house.

Officer comment: the provision of the requested tree could be secured via the standard landscaping condition.

8.3 The **Essex SUDS** team commented as follows:

'This development is for a conversion of buildings and therefore is unlikely to have an effect on surface water drainage. Therefore we will not be providing any formal comments at this time.

However, can you please check with the applicant that not over 1000sqm of impermeable area is being created by this development. If over 1000sqm of impermeable area is being created, then please reconsult us and we will provide formal comments.

Please note that the site is in flood zone 3 and therefore the EA should be consulted on the proposal if they have not been already.'

Officer comment: the applicant's agent has confirmed that the proposal does not seek to create over 1000 sq.m of impermeable area. Furthermore the Environment Agency has been consulted on the application.

8.4 **Network Rail** has made the following observations:

'As safety is paramount to Network Rail, we note there is Hythe level crossing in proximity to the development. We do not encourage the use of crossings and observe that the applicant & future residents on site must be aware of the Rail user crossing which is still a part of our Network.

Therefore please see below link for safety awareness where level crossings are in proximity to developments,

<http://www.networkrail.co.uk/level-crossings/>.

Network Rail can also provide further information to the applicant on the importance of safety, whilst using railway crossings, however we would also insist that the developer educate the new residents about the risks of the rail infrastructure.

After reviewing the information provided in relation to the above planning application, Network Rail has no objection or further observations to make.'

8.5 The **Ramblers Association** state that '...Public Right of Way footpath 234 Colchester runs along the riverbank edge by the property. We look forward to a useable path, as shown in one of the drawings! Mention should be made within the application of how the route will be improved.'

8.6 The following comment has been received from the **Spatial Policy Team**:
'Colchester Borough Council's current Development Plan consists of the Core Strategy (adopted in 2008 and subject to a Focused Review in 2014), Site Allocations DPD (adopted in 2010), Development Policies DPD (adopted in 2008 and subject to a Focused Review in 2014), Myland and Braiswick Neighbourhood Plan and Boxted Neighbourhood Plan (both adopted in 2016). The Development Plan guides new development proposals within the Borough up to 2023, including the allocation of new housing sites.

The adopted Core Strategy sets out the strategic policies in the borough over the plan period. Fundamental to these priorities is the spatial strategy which focuses growth within Colchester to five distinct growth areas in the town. These growth areas have been identified for their potential to support regeneration, promote sustainable transport and reduce the need to develop on greenfield land.

The site is situated in the East Growth Area which is specifically recognised for its potential to regenerate 'rundown and underused industrial land'. The Core Strategy also identifies the benefits of focusing new development in this area because of its location close to Hythe railway station, the University of Essex and the Town Centre. The Core Strategy also recognises the lack of adequate transport infrastructure in the area which would need to be addressed through new development proposals.

In addition to the Core Strategy, the adopted Site Allocations DPD provides more detail on the development opportunities and constraints in the East Growth Area. Policy SA EC1 identifies the need to improve pedestrian and cycle connectivity in the area and Policy SA EC2 specifically states that public access to the riverside should be provided to create a continuous walkway and cycleway along the river. Such a riverside cycleway and footway would substantially improve these modes of transport not only around the vicinity of the site but also improve access in the wider area by contributing to a safe and fast route to the heart of the town centre.

Notwithstanding issues with highways and flooding, the proposal presents an excellent opportunity to bring back into use important heritage assets and make a valuable contribution to the borough's supply of new housing in a sustainable location. In principle therefore the change of use and redevelopment of the site is in accordance with many aspects of locally adopted policies. However given the site's ability to contribute to the local objective of improving cycling and pedestrian links in the borough (and the East Growth Area specifically), it is essential a new cycleway and footway is incorporated into the scheme. If such a facility is not provided, then the opportunity to deliver such a riverside corridor would be lost for

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the lifetime of the development, resulting in unacceptable conflict with local planning policy and therefore warranting refusal on this ground.'

8.7 **Environmental Protection** and the **Contaminated Land Officer** would require the imposition of conditions on a grant of planning permission.

8.8 The following comment has been received from **ECC Highway Authority**:

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

- Prior to the occupation of the proposed development, the refuse/recycling storage facilities, the off street car parking and bicycle storage facilities shall be provided as shown detailed in the amended drawing numbered 9027-10E.
Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, to promote the use of sustainable means of transport and to limit and reduce the time a refuse freighter is left waiting within the highway causing congestion and obstruction in the interests of highway safety and 9 of the Highway Authority's Development Management Policies February 2011.
- No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction and fitting out period.
The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and under body washing facilities
 - v. HGV Routing planReason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.
- Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport (including bus and rail travel) approved by Essex County Council.
Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies February 2011.
- Prior to the occupation of any of the proposed dwellings, the land shown hatched grey, bounded by a red line immediately adjacent to the vehicular access and alongside the River Colne and at no less than 4.0m wide as shown in Drawing Numbered 9027-10E shall be constructed to provide a section of the riverside walk pedestrian footway/cycleway which shall be approved in writing by the Local Planning Authority entirely at the Applicant/Developer's expense

including new kerbing, surfacing, drainage, any adjustments in levels or accommodation works and making an appropriate connection in both directions to the existing footway/cycleway to the specifications of the Highway Authority. Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development in accord with Policy DM 9 of the Highway Authority's Development Management Policies February 2011.

- Prior to the occupation of the proposed development, loading, off-loading and manoeuvring facilities, as shown in Drawing Numbered 9027-10E shall be provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that the adjoining highway is not obstructed by servicing activity, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

8.9 The Council's **Archaeological Adviser** comments as follows:

This proposal is located in an area of archaeological interest, defined in the Colchester Historic Environment Record, within the area of Hythe quayside. There is high potential for encountering the archaeological remains of the historic wharf at this location. There is also potential for encountering palaeo-environmental remains (waterlogged archaeological deposits). Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

In addition to potential below-ground archaeological remains, the application concerns the redevelopment of the Rising Sun Public House, a designated heritage asset (NHLE no. 1306772), dating from the late 18th century, and adjacent former Maponite warehouse, a locally listed building, which dates from the 19th century.

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. In accordance with the *National Planning Policy Framework* (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

- In the case of the standing buildings, an Historic England Level 3 analytical survey must be undertaken prior to alteration.
- A trial-trenched archaeological evaluation, incorporating palaeo-assessment, will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

Pre-determination archaeological evaluation is not required for this proposal. However, I would recommend that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

9.0 Parish Council Response

9.1 Not applicable as the site is located in a Town Ward – Greenstead.

10.0 Representations from Notified Parties

10.1 As a result of local notification a total of 10 representations of objection have been received. The points made may be summarised as follows:

- The proposal does not have sufficient parking provision. Additionally there is inadequate loading and delivery facilities for the proposed businesses. It is identified that if the amount of development was reduced there would be ample parking provision.
- The scheme proposes too many residential units.
- The submitted scheme does not include a path alongside the river; this should be provided.
- The existing buildings should be retained and alternative uses explored such a club or music venue.

10.2 Two further general observations have identified that planning policies should protect and enhance public rights of way: the walkway adjacent to the river should be reinstated. Local authorities should seek opportunities to provide better facilities for users.

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

11.0 Parking Provision

11.1 Members are advised that the originally-submitted application plans showed the provision of 33 no. off –street parking spaces to serve the development. Of these, 24 no. spaces were proposed to be located in the converted warehouse building and the courtyard of the converted public house. The remainder of spaces were shown in the access way to the west of the subject building (adjacent to the river) and in total 9 no. were shown in this area.

11.2 Following on from discussion with the applicant's agent, the number of spaces in the subject buildings/courtyard area has increased to 31. However, the line of spaces shown adjacent to the river wall has been removed – on the basis that the location of parking spaces in this position would effectively preclude the provision of an area of riverside walk. Further comment in relation to parking provision is made below (please see Highway Safety and Parking Provisions section).

12.0 Open Space Provisions

12.1 The submitted Planning Statement advises as follows:

‘...The scheme includes three main areas of amenity space, two external and one within a central courtyard. In total the amenity space area extends to some 432 sq m. This space equates to some 16 sq m. per flat, which is a little short of the 25 sq m required by Policy DP16. Whilst it is slightly below standard, the spaces provided are of high quality and semi-private. Public open spaces where recreation opportunities are available within walking distance can be found at Old Health Rec and along the River Colne...’

12.2 Members are advised that the three identified areas of amenity space are located to the rear of the converted public house, and within the converted warehouse buildings – at first floor level and within a roof terrace.

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 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. When it was initially presented for determination it was agreed that the following Obligations should be sought as part of any planning permission:

- Transport Policy – Secure land to deliver cycle and pedestrian route along river. Contribution of £5 000 to signpost river route
- Highways – Cycle and pedestrian route to be 4 metres wide
- Affordable Housing – Agree with Vacant Building Credit approach taken. No contribution required
- Open Space – £50 000 contribution requested. Lack of open space within Hythe Area generally, would look to either expand nearby allotment site or provide open space on the moors. Contribution could, if necessary, be put towards river wall pathway improvements
- Community Facilities – potential for assembly space in one of the 3no. ground floor commercial units but cannot guarantee its delivery.

