

Planning Committee Meeting

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

Thursday, 16 April 2015 at 18:00

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

Facilities

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

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Material Planning Considerations

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

The following approach should be taken:

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

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

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

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

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

- land ownership issues including private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses
- matters specifically controlled through other legislation
- unless they are “exceptional”, personal circumstances, including hardship

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions and Considering Reasons for Refusing Applications

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

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

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

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, they are challengeable at appeal as *ultra vires* (i.e. their imposition is beyond the powers of local authorities). If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted.

In considering the reasons for that refusal, Circular 03/2009 makes it clear that planning authorities must “*properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason*”. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

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

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

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

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

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



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

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

Best Practice for Construction Sites

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

- **Noise Control**

No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.

The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.

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

Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

- **Emission Control**

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

Best Practice for Demolition Sites

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

- **Noise Control**

- 1) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.
- 2) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

- **Emission Control**

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwelling houses

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

Class D2. Assembly and leisure

Use as —

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

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

Sui Generis Uses

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

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

Interpretation of Class C3

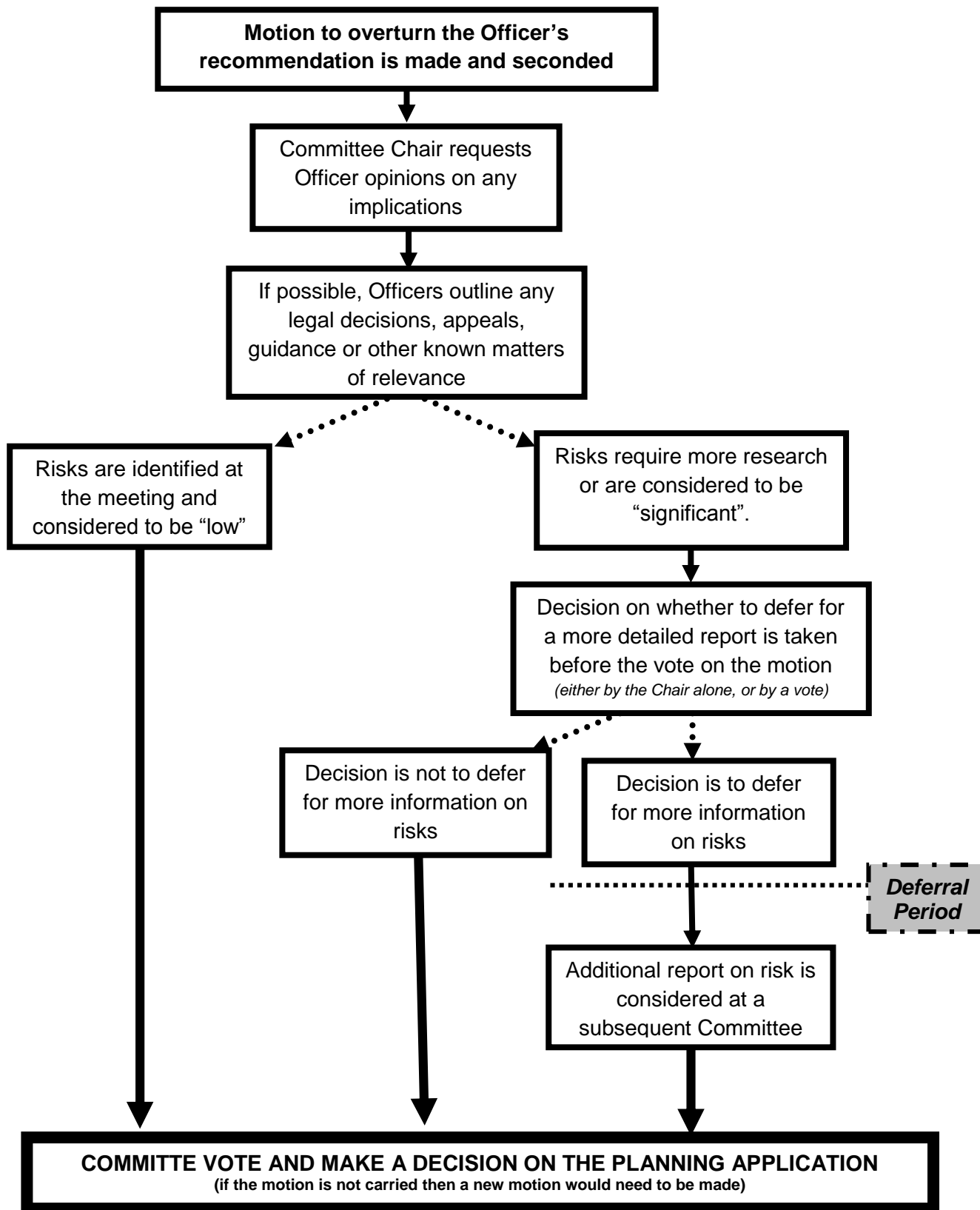
For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