14.2 Members are advised that the viability of the application proposal has now been independently assessed as a result of the original Development Team request. The assessment has concluded that the submitted scheme is not viable. The following extracts have been taken from the conclusion section of the viability assessment report:

‘...we are of the view that the proposed scheme costs have been significantly undervalued...Through adopting BCIS based costs it is apparent that the development would generate a negative residual value. This represents not just a loss of profit but an actual material loss in addition. This must raise questions about

the deliverability of this development...On the basis of our analysis, we conclude that the proposed scheme is in deficit and cannot viably provide any affordable housing contributions. If the scheme is granted consent we would advise the Council to include a review mechanism within the legal s106 agreement...'

- 14.3 Following on from receipt of the viability assessment report the application was reported back to the Development Team for reconsideration. As a consequence, it was determined that no contributions could be sought. However, it was agreed that, as part of a s106 agreement attached to a grant of planning permission, a suitable mechanism should be in place whereby viability could be reviewed should market conditions change at a later date. Alternatively, it was suggested the time limit condition for commencement of development could be amended to allow a shorter period. If development does not take place during this time a reassessment of viability could take place through a new application submission.
- 14.4 Members are also advised that the re-use of this site for residential purposes would require that the s106 agreement includes a mechanism whereby the part of the river wall adjacent to the site is surveyed and, if necessary, repaired as part of the works to achieve the footway and cycleway link along this side of the river. A similar requirement has been inserted in legal agreements linked to residential development schemes that have been approved elsewhere along the river frontage.

15.0 Report

The Principle of Development

- 15.1 In the case of the proposed development, it involves the conversion and re-use of a listed building and also a group of locally-listed warehouse and ancillary buildings – both of which have clear heritage significance as established elements in the historic former Hythe port conservation area of the town, and as townscape elements in this visually-prominent location. It is considered that the retention and re-use of the subject buildings is worthy of support in principle – particularly as their continued disuse will lead, inevitably, to their further decline. Consequently the realistic likelihood of their re-use, particularly the listed building on the site, would become less likely. As an adjunct to this it is noted that in the adopted local plan the buildings are located in an area that is specifically identified for *inter alia* residential development as follows:

'To the west of Hawkins Road housing areas will be extended and consolidated and other small-scale uses will be encouraged provided they are compatible with the overall housing and regeneration proposals...Proposals must not adversely affect the amenity of neighbouring housing areas. New development should incorporate public realm enhancements focused on providing improved pedestrian cycle routes.' Policy SA EC6 Area 4: Hawkins Road - Adopted Site Allocations

- 15.2 Clearly the main use of the site would be for residential development, with some ancillary commercial uses. This would be in accordance with the requirements of the adopted policy. Combined with the location of the application site within a defined regeneration area, it is felt that the principle of the proposed development taking place on the site would be acceptable in planning terms.

Design and Layout

- 15.3 The fact that the proposal relates to an existing group of buildings means that, to a significant extent, the layout of the development is pre-determined. The submitted proposals include a rationalisation of vehicular access to the site; the scheme relying on a single point of access adjacent to the former public house.
- 15.4 Members will note that the ground floor of the development is mainly given over to provision of parking spaces and commercial floorspace, together with some amenity space to serve the residential conversion of the former public house. Due to the location of the buildings within a flood zone it is not possible to introduce more vulnerable uses such as residential development within ground floor areas.
- 15.5 In terms of the design of the proposals, it is important to note that the submitted scheme does not seek to add to the existing fabric by way of extensions or enlargements. Rather, the main changes relate to the alteration and replacement of windows, subdivision of the large internal spaces in the warehouses and ancillary buildings in order to create the proposed living accommodation, together with the introduction of new private amenity areas within the converted warehouse space. Members are advised that, in relation to the proposed conversion works, ongoing liaison has taken place between the applicant's agent and your officers – specifically regarding the impact of the works on the character of the buildings, given their listed and locally listed status. This matter is discussed in more detail in the accompanying listed building application report.

Scale, Height and Massing

- 15.6 As noted, it is the case that the submitted scheme does not propose any physical enlargements to the existing buildings. Therefore, the existing scale, height and massing of the subject buildings remains unaltered under this planning application and consequently their overall visual impact would be the same.

Impact on the Surrounding Area

- 15.7 The authorised uses of the subject buildings includes A4 (drinking establishments) and B8 (Storage or distribution) activities. Clearly the re-use of the buildings for their authorised uses would not require planning permission and, in themselves, would have a level of impact on the surrounding area.
- 15.8 In contrast, the proposed reuse of the buildings would significantly reduce the level of commercial activity on the site, replacing it with a predominantly residential (and a limited element of commercial) development. In overall terms it is not anticipated that the introduction of a mainly residential use here would cause harm to the surrounding area. Infact, the established commercial uses in the vicinity could, arguably, have more impact on the amenity of the occupiers of the proposed residential units.

- 15.9 The applicant has requested that a range of uses be permissible within the commercial units; in this regard it is noted that the Environmental Control officer recommends a series of conditions to be attached to a grant of planning permission. These include *inter alia* a condition that would specifically restrict the level of external noise impacts. Furthermore, in relation to the proposed commercial units it is noted that the officer has requested the imposition of conditions in relation to restricting hours of operation and delivery times etc. It is considered that controls such as these would enable the potential impacts of individual uses to be adequately controlled.

Impacts on Neighbouring Properties

- 15.10 It is considered that the proposed uses would not have a deleterious effect on the surrounding properties which are predominantly commercial in nature – the nearest established residential development being located to the south-west of the application site, on the opposite (western) side of the Colne. At this stage, the application submission does not propose defined uses for the commercial units within the scheme – these being identified for a range of uses in the A1 (shops), A2 (financial and professional services), A3 (food and drink), B1 (Business) or D1 (Non-residential Institutions). None of the range of uses proposed is considered to be particularly harmful to the amenity of the neighbouring uses in themselves.

Landscape and Trees

- 15.11 The location of the application site in an established urban, commercial location has defined its character and little if any soft landscaping exists. The introduction of a residential use on the site would require the provision of hard and soft landscaping in order to improve the amenity of the occupiers of the site. In the submitted scheme the key landscaped area would be located within the courtyard of the converted public house – consisting of hard surfaced areas, seating and planting. It is considered that these features could be successfully incorporated without compromising the setting of the listed building. Members will note that the Landscape Officer has recommended that a feature tree be introduced into this space, in order to improve its amenity value whilst at the same time introducing a softening element within the street scene. This could be achieved as part of the requirements of the suggested landscape condition.

Highway Safety and Parking Provisions (including Cycling)

- 15.12 The Highway Authority has not raised an objection to the rearranged means of vehicular access to the site. Clearly the authorised uses of the site would generate a level of traffic – particularly the former warehousing use. When this application was first submitted a bank of spaces was also shown adjacent to the site's boundary with the river wall.

- 15.13 With regard to the proposed parking provision on the site it is considered that the number of spaces that would be provided is acceptable, given the location of the development which benefits from established public transportation links; the Hythe train station and local bus links being adjacent to the site. Additionally, the area generally is benefitting from expanding footpath and cycleway links. Indeed, a requirement of the development taking place on this site would be the provision of that part of the footway and cycleway that would be contained within the application site where it abuts the river. As regards off-street parking provision it is noted that the proposal does not achieve the amount applicable, were the full standard to be applied. That said, Members will be aware that the Council's adopted parking standards do recognise that a lesser number of spaces may be acceptable in appropriate locations as follows:

'...For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment...' (para. 2.5.1 – Parking Standards Design and Good Practice September 2009 – Essex Planning Officers Association).

- 15.14 In the view of your officers this planning application site is within such a location. As well as access to alternative transportation modes the area is, for example, served by food shopping facilities such as the Tesco superstore to the east in Greenstead Road.

Public Open Space Provision

- 15.15 Under the adopted policy the provision of public open space is expected of all new residential development. Clearly, in cases where developments take place on unconstrained sites for example, areas of the site (usually a minimum of 10%) can be planned as publically-accessible open space. In the case of conversions of existing buildings, the provision of open space is not as easily achieved. In the case of the subject buildings, their value both individually and as a group in this location means that the loss of fabric in order to create additional space on the site is not an option.
- 15.16 Therefore, the normal requirement would be for a contribution to be secured that would be used to provide or enhance off-site open space provision in the locality. However, Members will note that the submitted scheme cannot realistically provide any mitigation through s106 contributions, having been independently assessed on behalf of the Council. As a planning judgement it is considered that, in this instance, the lack of public open space provision, or a contribution in lieu, is acceptably off-set by the fact that the submitted scheme enables buildings of identified historic value to be brought into reuse.

Private Amenity Space Provision

- 15.17 The relevant policy (DP16) in relation to private amenity space states *inter alia*:

‘...All new residential development shall provide private amenity space to a high standard, where the siting, orientation, size and layout make for a secure and useable space, which has an inviting appearance for residents and is appropriate to the surrounding context...’

- 15.18 Members will be aware of the Council’s adopted policy requirements in relation to the provision of amenity space to serve residential development. In the case of flatted development a communal area of 25 square metres amenity space per unit is normally required. This amount can be reduced where balconies are provide to serve individual units. Members will note that the submitted scheme does not propose the provision of balconies – indeed these features would potentially be harmful to the overall character of the warehouses and listed building. The number of units proposed for the scheme would require a provision of 675 sq m of private, communal amenity space to be policy compliant. The amount of amenity space that is proposed is significantly less than the amount prescribed by the relevant policy – the information submitted as part of the application states that 432 sq m of amenity space would be provided – a shortfall of 243 sq m. That said, it is recognised that the conversion of established historic buildings to alternative uses – at an achievable cost – can represent a significant constraint with regard to the provision of open space areas, particularly in the context of an urban environment. Additionally, the predominantly commercial nature of the surrounding form of development means that there isn’t an opportunity to link to and enhance existing public open space provision in the area.

Other Matters - Ecology

- 15.19 The application site is relatively remote from land recognised for its ecological value – the nearest Colchester Local Wildlife Site being located on a site known as The Moors, located away to the northwest. Furthermore, given the overall former commercial nature of the application site, and its location, it is considered that the likelihood of protected species being affected is limited at best. That said, the established nature of the application buildings, and the fact that they are constructed utilising traditional methods, means it is possible that they may have value for bats.
- 15.20 To this end, the application submission is accompanied by a bat assessment document. The following extracts are taken from the document for Members’ information:

‘...The warehouse building on site, including the small lean-to section, was considered to have very limited potential for bats to access the internal space of the building. In addition, the asbestos type sheeting and metal roofing structure of this building had little potential to support roosting bats...The public house had some potential for bats to access the loft spaces...where loft spaces were accessible, much of the roof was unlined, the roof timbers were modern and provided little roosting potential and no signs or evidence of bats were found...Given the relatively low value of the surroundings for bats, overall there was considered to be a very

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low risk of bats roosting in the buildings on site, but given the adjacent river and that some areas could not be accessed to check for signs and evidence of bats, impact avoidance measures outlined in this report should be undertaken. There were also active bird nests on the site, and impact avoidance measures outlined in this report for birds should also be undertaken...'

- 15.21 The ecology report also suggests that elements could be incorporated into the development in order to enhance the site for bats and nesting birds – primarily by provision of nesting boxes. And the use of native species in any landscaping or planting schemes.

Flood risk

- 15.22 The planning application submission included a Flood Risk Assessment – bearing in mind that the site is located in a flood zone (Flood Zone 3). As mentioned previously, the submitted proposal does not include more vulnerable uses on the ground floor – such as residential. The findings of the FRA have been considered by the Environment Agency and that authority does not have an objection to the proposal, subject to the imposition of a condition on a grant of planning permission. This condition relates to the issue of land contamination. Members are advised that the 'suite' of conditions that were requested by the Council's Contaminated Land Officer would incorporate the conditional requirements of the Environment Agency.

16.0 Conclusion

- 16.1 To summarise, the subject buildings are established, valued elements within the historic port conservation area of the town – one having a grade II listing and the remainder being included on the local list. In the case of the former Rising Sun public house, it is clear that having been unused and empty for a significant period of time, the building has suffered and it is now in a derelict state. Indeed, it is included on the Essex Heritage at Risk register as well as the Building at Risk Register produced by Save Britain's Heritage. The scheme submitted for Members consideration would bring this building back into reuse – thereby ensuring that the only listed building on the east bank of the Hythe is retained.
- 16.2 The warehouse buildings, whilst not listed, are also established elements – having been located on the site since the late Victorian period. These are a direct historic link with the maritime past of the Hythe area and their retention and reuse is considered to be an important material consideration in relation to this planning application.
- 16.3 As identified in the report, elements of the proposed development do not meet the full policy standards. However, balanced against this is the fact that the proposal does represent an opportunity for the buildings to be reused, and thereby retained to the overall benefit of the area.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission for the development proposed under planning application ref. 163196 subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement, to provide the following:

- A review mechanism whereby the viability of the scheme is reassessed during the development to determine whether mitigation is payable.
- A requirement that the part of the river wall that is adjacent to the application site be surveyed and, if necessary, repaired as part of the overall works to create the required extension to the riverside footway and cycleway.

On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions, with delegated authority to revise as may be necessary:

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 9027 – 01, 10E, 11A, 12A, 13A, 14A, 15A, 16A, 17A, 18B, 19A, 20A, 21A, 22A, 23, 24, 25, 26, 27 and 28.

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. ZBF - Surfacing Materials to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

5. ZCE - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

6. ZCG - Communal Storage Areas

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

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

7. ZCI - Connection to Foul Sewer

All sewage and waste water shall be discharged to the foul sewer.

Reason: To meet the requirements of Circular 3/99 and to ensure that the environmental, amenity and public health problems that can arise from non-mains sewerage systems do not occur.

8. ZFB - *Full Landscape Proposals TBA*

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);

- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

9. ZFE - Landscape Management Plan

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

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

10. Non-standard condition – Private amenity space

Prior to the first occupation of the development hereby permitted, the communal amenity areas to serve residents. as proposed on the approved drawings shall be laid out and be permanently available for use by the occupants of all the flats to which this permission relates or in such a manner as may otherwise have previously been agreed, in writing, by the Local Planning Authority.

Reason: In the interests of residential amenity, as these communal amenity areas are an essential element of the development.

11. ZPD - Limits to Hours of Work

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

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: Not at All

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

12.ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

13.ZGK - *External Noise*

Prior to the commencement of development, a noise survey for proposed residential properties that are in the vicinity of the ROAD/RAILWAY/Commercial Premises shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

Dwellings indoors in daytime: 35 dB LAeq,16 hours

Outdoor living area in day time: 55 dB LAeq,16 hours

Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAm_{ax})

Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAm_{ax})

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

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

14.ZGI - Sound Insulation on Any Building

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

15.ZGF - Self-Closing Doors

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to non-residential premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

16.ZGA - *Restriction of Hours of Operation*

The commercial use hereby permitted shall not BE OPEN TO CUSTOMERS outside of the following times:

Weekdays 08.00 – 23.00

Saturdays: 08.00 – 23.00

Sundays and Public Holidays: 10.00 – 23.00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

17.ZGB - *Restricted Hours of Delivery*

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 08.00 – 20.00

Saturdays: 08.00 – 18.00

Sundays and Public Holidays: 10.00 – 16.00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

18.ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

19.ZGO - Food Premises (Control of Fumes and Odours)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

20.ZHA - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

21.ZCE - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

22.ZCH - Litter

Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment where the application lacks sufficient information.

23.Non-standard condition - External Light Fixtures TBA

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution and to ensure that new lighting is of a satisfactory appearance.

24. Non-standard condition – Refuse/recycling storage facilities

Prior to the occupation of the proposed development, the refuse/recycling storage facilities, the off-street car parking and bicycle storage facilities shall be provided as shown detailed in the amended drawing numbered 9027-10E.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, to promote the use of sustainable means of transport and to limit and reduce the time a refuse freighter is left waiting within the highway causing congestion and obstruction in the interests of highway safety.

25. Non-standard condition – Construction Method Statement

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

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

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

26. Non-standard condition – Residential Travel Information Packs

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport (including bus and rail travel) approved by the Local Planning Authority.

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

27. Non-standard condition – Pedestrian Footway/Cycleway

Prior to the occupation of any of the proposed dwellings, the land shown hatched grey, bounded by a red line immediately adjacent to the vehicular access and alongside the River Colne and at no less than 4.0m wide as shown in Drawing Numbered 9027-10E shall be constructed to provide a section of the riverside walk pedestrian footway/cycleway which shall be approved in writing by the Local Planning Authority entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels or accommodation works and making an appropriate connection in both directions to the existing footway/cycleway to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development.

28. Non-standard condition – Loading and offloading facilities

Prior to the occupation of the proposed development, loading, off-loading and manoeuvring facilities, as shown in Drawing Numbered 9027-10E shall be provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that the adjoining highway is not obstructed by servicing activity, in the interests of highway safety.

29.ZMM - Additional Detail on Windows & Doors etc.

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

30.ZNL - Full Archaeological Condition

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

Informatives

The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3. 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.

4. Non-standard Informative

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

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

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

5. Non-standard Informative

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

6. Non-standard Informative

The applicant should be advised to contact the Essex County Council travel plan team on travelplanteam@essex.gov.uk to make the necessary arrangements for the provision of the Residential Travel Information Packs.

7. ZTG - Informative on Section 106 Agreements

PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

8. Informative on Archaeology:

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further Information.



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Item No: 7.2

Application: 163197

Applicant: Prospect Park Property Ltd

Agent: Robert Pomery

Proposal: Conversion of Former Warehouses and Public House (The Rising Sun) to 27 no. Flats, 3 no. Commercial Units for A1, A2, A3, B1 or D1 Use, 33No. Off-Street Parking Spaces and Amenity Areas. (Listed Building Consent)

Location: The Rising Sun & Maponite Buildings, 3 Hythe Station Road, Colchester, CO2 8JZ

Ward: Greenstead

Officer: Bradly Heffer

Recommendation: Listed Building Consent

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a listed building consent application that accompanies a major application that is also included on this agenda for Members' consideration.

2.0 Synopsis

- 2.1 The key issues for consideration are the proposed re-use of the buildings on the site, one of which has a grade II listing, (to which this application specifically relates) and the other (group) which is included on the local list. The impacts of the proposed conversion works have been carefully considered and it has been determined that the scheme represents an appropriate response to the constraints presented by the subject buildings.
- 2.2 The application is subsequently recommended for consent, subject to the imposition of conditions as listed at the end of this report.

3.0 Site Description and Context

- 3.1 The site is described fully in the report that relates to the planning application, and Members are referred to that item on the agenda.

4.0 Description of the Proposal

- 4.1 This application for listed building consent relates specifically to the Rising Sun public house, and associated outbuilding. The main building has a Grade II listing and is described as follows:

'Late C18. Brick rendered. 2 storeys, 4 windows, sashes with glazing bars. Ground floor as 2 canted bays. 2 doors with flat hoods over. Double-pitch tiled roof.'