*If Councillors require more information, or minor amendments to be explored, then the item should be deferred.
If no more information or amendment is desired Councillors will proceed to propose a motion.*



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 16 April 2015 at 18:00

Member:

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

Chairman
Deputy Chairman

Substitutes:

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

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

AGENDA - Part A

(open to the public including the press)

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

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

1 Welcome and Announcements

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

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

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

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

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

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

6 Minutes of 19 March 2015 17 - 24

To confirm as a correct record the minutes of the meeting held on 19 March 2015

7 Planning Applications

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

7.1 150234 1-7 Winnock Almshouses, Military Road, Colchester

Proposed demolition of seven existing almshouses and construction of 10 new dwellings

7.2 150235 1-7 Winnock Almshouses, Military Road, Colchester 25 - 48

Proposed demolition of seven existing almshouses

7.3 146566 Land south of Holmwood Farm, Brook Hall Road, Fingringhoe 49 - 58

Change of use of lakes to recreational fishing and formation of hardstanding car park

7.4 143704 Rowhedge Business Park, Fingringhoe Road, Rowhedge 59 - 76

Change of use of land to plant hire business

7.5 146237 Flats 1-9, Bob Russell House, New Town Road, Colchester 77 - 82

Replacement windows and rear doors to flats and replacement

windows to communal areas

7.6 **146530 58 Rosebery Avenue, Colchester**

83 - 90

Proposed two storey rear extension with new detached garage on rear boundary

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

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

Part B

(not open to the public including the press)

Planning Committee

Thursday, 19 March 2015

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

Substitutes: No substitutes were recorded at the meeting

134 Site Visits

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

135 Minutes 19 February 2015

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

136 Minutes 5 March 2015

The minutes of the meeting held on 5 March 2015 were confirmed as a correct record.

137 145494 Land north of Wyvern Farm, London Road, Stanway

Councillor Sykes (in respect of her trusteeship of Almshouses located in London Road, Stanway) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of existing buildings, the construction of two entrances from London road and the creation of 358 one, two, three and four bedroom houses and apartments, plus associated roads and parking, public open space, landscaped buffers and drainage works at land north of Wyvern Farm, London Road, Stanway. The application had been referred to the Committee because it was a major application that had given rise to objections and it required the signing of a Section 106 Agreement to reasonably mitigate the impacts of the development in line with the tests set out for local planning authorities by the Government in the Community

Infrastructure Levy Regulations. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Vincent Pearce, Major Development Manager, presented the report and assisted the Committee in its deliberations.

Scott Richardson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the scheme that had been submitted was of high quality, in accordance with the Council's policies and included 72 units of affordable housing with a mix of rented and intermediate tenure. The development was enclosed by a public open space which was safe to use by local residents with houses being located within 100 metres. Footpaths connected to the north and east and the scheme also included a central village green type area. Additional funding towards the mitigation of the development had been agreed and included contributions towards a doctor's surgery, primary and secondary schools as well as Colchester Leisure World. He acknowledged the existing traffic congestion issues and confirmed that contributions would be forthcoming providing for extra capacity on local buses for residents and potential improvements to the local highway network.