- 4.2 The associated outbuilding that abuts Hawkins Road is also listed by reason of being within the curtilage of the listed pub building.
- 4.3 The scheme submitted for consideration seeks consent to convert the listed pub building in order to create 3no. residential units and a commercial unit. In order to achieve this various works would have to take place within the building, including the rearrangement of circulation spaces, removal and alteration of fabric, etc.

5.0 Land Use Allocation

- 5.1 Within the adopted Local Plan the application site is located within an area allocated for Predominantly Residential use. Furthermore it is located in the East Colchester Special Policy Area – Area 4 Hawkins Road, as well as a Conservation Area.

6.0 Relevant Planning History

- 6.1 Prior to the submission of this application, the site has been subject to various applications related to the former uses of the buildings. None are considered to be specifically relevant to the current application proposal.

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- CE1 - Centres and Employment Classification and Hierarchy
- CE2a - Town Centre
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- TA1 - Accessibility and Changing Travel Behaviour
- 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
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP14 Historic Environment Assets

DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP25 Renewable Energy

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

SA EC1 Residential development in East Colchester
SA EC2 Development in East Colchester
SA EC6 Area 4: Hawkins Road
SA EC8 Transportation in East Colchester

- 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
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
ECC's Development & Public Rights of Way
Colne Harbour Masterplan
Air Quality Management Guidance Note, Areas & Order

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 When originally consulted on the proposals, the **Historic Buildings and Areas Officer** concluded that any harm resulting from the proposed conversion works (less than substantial in magnitude) would be outweighed by the public benefits bringing the redundant buildings back into use for housing. Further details were requested from the agent, particularly in relation to proposed works to windows, which was subsequently provided. The following further comment has been received:

'The site clearly falls into two distinct elements based around the statutorily listed later Georgian PH (grade II) and the locally listed Maponite complex that benefits from differing levels of statutory protection. We do not have joinery details for the former Rising Sun and the preference would be to repair any surviving historic joinery; especially as we are unsure as to the survival of internal features. The starting point for the historic fenestration of the listed building should be conservative repair with secondary glazing likely to be necessary to provide upgraded performance. A condition can be used to secure a schedule of conservative repair works prior to the undertaking of any associated works. The single storey outhouse range to the rear of the PH may be former stabling and curtilage listed. The interior has been lost and this element is therefore of marginal intrinsic significance but undoubted group value.'

In terms of the Maponite buildings, these are locally listed undesignated heritage assets that make a positive contribution to the character and appearance of the conservation area. The buildings include elements that may be domestic or administrative in origin (appearing as a three- four storey mid C19 house) that is attached to the end of the four warehouses of which three are included in the scope of this application. As the application seeks a change of use, compliance with relevant building regulations will be required with the possible relaxation/exemption of the statutorily listed PH and some discretion in the case of the locally listed warehouse elements.

Summary of surviving fenestration - Maponite

The existing fenestration (where visible) is an interesting assemblage of C19 timber sashes and iron/steel fixed pane windows that illustrate the evolution of the built form. Some timber sashes survive and elsewhere the majority of the warehouse windows are typical fixed framed iron or steel multi-paned windows with a fine detail associated with single glazing. The optimal heritage-led solution would be to retain surviving historic windows with repair and the addition of secondary glazing to achieve building regulation compliance. This approach is contingent on the support of Building Control and the applicant's willingness to accept mechanical ventilation in lieu of opening lights where these do not exist. Where significant revisions are proposed to the elevational treatment, the re-use of any surviving windows should be sought together with replication for new/missing windows.

The Maponite complex is locally listed and 'At Risk' and as an undesignated heritage asset a proportionate response is required to secure the conservation of the asset. The conservation area designation being statutory is a more weighty duty and s.72(1) of the PL (Lb & Ca)_ Act 1990 requires the decision maker to pay special regard to the desirability of preserving the character and appearance of the area. In this case, the retention of these positive contributor buildings undoubtedly delivers this to a substantial degree but the appearance of the group is also partly derived from the surviving historic fenestration and other details. It would be desirable if this could be retained, but if not then any new fenestration needs to achieve a similar visual effect to that of the existing. This would entail replacement of the timber sash type windows and fixed metal warehouse type windows with similar as is now proposed in principle.

The proposed sashes are inevitably double glazed and we need to ensure that reveals are retained and that the meeting rails, glazing bars and key details are a good approximation to the existing. I am concerned that the exposed trickle vents and deeper meeting rails will inevitably detract and can a dimension of the meeting rail be provided and a concealed trickle vent be sought? The flat section aluminium windows will have a different appearance to those that currently exist due to the inevitably thicker and flat sections. In addition, the incorporation of opening lights will further exacerbate this due to the combined thickness of frame and opening light. In my opinion, given the 'At Risk' status of the complex and the marginal viability, the cost of bespoke designed windows is outside the scope of this project and would be a disproportionate response to an undesignated heritage asset. In terms of the statutory duty to preserve or enhance, in my opinion the retention and re-use of this characterful and 'at risk' group deliver the thrust of this duty and the minor change in character associated with the loss of surviving historic fenestration although regrettable and constituting harm is less than substantial and must be weighed against the public benefits of the retention and re-use of the group that could otherwise face an uncertain future. In accordance with paragraph 134 of the NPPF.

On balance, I conclude that subject to the enhancement of the suggested sash detail, the proposals would preserve those elements of the complex that make the gross positive contribution to the significance of the conservation area designation and that the scheme should be treated favourably in accordance with paragraph 137 of the framework.'

- 8.3 **Historic England** has send a lengthy consultation response letter which includes the following summary comment:

'The application seeks permission to convert the former public house and warehouses to 27 flats, 3 commercial units and create 33 off-street parking spaces along with amenity areas. The Rising Sun Public House is Grade II listed, it has been unoccupied for 25 years and has fallen into a state of disrepair and decay. As a result it has been on the Essex Heritage at Risk Register for 9 years. The proposals would repair the decayed listed building and bring it and the curtilage listed buildings back into use. This would protect their long term future which would have clear heritage benefits. We are therefore satisfied that the proposals are in accordance with paragraphs 131 and 134 of the NPPF'

9.0 Parish Council Response

- 9.1 Not applicable – the site is located in the Town Ward of Greenstead.

10.0 Representations from Notified Parties

- 10.1 Members will note that a series of comments have been received in relation to this development proposal. These have been summarised as part of the planning application report that is included on the agenda.

11.0 Parking Provision

11.1 The parking provision to serve the development is explained in the accompanying planning application report.

12.0 Open Space Provisions

12.1 The open space provision to serve the development is explained in the accompanying planning application report.

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 The terms of the planning obligation that would be sought as a result of the development are explained in the accompanying planning application report.

15.0 Report

15.1 The planning application report that is also on the Committee agenda is concerned with the main planning aspects of the proposal. This report specifically focusses on the heritage aspects of the development proposal.

15.2 As mentioned earlier, this application specifically seeks listed building consent for the proposed works to the listed building on the site, together with the alterations to the building within its curtilage, which is also covered by the listing. However, given the locally-listed status of the former warehouse buildings, and the fact that the entire group is located within a conservation area, it is considered appropriate to evaluate the proposals in the round. Indeed, the supporting heritage impact information, and the consultation responses, have evaluated the proposals in their entirety, notwithstanding that the requirement for listed building consent relates to one element of the submitted scheme.

15.3 Dealing first with the listed building this is in a parlous state, having been neglected for a significant period of time. The fact that it is included on the Buildings At Risk Register emphasises its predicament. There is obviously a pressing need to find a suitable reuse of the building – not least to ensure that its contribution as a valuable historic element in the street scene in this location is not lost. Indeed it is one of, if not the oldest, buildings within the former port area of the town.

15.4 With the above in mind it is considered that the reuse of the building for a predominantly residential use would not be harmful to its character – the building having a domestic scale already. Infact the Heritage Impact Assessment (HIA) that supports the application states that:

‘...The earliest building on the site is the late eighteenth century Rising Sun public house which was built adjacent to the Hythe Bridge in the late eighteenth century. The public house is not shown on Chapman and Andre’s 1777 map of Essex, the east bank of the Hythe being at this point undeveloped. The internal layout of the building and its unsymmetrical north façade suggests that the inn may have been built in two stages. The symmetrical inn itself, with its four chimney stacks may have been built first and *the cottages* [officer emphasis] on the west end later but the external rendering makes it difficult to establish this...’

- 15.5 Sales particulars relating to a sale of the building in 1827 also refer inter alia to a public house and cottages. The HIA comments on this issue further as follows:

‘...The ‘Cottage’ referred to in the 1827 description most likely refers to the western rooms of the Rising Sun, which would have been private living accommodation. This is substantiated in sales particulars published in (sic) Essex Standard for the ‘substantially built and much frequented Rising Sun’, which was to be sold in 1839 along with ‘two tenements adjoining’ the public house...’

- 15.6 The principle of reintroducing a residential use in the former public house would not in itself be contentious in planning terms – particularly given the land use allocation for the site. In relation to the impacts of conversion works on this building, the Historic Buildings and Areas Officer has commented on this particular issue as follows:

‘...From at least the late eighteenth century, the building comprised an inn and two cottages. The proposed division of the building will return the two former cottages to being two dwellings. The existing staircases will be brought back into good repair. Partitions will be reintroduced at ground and first floor levels to separate the two cottages from each other and at ground floor level the door opening between the southern cottage and the former public house will be blocked. The proposals are therefore re-establishing the historic pattern of division and will have a medium beneficial impact on the significance of the building...Whilst there are elements of the proposed works that will have a low adverse impact on the listed building, its historic pattern of division will largely be re-established to the benefit of the building. The works will also bring back into use a building that has long been disused and deteriorating so that there will not be further loss of historic fabric due to lack of maintenance and the aesthetic value of the listed building will be enhanced...’

- 15.7 As regards the proposed alterations to the outbuilding within the curtilage of the listed building (in order to create car parking spaces to serve the proposed development) these in themselves are not considered to be harmful to its overall character. Infact the appearance of this building from Hawkins Road would remain unaltered, save for the fact that it would be repaired and maintained. This retention and re-use is encouraged as the building is an established element in the street scene, and it would also serve to screen the immediately adjacent amenity and service areas when the site is viewed from the road.
- 15.8 Turning to the proposed alterations to the warehouse buildings – in order to create the majority of the residential units together with two further commercial units – again it is considered that these would be sympathetic to this overall group. Although the main volumes on the site comprise the actual warehouses themselves, there is an ancillary three storey structure that has the character of a residential building – albeit greatly altered internally. Also a single storey building, identified as Unit 4, fronts directly on to Hawkins Road. This particular building is physically joined to the commercial building to the south.
- 15.9 In order to achieve the conversion the warehouse buildings would have to be reorganised over three levels, in order to align with the levels that exist in one unit (Unit 3). Importantly the floors in Unit 3 are deemed to be the most historic and alterations to the floors in this unit are limited to enabling the insertion of a new stairway. The floors in the other units are modern and therefore their loss would not compromise the character of the relevant buildings per se. The Historic Buildings and Areas Officer identifies that ‘...The proposed layouts of the warehouses, which will be subdivided into flats arranged around a central atrium, will fundamentally alter the character of the warehouses. However, it is not possible to retain the large open expanses in a residential use. The atrium will open up a third of Unit 2 but this device enables the creation of naturally lit rooms throughout the rest of the warehouses without the introduction of numerous windows in the facades, which are of greater significance than the interiors. The solution is appropriate in this case and will result in the loss of very little historic fabric...’

16.0 Conclusion

- 16.1 To summarise, it is considered that the proposed works to the listed building would not be harmful to its overall character, and would ensure that it is brought back into use – thereby ensuring its retention. It is considered that the retention and repair of the building is a key consideration that is worthy of support.
- 16.2 Although the former Maponite warehouse buildings are not in themselves listed, in combination with the Rising Sun they form a locally-important historic group. The scheme puts forward a method by which these can be brought back into a beneficial use and secure the regeneration of this part of the Hythe.

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 9027 – 01, 10E, 11A, 12A, 13A, 14A, 15A, 16A, 17A, 18B, 19A, 20A, 21A, 22A, 23, 24, 25, 26, 27 and 28. .

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

3. Z00 – Non-standard condition

Prior to the commencement of any works, a full schedule including the conservative repair of the historic fabric and specification of proposed works and alterations to the listed building (including servicing) shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

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

4. ZMT - Retention of Window Detail

All existing windows shall be retained and repaired where necessary unless otherwise agreed, in writing, by the Local Planning Authority. Any replacement windows shall match exactly the details and moulding profile of these windows. Any surviving crown or cylinder glass shall be carefully salvaged and reused. Any existing windows which are replaced by agreement with the Local Planning Authority shall be retained on site for inspection by representatives of the Local Planning Authority prior to the new windows being installed.

Reason: To protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

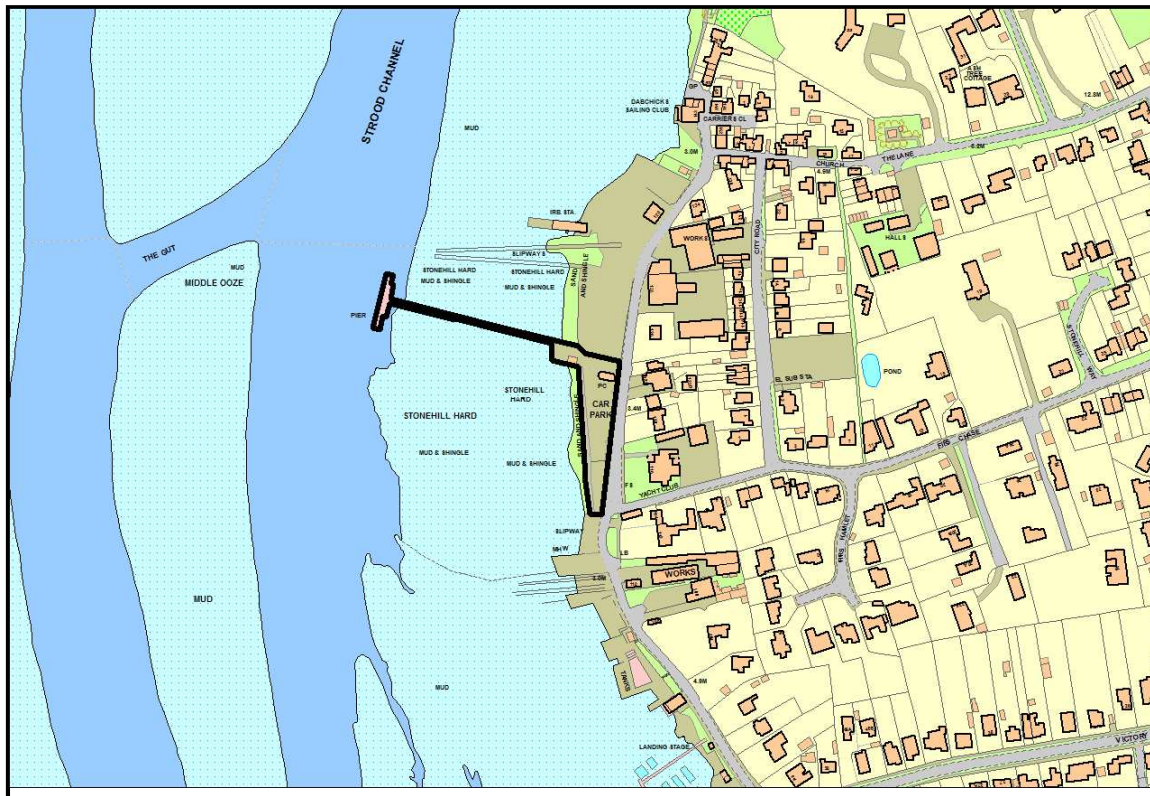
Informatives

1. ZUA - Informative on All Listed Building Consents

PLEASE NOTE: This listed building consent relates solely to the plans, drawings, notes and written details submitted with the application or as subsequently amended in writing and referred to in this notice. Any variation of the works or additional works found necessary before work starts or while work is in progress or required under the Building Regulations, or by the County Fire Services or environmental health legislation may only be carried out after approval by the Local Planning Authority. Unauthorised modifications, alterations or works not covered by this 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 to enforcement action and/or prosecution.

2. ZUB - Informative on LBC Required for Minor Works

PLEASE NOTE that a Listed Building Consent will be required for any of the following minor works where they affect the existing fabric of the building in their installation: Fixing electricity gas or water meter boxes; Fixing satellite dishes or other aerials; Fixing burglar alarm systems or video security; Installation of central heating or boiler flues; Installation of secondary double glazing; Replacement of fixed floor surfaces; repainting in a different colour.



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Item No: 7.3

Application: 173000

Applicant: Colchester Borough Council

Agent: Mr Stephen Collis

Proposal: Variation of condition 3 of planning permission 170230 to allow construction to commence in March 2018.

Location: Pontoon opposite West Mersea Yacht Club, Coast Road, West Mersea, Colchester, CO5 8PB

Ward: Mersea & Pyefleet

Officer: Mark Russell

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This item is referred to the Planning Committee because it is a Colchester Borough Council application.

2.0 Synopsis

- 2.1 This application is to make a minor change to permission granted earlier this year for an extended pontoon, with works conditioned not to commence until April due to concerns from Natural England.
- 2.2 It is explained that the only change sought relates to this earlier commencement date and that this is acceptable to the statutory consultee Natural England.
- 2.3 The application is subsequently recommended for approval, with all previous conditions still in force.

3.0 Site Description and Context

- 3.1 The site is an existing pontoon, stretching into the Blackwater Estuary, from a public site in West Mersea. The landward part of the site is within the Conservation Area of West Mersea.

4.0 Description of the Proposal

- 4.1 This proposal follows application 170230 which was to “Extend floating pontoon by 1.6m wide and 43m metres long” granted approval on 18th April 2017.
- 4.2 The relevant part of Condition 3 of that permission (with the key wording underlined here) states: “No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:..... Timing of the activities. Construction shall be limited to the months outside of the over winter birds season (October 1st - March 31st). To minimise the risk of disturbance to SPA birds.”
- 4.3 The application at hand seeks to vary this condition, to allow for commencement on March 1st. The justification for this is explained in the sections below.

5.0 Land Use Allocation

- 5.1 The site is unallocated foreshore.

- 5.2 The stretch of water belongs to the Blackwater Estuary Special Protection Area, Ramsar (an international treaty for the conservation and sustainable use of wetlands) which is by extension an SSSI, Essex Estuaries Special Area of Conservation and the Estuaries Marine Conservation Zone.