Councillor L. Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She highlighted the importance of the developer contributions and the urgent local need for the reconfiguration works to the roundabout at junction 26 of the A12 and she welcomed the assistance to be provided by Essex County Highways to alleviate the drainage problems. However she was concerned about the lack of support from the Highway Authority for the junction protection proposals. She asked about the possibility of ring-fencing a proportion of the affordable housing on the development for residents of Copford and Stanway, given the level of local need. Given the impact of the development on the existing local infrastructure, she welcomed the contributions for local schools and towards the GP practices but she sought confirmation regarding the trigger points for these contributions from the developer in relation to level of occupation of units. She considered the area of public open space would be a well-used addition to the development and suggested it would be important to ensure a satisfactory number of dog waste bins and dog agility equipment were provided.

The Major Development Manager explained that the Council's Social Housing Lettings Policy was based on need rather than locality and that the play space contributions were predominantly for the under 12 age range although it may be possible to enhance over 12 facilities at the Country Park near Lakelands. He further explained that the triggers for the mitigation works would be realistically phased bearing in mind the need for properties to be occupied in order to generate funding and that school and GP contributions had been secured.

Members of the Committee welcomed the pleasing design of the site and the residential

units as well as the provision of the perimeter open space and the removal of development rights to preserve the open plan layout to the front gardens of the development. They voiced concerns about the impact of additional traffic on the existing traffic congestion and the potential for shortcut / 'rat-runs' to be created linking the neighbouring road network. Reference was also made to the traffic issues associated with Colchester Zoo at peak seasonal times, the existing pressure on local GP practices, the importance of enforcing controlled working practices during the demolition phase of the development, the preference for LED or similar energy saving lighting on the site, the provision of a management company for the development, details of the construction statement to be displayed on site for the duration of the works and the need for adequate fencing to be provided to the boundary of 276 London Road. Clarification was sought about the regard taken to the Design Statement which had been adopted by Stanway Parish Council as part of the Parish Plan, the measures to be undertaken to alleviate the problems of flooding for residents along London Road, the need for planned traffic regulation orders to be introduced to prevent excessive on street parking on the development and, in accordance with the principles of Safe Routes to Schools, the need for the provision of a signalled pedestrian crossing on London Road rather than the provision of an island crossing. Requests were made for additional conditions to be applied to provide for dog waste bins and dog recreation facilities as well as ducting during the construction phase to provide for the installation of broadband cabling and for a letter to be sent to Essex County Council on behalf of the Committee urging the early remedy of the drainage problems in the area.

In response to the particular questions raised, the Major Development Manager suggested the imposition of additional conditions/informatives to provide for a bus gate at the eastern boundary with Stane Park, LED lighting to the perimeter open space, the maintenance of the road network by the developer prior to adoption, the open plan layout of the development and ducting for broadband cabling and the enhancement to conditions in the report to provide for the display of contact details and planning conditions. He also confirmed that the landscaping condition could be utilised to provide for boundary treatment to 276 London Road and that the Stanway Parish Plan Design Statement had been included in the consideration of the application. He acknowledged the status of the Parish Plan and explained how, in time, it would be superseded by the Neighbourhood Plan currently being produced by Stanway Parish Council. He confirmed it was for the Committee members to determine whether to seek a limited amount of highway works to be undertaken by the developer or to secure an additional financial contribution to be utilised by Essex County Council. He considered it would be difficult to justify the introduction of a traffic management scheme for the development without the existence of an identifiable need and he pointed out that a signalled pedestrian crossing had not been a requirement of the Highway Authority, possibly on the basis that this might add to the traffic congestion issues and the recommended conditions included a request for the establishment of a management company.