6.0 Relevant Planning History

- 6.1 071418 - Replacing the current floating pontoon. Approved 4th July 2007.
- 6.2 170230 - Extend floating pontoon by 1.6 metres wide and 43 metres long. Approved 18th April 2017.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
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
DP10 Tourism, Leisure and Culture
DP23 Coastal Areas.

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

- Sustainable Construction

8.0 Consultations

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

NOTE – the consultation period ran beyond the date on which this report was written, terminating prior to the Committee meeting. Any comments received in that time will be reported and responded to in the amendment sheet.

- 8.2 Natural England: “I can confirm that Natural England is satisfied that the proposed works to install a new section of pontoon at West Mersea Yacht Club, Coast Road, West Mersea may commence in March 2018.
- 8.3 This advice is in line with our previous advice as set out by my colleague Kayleigh Cheese in our e-mail 5th October 2017, namely that the works to install the new section of pontoon should avoid the core winter months Dec – Feb inclusive, as this is the most sensitive time for wildfowl and waders as set out in our e-mail dated 5th October 2017.”

9.0 Parish Council Response

- 9.1 At the time of writing, West Mersea Town Council’s comments were awaited.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. At the time of writing, no comments had 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 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 The only issue to consider relates to the proposed earlier commencement of works.
- 15.2 At the time of application 170230, Natural England had stipulated that no works should take place until after the end of March due to concerns over the well-being of over-wintering birds, hence the wording of the condition at the time.
- 15.3 Our Parks and Recreation Officer has since advised that it would be advantageous to begin works four weeks earlier in order for them to be funded in the financial year 2017/18 rather than 2018/19.
- 15.4 Whilst this financial consideration carries limited material weight, provided there are no fundamental Planning issues which count against the proposal, it would be unreasonable to deny permission.
- 15.5 The sole issue for consideration is the potential harm that an earlier start could cause to wildlife, and in particular to the over-wintering birds in this Special Protection Area (SPA).
- 15.6 In correspondence with our Parks and Recreation Officer, Natural England stated on 14th November 2017: *“the work must be completed outside of the core winter months Dec – Feb inclusive, as this is the most sensitive time for wildfowl and waders.”*
- 15.7 This slightly altered position is, in part, premised on the fact that no piling is proposed for the proposed works.
- 15.8 With the foregoing, this logically means that Natural England does not oppose a March 1st start to the proposed works.

16.0 Conclusion

- 16.1 To summarise, the single issue at hand is held to be satisfied as it is acceptable to the statutory consultee. Permission can, therefore, be granted for this variation of condition.

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 ZAW *Removal/Variation of Condition(s) Approval*

With the exception of condition 3 of Planning Permission 170230 which is hereby varied, the requirements of all other conditions imposed upon planning permission 170230 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

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

2 Z00 *Non Standard Condition

Condition 3 of Planning permission 170230 is hereby varied as follows:

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works.
- Timing of the activities. Construction shall be limited to the months outside of October 1st – February 28th to minimise the risk of disturbance to SPA birds.
- Details of any foreshore access requirements and methods.
- Details of any piling methods if required, including details of noise and vibration levels.
- How the proposal affects the movement of sediment, if applicable. The applicant should seek to minimise the disturbance to mudflats and the mobilisation of sediments and risk of flow tides, to reduce the impacts to the SAC during construction.

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

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

11 December 2017

Report of	Assistant Director – Policy and Corporate	Author	Andrew Tyrrell
Title	Summary of Appeal Decisions: September, October, November 2017		
Wards affected	All		

This report summarises recent appeal decisions received between the 7th of September and the 14th of November 2017. The full decisions are available on each of the relevant planning applications viewable on our website, or via the Planning Inspectorate site. The report ensures that the Committee remain up to date with appeal reasoning, outcomes, and trends; for future decision making.

Foreword: Appeals Decisions Received

- i. The last report to the Committee was at the end of August. Since then, there have been 10 appeal decisions received on 9 sites (Appeal 4 and 4a relate to a full permission and listed building consent for the same development). 9 have been dismissed, whilst 1 was allowed. Since April there have been 23 appeals, of which 8 have been allowed (34.7%). 3 of the appeals have related to Committee decisions, from which 2 were allowed (66.6%).
- ii. Before summarising the most recent appeals, attention is drawn to the recent court decision (on 16th October 2017) regarding the case of CPRE Kent (Respondent) v China Gateway International Limited (Appellant). **This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.**
- iii. In this Supreme Court case, the consideration was the correct legal standard to be applied in assessing the adequacy of reasons provided by a Council when granting planning permission. As background, the appellants had gained permission for a large-scale residential development in an AONB. This was recommended for refusal by officers, but the planning committee granted permission contrary to the officer recommendation. The Respondent brought a claim for judicial review on grounds that the committee had not provided adequate reasons for its decision. The claim was dismissed at first instances but allowed on appeal by the Supreme Court and the decision was quashed.
- iv. This is especially relevant to our Planning Committee as it reiterates that when you overturn officer decisions you must give adequate reasons (to be recorded) of why you have reached the decision you have. This is always done for refusals, but also applies to approvals. When officers make a recommendation their report sets out full reasons for why they reached the conclusion they did. However, if the Committee makes a contrary decision then the report will not explain how the decision was reached, and therefore it is necessary for the Councillors to make an account of why they have reached a different decision. The Committee would need to state full reasons why they formed the conclusion that it was acceptable, and record an account of the various issues it has considered, how much weight they have given to each factor, and the logic how they have reached their decision. We do have the “DROP” procedures should these reasons need to be expanded and this is a safeguard against such a challenge if we find a similar situation occurring.

1.0 “Appeal 1” Details

Site Address: Lodge Cottage, Lodge Lane, Peldon, Essex CO5 7PZ

Outcome: Dismissed

Inspector: Jonathan Price BA(Hons) DMS DipTP MRTPI

Appeal Ref: APP/A1530/W/17/3169662

Application No: 162473 (refused 24/11/16)

Proposal: The erection of single-storey extension and conservatory with internal alterations to sub-divide the existing dwelling into two dwellings.

- 1.1 The main issue considered was whether the proposal would comprise sustainable development in the context of local and national planning policy. The dwelling was to the north of Peldon, 100m outside the settlement boundary. As a small settlement with no shop, school or medical centre and limited public transport availability, the Inspector agreed that this was an isolated and unsustainable site for development. The Council directs development to large urban areas and protects the countryside from isolated development, in accordance with national and local policies.
- 1.2 Paragraph 55 of the Framework states that we should avoid new isolated homes in the countryside unless there are “special circumstances”; with criteria set out as to what this means. None of the specified “exceptions” would apply to this case, therefore the Inspector rules it out. In doing so they found that only limited weight can be given to the fact that it was not a new building and was provided through conversion, which “does not outweigh the clear conflict found”.
- 1.3 The Inspector noted that the Local Plan provides the five year supply of housing land required by the Framework which means there is little justification for development in rural areas. The Winstred Hundred Village Design Statement and Parish Plan (VDS) were referenced, and the Inspector said that he had “given particular regard to the Parish Council’s view that this proposal might exceptionally be supported by not being a separate new dwelling and offering smaller, lower cost housing that might enable young couples to stay in or return to their home village”. However, he continued that “there is nothing to suggest the proposal would comprise affordable housing as defined in the Framework or be available to meet this specific need. Therefore, the views of the Parish Council did not persuade him this proposal would be supportable.
- 1.4 The proposal would amount to the piecemeal development of housing outside the village boundary and in the countryside and where future occupants would not have convenient access to regular required services other than by means of private car use. The proposal would therefore conflict with several policies designed to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable

2.0. “Appeal 2” Details

Site Address: St Ives Road, Peldon, Colchester, Essex CO5 7QD

Outcome: Dismissed

Inspector: S J Buckingham BA (Hons) DipTP MSc MRTPI FSA

Appeal Ref: APP/A1530/W/17/3174693

Application No: 162987

Proposals: A residential development of five dwellings (outline, with all matters reserved).

- 2.1 The main issues were whether the proposal would constitute sustainable development, its effect on the character and appearance of the area, impacts on any protected species and the effect of the development on protected trees on the site. The land was on the edge of Peldon, directly adjacent to a large pond, with further ponds curving round in an arc to its east and a boundary running along Mersea Road that has a naturalised hedgerow including young Elms.
- 2.2 The site was not necessarily in “open” countryside; it adjoins residential properties to the south east, south and west sides, while to the north are light industrial units. It was, however, outside the settlement boundary of Peldon, and was greenfield land within the Coastal Protection Belt.
- 2.3 Again, the Inspector identified an up-to-date and deliverable housing land supply, and said that the provision of housing on a “windfall site” (i.e. unplanned additional development) such as this would make only a limited contribution to meeting housing need. Although a dwelling would be a small benefit, it would not outweigh the conflict with development plan policy. The appellant had pointed to conversion of the farm buildings to the north and claimed these had been approved contrary to policies directing development to urban areas, but housing policies differed to commercial or industrial developments. In any event, cases should be determined on their own merits.
- 2.4 Once more, Inspectors pointed out that Peldon has very limited services and facilities, including a church, pubs, and a regular but infrequent bus service. They concluded on this basis that the development would create an “isolated home” in the countryside, which would not be justified by any of the special circumstances set out in the NPPF. Although submitted in outline form with all matters reserved, it was clear that the 5 new dwellings, along with the provision of access, parking and boundary treatments, would add up to an urbanising effect on the previously open and rural character of the site.
- 2.5 In addition, the Inspector agreed with the Council that the NPPF is clear that we should minimise impacts on biodiversity. Standing advice from Natural England advises that a survey for Great Crested Newts (GCN), a protected species, should be provided if there is a pond within 500m and “refuges” such as grassland, scrub, woodland or hedgerows. The site has such features, and the Council had requested such a survey; although none was provided. The Inspector concluded that it was “essential that the presence or otherwise of a protected species is established before the planning permission is granted... considerations to which I attach considerable weight”.
- 2.6 The Council had also indicated that the trees and hedging on the road boundary are protected by a Tree Preservation Order. The Inspector found that, due to their height and length, the hedge and trees had “significant visual amenity value”. The application contained no detailed mapping of the protected trees or their root protection areas; therefore, there could “be no certainty of any effect on them arising from the development”. The Inspector also agreed that it was legitimate to consider the future living conditions of the future occupiers, and that the trees would probably come pressure for works to afford more light to the new homes.

3.0 “Appeal 3” Details

Site Address: 114 Braiswick, Colchester CO4 5BG

Outcome: Dismissed

Inspector: Michael Evans BA MA MPhil DipTP MRTPI

Appeal Ref: APP/A1530/D/17/3176558

Application No: 170325

Proposal: Single storey side extension.

- 3.1 The main issue in this appeal was the design, specifically the effect on the character and appearance of the host dwelling. The host dwelling is “L” shaped with a two storey part projecting towards the street and another to the side, with an angled part in between (joining across the inside corner with a 45-degree connecting entrance). The arrangement gave the front of the property, centred on the angled two storey section, an attractively balanced and symmetrical appearance so that (despite not being a Listed Building or within a Conservation Area) the host dwelling had “some architectural merit”.
- 3.2 The proposed extension, to the side, would be significantly wider than the adjoining two storey part between it and the tilted entrance section. This would also be appreciably wider than the street facing two storey gable end. This excessive width was not set back from the attached front wall and the pitch of the roof to the extension would be noticeably less than the main roof (because of the wide span). As such, it was considered “a poorly proportioned and somewhat squat appearance”. This was at odds with the strong vertical emphasis of the host dwelling and would harm the “attractively balanced and symmetrical appearance”.

4.0. “Appeal 4” and “Appeal 4a” Details

Site Address: Forge Cottage and “The Forge”, Church Road, Peldon CO5 7PS

Outcome: Dismissed (both)

Inspector: Cullum J A Parker BA(Hons) MA MRTPI IHBC

Appeal Ref: APP/A1530/W/17/3172750 and APP/A1530/Y/17/3172752

Application No: 161167 and 161168 (refused 30 September 2016)

Proposals: Retention and refurbishment of two Grade II listed buildings, demolition of the modern extensions/alteration to the existing dwelling (Forge Cottage) and replacement of these with a new extension. Restoration and repair of the existing forge building for employment use. New parking provisions.

- 4.1 The main issue for both appeals was the effect of the proposal on the character and appearance of the street scene and special architectural/historic interest of the listed buildings. The appeal buildings are located at the entrance to the settlement of Peldon, facing an open triangular-shaped green known as Peldon Common. Forge Cottage and The Forge are both Grade II listed buildings; the Cottage building being two-storey and facing the Common, with the Forge located adjacent to Church Road, seen within the context of the Cottage. The appellant considered that both buildings were subject to previous works and were no longer worthy of their listing. In the Inspector’s judgement, consistent with our own, the buildings continued to be of special architectural and historic interest, with no justification for de-listing these buildings.
- 4.2 On the proposals, the extensions to Forge Cottage would be considerably larger than those already attached or near to the building. The footprint of the rear two-storey extension would be much deeper, with a large catslide style roof on one part. The combination of the additions to the Cottage building would overwhelm its well-proportioned appearance and adversely compete with the simple form of the building. These extensions would be publicly visible, including from the green, and the size and scale of the extensions would have a negative impact on the significance of the listed building.

5.0 “Appeal 5” Details

Site Address: 15 Lexden Road, Colchester, CO3 3PL

Outcome: Dismissed – and an award of costs refused

Inspector: Cullum J A Parker BA(Hons) MA MRTPI IHBC

Appeal Ref: APP/A1530/W/17/3177928

Application No: 170149 (refused 27 March 2017)

Proposal: To replace an existing house (to be demolished) with two new houses with garden room/basement level.

- 5.1 The main issues were whether the proposed development would preserve or enhance the character or appearance of the Conservation Area (including trees within the site), its impact on the street scene more generally, and whether it would preserve the setting of a nearby Grade II listed building, as well as the effect of the proposed development on the living condition of occupiers of No 13 Lexden Road, with specific regard to overshadowing.
- 5.2 On the character and appearance issue, the Inspector found that the Conservation Area was mainly characterised by Victorian development, mostly large detached houses set within relatively spacious plots or institutional buildings. Whilst of differing appearances, there remained consistent features of their period, giving a degree of “linked uniformity”. The proposed development was a 4-bay, 3-storey dwelling (with basement level) that was at odds with the immediate context of the area. The Inspector called it “a false pastiche of history; appearing as misplaced”. The building would extend to about 85% of the width of the site and divide it into two plots (with 4 parking spaces in the front) and this would “add to a sense of overdevelopment” as the 3-storey form “would be significantly and noticeably taller” the neighbouring properties.
- 5.3 In terms of trees to the front of the site, the protected tree is large and “contributes positively to the leafy and verdant character of the Conservation Area”. The Tree Survey indicated that a no-dig driveway could be used to help protect roots. Whilst there may be some future pressure to prune the tree, the Inspector considered that there are existing controls within conservation areas to manage such changes so did not include this in their own refusal.
- 5.4 In terms of the setting of the listed building (the language school), “the Act” requires that special regard is paid to setting. In this case, the listed building sits within its own spacious plot and the significance of the building stemmed from its appearance within its own plot and historical links with the growth of Colchester in the Victorian era. Whilst the surroundings would change, this significance “would not be diminished by the proposed development”.
- 5.5 In summarising, the Inspector stated that, when taking all the various strands in the round, he thought “that the design, form, mass, scale and bulk of the proposed development would fail to preserve or enhance the character or appearance of the Conservation Area”. He added that “it would result in material harm to the character and appearance of the wider street scene”. Accordingly, it was held to be contrary to a number of policies nationally and locally.
- 5.6 With regard to living conditions of neighbours, the appellant commissioned a Daylight and Sunlight Report in June 2017. This concluded that the impact for occupiers of No 13 (in terms of daylight) would be acceptable. In the absence of any contrary survey, the Inspector saw no reason to disagree with the conclusions of this report. However, the report was only commissioned after the refusal, and this evidence had not been put to the Council when it made its decision. Consequently, on the application for a costs award

against the Council by the appellant, this was refused. The Council had not acted unreasonably in forming its reasons for refusal based on the submission. Although the Inspector did not agree that there was impact on light to the neighbours, costs may only be awarded against a party who has behaved unreasonably. The Inspector stated that the Council had provided reasons as to why it took the decision it did in relation to the adopted development plan policies on both the decision notice and in the officer's delegated report. The three reasons for refusal were clear to the objective observer and were also justified at the planning determination and appeal stages. While they had not agreed with all of them they were still reasonable conclusions for the Council to have arrived at.

6.0. "Appeal 6" Details

Site Address: White Lodge, Roundbush Road, Layer Marney CO5 9UR

Outcome: Dismissed

Inspector: Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

Appeal Ref: APP/A1530/W/17/3174878

Application No: 162639 (refused 20 January 2017)

Proposals: A change of use and alterations to rural outbuilding to form 1 new dwelling with new access.

- 6.1 The main issues were whether the location would be sustainable and provide access to "everyday" services and facilities; and the effect of the development on the character and appearance of the area. Layer Marney was identified as a small rural settlement where properties are dispersed along country lanes. These roads are narrow without pavements or lighting. Walking and cycling would therefore be "less attractive in poorer weather and after dark".
- 6.2 In dismissing the appeal the Inspector noted that there are few services and facilities within or near to the settlement. A regular bus service between Maldon and Colchester stops at Smythe's Green. However, the stop was 1km away and can only be accessed via the country lanes. Residents would be "largely reliant on the private motor car to access everyday services and facilities" and would be "functionally isolated".
- 6.3 The Inspector noted support from the ward councillor in terms of maintaining the vitality of rural communities and their concerns that planning policies were restricting development in the countryside. However, the Inspector's conclusion was that there is little evidence that a single new dwelling would make a difference in terms of supporting rural communities and local services/facilities. Furthermore, the Inspector highlighted that this scenario would apply to numerous small sites in rural areas, and so it does not amount to a special circumstance. It was unsustainable development.
- 6.4 In judging the impact on character and appearance, it was mentioned that the site was within the grounds of the Grade II listed "White Lodge", a building which enjoys a green and rural setting that contributes positively to its significance. The outbuilding that would be converted to residential use is evidently a modern structure with a conventional barn-like appearance. As a consequence, when viewed from outside the site the development would not look out of keeping with the rural character and appearance of the area. The retention of much of the tree line meant that the development would not detract from the setting of the listed building or harm its significance. However, given the objection in principle this was still not acceptable overall.