RESOLVED (UNANIMOUSLY) that –

(i) The application be approved subject to the resolution of the outstanding issue of the A12 slipway works to the satisfaction of the Highways Agency and 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 and, in the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- 20% (as a percentage of total units) affordable housing in a ratio of 80%:20% (socially rented : intermediate housing);
- A bus-way connection to and on the site's eastern boundary that is co-terminus with the Stane Park boundary such as to avoid the creation of a ransom strip and agreement to connect the link with the adjacent site at Stane Park at nil cost;
- All footpath and/or cycleway connections to the eastern site as to be co-terminus with the Stane Park boundary such as to avoid the creation of a ransom strip and agreement to connect the link with the adjacent site at Stane Park at nil cost;
- A new equipped community building to Council specification to a value of £465,000;
- Open Space, Sport and Recreational facilities contribution (borough-wide specified projects) £659,869;
- Open Space Sports and Recreational Facilities (ward based specified projects) £765,000;
- Primary school contribution £1,163,464 (or such other sum as shall accord with the number of qualifying units);
- Secondary school contribution £1,178,321 (or such other sum as shall accord with the number of qualifying units);
- Public transportation contribution £41,083;
- Highway works contribution £25,000;
- Healthcare contribution £38,120;
- Archaeological database contribution £5000

(ii) On completion of the legal agreement, the Head of Professional Services be authorised to grant planning permission subject to the conditions set out in the report and additional conditions to provide for the following:

- The developer be required to submit a plan before any work on site commences showing the intended ownership of every piece of land (eg highway land, curtilage, open space etc) with no 'white'/ unaccounted land to remain;
- Three dog waste bins to be incorporated into the landscape details;
- Low level LED lighting to be incorporated into the perimeter track;
- Preservation of open plan layout for front gardens;
- The installation of a bus-gate between Wyvern Farm and Stane Park
- Condition 6 to be modified to include requirements to agree pre-adoption maintenance arrangements for roads, lights, open space and litter collection and to prominently display Persimmon contact details and a site reference number with a nominated contact person able to deal with local complaints about site working together with all approved planning conditions.

and additional informative areas to provide for the following:

- Street lighting across the development of LED or similar energy saving type;
- Boundary treatment details to pay particular attention to the southern boundary adjacent to existing residential properties and no 276 London Road.
- Ducting for internet connectivity is laid at the time of constructing roads and footpaths

(iii) The Major Development Manager be requested to write on behalf of the Committee to the Chief executive and Leader of Essex County Council urging the County Council to remedy current highway flooding issues and congestion on London Road, Stanway.

138 150014 Wedo Shopping Ltd, Turner Rise Retail Park, Petrolea Close, Colchester

Councillor Sykes left the meeting room for the duration of this item.

The Committee considered an application for the valuation of Condition 12 attached to planning permission COL/91/0887 to allow wider range of goods within Use Class A1 (Retail) within Unit 1A at Wedo Shopping Ltd., Turner Rise retail Park, Petrolea Close, Colchester. The application had been referred to the Committee because it was classed as a major application and an objection had been received. The Committee had before it a report and an amendment sheet in which all the information was set out.

Members of the Committee considered that, due to the nature of goods to be sold and to retain control of the future development of the site, any permission granted should be personal to the applicant.

RESOLVED (UNANIMOUSLY) that planning permission be granted subject to the conditions set out in the report and the amendment sheet, together with the permission being made personal to the applicant only.

139 150113 Enoch House, Hawthorn Avenue, Colchester

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

The Committee considered an application for a proposed extension, alterations and refurbishment of the existing building to allow its use for sheltered housing together with revised parking provision, incorporating the temporary siting of a portable office cabin at Enoch House, Hawthorn Avenue, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Homes and representations had been received. The Committee had before it a report and amendment sheet in which all the information was set out.

Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. In response to specific questions about

Richard Taylor addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was speaking on behalf of a number of residents of Enoch House who all acknowledged the need for the car parking area to be set out to provide access for bin collection and for emergency vehicle parking. However, he requested that the landscaping proposals include planting areas and raised beds for the benefit of the residents themselves.

Members of the Committee welcomed the proposals and the opportunity for the changes to enhance the open space areas to be of benefit for the residents of Enoch House as well as the applicant. One member of the Committee explained a long standing issue for the resident of 11 Magnolia Drive who was obliged to access the Enoch House perimeter in order to gain access to a side window to his property, the need for sound proofing to prevent disturbance from the bus stop.

The Principal Planning Officer explained that the proposals included the replacement of windows which would provide improved sound insulation and she was aware that discussions were on-going with the resident of 11 Magnolia Drive about options to assist with the cleaning of the window overlooking Enoch House. The landscaping proposals also provided for additional time to allow for discussions with residents to agree a scheme suitable to residents.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the amendment sheet together with an additional informative asking the applicant to consider features such as seating in the communal garden areas, double glazed windows to reduce noise from vehicles and discussion with the resident of 11 Magnolia Drive regarding the cleaning of the window overlooking Enoch House.

140 150105 Eastwood Service Station, Ipswich Road, Colchester

The Committee considered an application for new image forecourt signage at Eastwood Service Station, Ipswich Road, Colchester. The application had been referred to the Committee at the request of Councillor Gamble. The Committee had before it a report in which all the information was set out.

Nadine Calder, Planning Officer, presented the report and assisted the Committee in its deliberations. In response to specific questions about parking provision and the historical

Douglas Fleming addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that his property suffered a loss of amenity due to the service station and this application was one of many that he had objected to over the years. The synergy sign positioned on a totem pole with blade repeater would be 3.1metres in height and, as such, would dwarf the pumps whilst there was no requirement for their presence. He believed there was

already a lot of advertising on the site. The colour was an overwhelming red which was not in accordance with a previous inspector's view that the site should not be unduly obtrusive and he disagreed with the officer's view that the proposal would have little impact. He also referred to two six feet high signs which had been erected above the car wash without the benefit of permission

Councillor Gamble attended and, with the consent of the Chairman, addressed the Committee. He explained that the residents were tired of the repeated applications in relation to the site due to their concerns about impact on their amenity. He referred to previous applications which had been refused by the Committee and had been turned down at Appeal. The site was in a predominantly residential area and the proposed illuminated signs would direct out into Ipswich Road. However, all of the signs added to the general cluttered appearance of the service station site. He asked, in the event that the application was approved, that the time condition during the opening hours of the service station be amended to specify an end time of 11:00pm.

Councillor G. Oxford attended and, with the consent of the Chairman, addressed the Committee. He was of the view that the proposals would add to the cluttered appearance of the site and the largest sign, being over 10 feet high and red in colour would be a very prominent feature of the street scene. He referred to previous applications which had been refused and sought consistency from the Committee to refuse the current application in line with the Inspector's view that signage was not necessary in a residential area. The service station was a thriving business which did not need to introduce changes to attract more custom. He referred to signage over the car wash facility which had been erected despite permission being refused.

Members of the Committee were generally of the view that the proposal was a reasonable one which would have minimal impact for residents especially given the width of the road and the distance of the houses from the forecourt.

RESOLVED (NINE voted FOR and TWO voted AGAINST) that the application be approved subject to the conditions contained in the report, amended to provide for permission for the signs to be illuminated between the hours of 07:00 and 23:00 daily.



Application No: 150234

Location: 1-7 Winnock Almshouses, Military Road, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **16 April 2015**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Alistair Day

Due Date: 12/05/2015

MAJOR

Site: 1-7 Winnock Almshouses, Military Road, Colchester

Application No: 150234

Date Received: 10 February 2015

Agent: Ms Tracey Skovronek, Purcell

Applicant: Winnocks & Kendalls Almshouse Charity

Development: Proposed demolition of 7 No. Existing Almshouses and construction of 10 new dwellings.