7.0 “Appeal 7” Details

Site Address: Hallfields Farm, Manningtree Road, Dedham, Essex CO7 6AE

Outcome: Dismissed

Inspector: Graham Chamberlain BA (Hons) MSc MRTPI

Appeal Ref: APP/A1530/W/17/3176230

Application No: 162537 (refused 5 December 2016)

Proposal: The demolition of a redundant agricultural building and replacement with a single two bedroom affordable dwelling.

- 7.1 The main issues in this appeal included whether the appeal site would be an appropriate location for rural housing; the effect on the character and appearance of the area with particular reference to trees and public amenity space; and whether the proposal would provide adequate living conditions, with particular reference to private amenity space, vehicle turning facilities and secure cycle, bin and recycling storage.
- 7.2 As an exception site, the justification for rural housing was that it would be affordable and would be managed by Chelmer Housing Partnership, which is a registered provider. Policy H4 of the Core Strategy permits affordable housing on sites within the countryside that are contiguous with the village settlement boundary and provided a local need is demonstrated by the Town/Parish Council on behalf of their residents (and this is based on evidence gained from an approved local housing needs survey). Herein, a local need was not demonstrated by the Parish Council and there was no evidence from an approved local housing needs survey. In fact, the Parish Council objected to the scheme because they considered the local need quantified in the most recent local housing needs survey had already been met by a previously approved Hallfields Farm development to the immediate east of the appeal site.
- 7.3 The appellant attempted to demonstrate a local need by referring to other sources. In particular the Housing Register as of 2017, the Objectively Assessed Housing Needs Study 2016 and the Strategic Housing Market Assessment 2015 (SHMA). Whilst they are more up to date than the local housing needs survey referred to by the Council and Parish Council, they articulate the general requirements in the Borough rather than the specific local needs of the village/parish. A general need in the Borough was a different matter to a local need in this specific village and while 30 households on the housing register expressed a preference to live in Dedham this, in itself, is not an indication of local housing need in the parish. Moreover, there was nothing to assure the 30 households referred to would meet any criteria that may be required to occupy an affordable dwelling approved as a rural exception, such as a local connection.
- 7.4 In any event, the appeal was not supported by a planning obligation that would secure the proposed dwelling as an affordable home. Instead, the appellant suggested that a planning condition could be imposed, but this was not the appropriate mechanism to do so. As such, the Inspector treated the proposal as a dwelling in the countryside for which special circumstances have not been demonstrated.
- 7.5 Turning to the effect on character and appearance, there are two ash trees which the arboricultural assessment said were in good condition with reasonable longevity. These trees provide a pleasing backdrop to the open space next to the appeal site, they add maturity to the Hallfields Farm development and act as a buffer with the residential properties and conservation area to the west. The Inspector therefore agreed that it was advantageous that they are retained, and noted that the trees are currently protected as part of the previous planning permission's conditions. It was likely the new dwelling would be in the root protection area of the trees. As such the positive contribution the trees

currently make to the amenity of the area could be at risk if the appeal scheme was allowed, which weighed against the proposal.

- 7.6 The Inspector also concurred that the appeal scheme would result in a reduction in the public open space approved as part of the wider development of Hallfields Farm. The appellant suggested that the loss would amount to 1% of the open space already established within the development but, importantly, the overall quantum of open space would still represent 10.7% of the overall development site. The Inspector noted this, but answered that 10% was a minimum threshold and therefore it is reasonable to conclude that there will be some circumstances where a greater quantum of open space would be necessary. A development positioned on the edge of a village where a more verdant character is necessary, such as the Hallfields Farm scheme, was likely to be such a circumstance.
- 7.7 On whether the proposal would provide adequate and safe living conditions for residents who lived there, 50 square metres of private amenity space was required but only 42 square metres was being proposed. This was below the standards required in the policy but not by much, and the garden would be large enough to sit out in with a reasonable degree of privacy. The proposed dwelling was also directly adjacent to a public open space which, although not private, would provide additional outdoor amenity. As such, the smaller garden as considered to be acceptable in the circumstances.
- 7.8 As details of secure bicycle, bin and recycling storage were not submitted the Inspector was not satisfied these could be provided in the rear garden of the appeal property without harmfully diminishing the space available (and its quality). However, as the land was owned by the same owners as the wider site, and managed by the same housing association, it was considered that extra provision off site would be possible by a negatively worded condition and this would be a reasonable solution. They also did not share concerns that there were any highway safety issues from inadequate turning and parking, as in practice the site would share and utilise some of the wider sites facilities if needed.

8.0. "Appeal 8" Details

Site Address: Heathfield House, West End Road, Tiptree CO5 0QH

Outcome: Allowed (with costs awarded against the Council)

Inspector: K R Saward (Solicitor)

Appeal Ref: APP/A1530/X/17/3177321

Application No: 170191 (refused 13 April 2017)

Proposals: Lawful use/development certificate for the siting of a caravan for ancillary use.

- 8.1 The appeal involves the consideration of relevant planning law. The main issue was whether the Council's decision to refuse to grant a LDC (lawful development certificate) was well-founded. The appellant sought a LDC to site a caravan within the garden of her home at Heathfield House for "ancillary use". The appellant makes clear that what is meant by this is that she wishes to use the caravan as additional living accommodation associated with the main house rather than use as a separate self-contained unit.
- 8.2 It was undisputed that provided the proposed park home style caravan remains a moveable structure that meets the definition of a "caravan" within the Caravan Sites and Control of Development Act 1960 as amended by the Caravan Sites Act 1968, then it would not constitute a building. Nor is it contested that the proposed siting of the caravan as shown in the submitted site plan would be within the residential curtilage of Heathfield House. The Inspector claims that instead, the Council proceeded to determine the application with reference to section 55(2)(d) of the 1990 Act. This provides that the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose

incidental to the enjoyment of the dwellinghouse as such shall not be taken to involve development of the land. In following this approach, the Council analysed the meaning of the word “incidental” from various sources including with reference to an ordinary dictionary definition, online commentary and case law. Specific mention was made of the case of *Emin v SSE1* where the Court considered the meaning of “incidental” in the context of permitted development rights for the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such. Similar provision is now contained within Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015.

- 8.3 However, the Inspector found this logic to be flawed in that the proposal in this instance was not for the provision of a building, but the use of land for the siting of a caravan. Class E therefore did not apply and so references to it and the judgment in *Emin* did not assist in establishing whether residential use of the caravan would be lawful. Moreover, a distinction is to be drawn between an incidental use and uses which are part and parcel of an existing lawful use.
- 8.4 The Inspector distinguished that the issue requiring consideration was not whether there would be an incidental use as focussed on by the Council. Rather, the crux of the matter is whether or not the proposal would involve a material change of use of land and thus amount to “development” within the meaning of section 55(1) of the Act. They found that just because the proposed use goes beyond what would ordinarily be regarded as an ‘incidental use’ does not mean there is a material change of use. If there is no material change of use of the land then there can be no development requiring planning permission.
- 8.5 They cited a case of “*Uttlesford DC v SSE & White*” where the judge considered that, even if the accommodation provided facilities for independent day-to-day living it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree. In that case the accommodation gave the occupant the facilities of a self-contained unit although it was intended to function as an annexe only with the occupant sharing her living activity in company with the family in the main dwelling. There was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling. A fact and degree judgment has to be made on the specific circumstances of the case.
- 8.6 Typically, a caravan will be equipped with all the facilities required for independent day-to-day living. It does not follow automatically that once occupied there must be a material change of use simply because primary living accommodation is involved. Much depends on how the caravan would actually be used, and as the proposal was for a caravan to be occupied by the appellant’s elderly mother (who has health issues) needing care and assistance there would be no separate unit of occupation. Accordingly, they concluded that the proposal would not have required separate planning permission and was lawful. Costs were awarded on this basis.

9.0. “Appeal 9” Details

Site Address: 15 Church Road, Fordham, Colchester, Essex CO6 3NA

Outcome: Dismissed

Inspector: J A B Gresty MA MRICS

Appeal Ref: APP/A1530/D/17/3180242

Application No: 170791 (refused 25 April 2017)

Proposals: A loft conversion and two-storey extension.

- 9.1 The main issue in this case is the effect of the proposed development on the character and appearance of the area. The appeal property is the middle of three modestly sized bungalows situated in a row on the east side of Church Road. The bungalows are the last three dwellings on this side of the road before leaving the built area of this part of the village and there is farmland to the rear and south of the properties. Whilst the appeal property's plot is not large, the space on each side of the bungalow and the dwelling's single-storey design contribute towards the property having a spacious character and appearance which is in keeping with the neighbouring properties and its location next to farmland.
- 9.2 The proposal for the extension and alteration of the bungalow would form a substantial two-storey dwelling with a significantly larger footprint than the bungalow. The extended dwelling would have large, tall, steeply pitched roofs with a prominent front facing gable to one side and a hipped roof to the other. The large expanse of roof would be visible from the road and dominate the appearance of the extended dwelling. This would be unlike any other dwelling nearby.
- 9.3 The extended dwelling would be considerably larger than either of the neighbouring bungalows and it would dominate the appearance of the two bungalows when viewed from the road and countryside behind. Also, due to its height and bulk, the extended dwelling would appear out of scale with its own plot, emphasising the size of the extended dwelling in relation to its immediate neighbours and other two-storey houses in the locality. The Inspector agreed that this would stand out in the local landscape as an unduly large, prominent and incongruous feature which would detract from the character and appearance of this part of the village and the adjoining countryside.

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.