Ward: New Town

Summary of Recommendation: Conditional Approval

7.2 Case Officer: Alistair Day**LISTED BUILDING**

Site: 1-7 Winnock Almshouses, Military Road, Colchester

Application No: 150235

Date Received: 10 February 2015

Agent: Ms Tracey Skovronek, Purcell

Applicant: Winnocks & Kendalls Almshouse Charity

Development: Listed building application for proposed demolition of 7 No. Existing Almshouses and construction of 10 new dwellings.

Ward: New Town

Summary of Recommendation: Listed Building Consent

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because an objection has been received to this application.

2.0 Synopsis

2.1 The key issues explored below are:

- whether the development would constitute sustainable development;
- the impact of the proposed developments on the character and appearance of the area (including the loss of locally listed buildings and the setting of identified heritage assets) and whether the proposal constitutes good design;
- whether the proposal is acceptable in terms the Council's adopted amenity standards; and
- whether the parking proposals are acceptable.

3.0 Site Description and Context

3.1 The application site is located on the south side of Military Road and forms part of a larger site providing a total of 18 units of accommodation for elderly people. The application site comprises four buildings, representing seven units of accommodation, and the old boiler house.

- 3.2 The application site consists of three semi-detached units and one detached unit that date from 1934. The almshouses are built of red brick with tiled roofs in a simple Neo-Tudor style. The buildings have a blue painted timber doors with leaded light windows and black painted ironmongery flanked by a large window with a red brick surround and a red brick gable over. The timber brackets that support the roof over each door are painted white as is the remainder of the joinery. Each building has an inscription stone below one window, recording that the almshouses were funded by George Rose in 1934.
- 3.3 The almshouses are elevated above street level and are accessed either via a set of steps near Nos. 1-2 or along a gently sloping ramp from the northeast corner of the site. The application site is bounded to the north by Military Road. To the east of the site are Winnocks Almshouses beyond which is Golden Noble Hill. The Winnocks Almshouses are listed grade I for their special architectural / historic interest. The main range dates from 1698 and forms a fine example of the almshouses of that period. To the south, a timber boarded fence separates the almshouses from the residential housing beyond. The western boundary is formed by the flank wall of the adjacent properties and boundary walling.

4.0 Description of the Proposal

- 4.1 Consent is sought for the demolition of the 1930s almshouses and the construction of ten new almshouses. It is proposed that two units will remain semi-detached whilst a further eight units will be arranged in an L-shaped terrace of one and two storeys.

5.0 Land Use Allocation

- 5.1 Predominantly Residential

6.0 Relevant Planning History

- 6.1 None directly relating to current proposal.

7.0 Principal Policies

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan comprises the adopted Core Strategy (December 2008, amended 2014), Development Policies (October 2010, amended 2014) and Site Allocations Plan (October 2010).
- 7.2 The National Planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies that are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.3 The Colchester Borough Core Strategy provides local strategic policies and the following policies are most relevant to this application:

- SD1 - Sustainable Development Locations
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

7.4 In addition, the following are relevant adopted Colchester Borough Development Policies

- DP1 Design and Amenity
- 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

7.5 Other material considerations which should be taken into account include the subsequent planning guidance to the NPPF as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended

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

- Backland and Infill
- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- The Essex Design Guide
- External Materials in New Developments
- Affordable Housing

8.0 Consultations

Archaeological Officer

- 8.1 The comments from the Council's Archaeological Officer are summarised as follows:
- 8.2 This proposal is located in an area of archaeological interest, defined in the Urban Archaeological Database. Based on the known remains recorded close to the site, there is high potential for encountering medieval and early post-medieval occupation remains at this location. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.
- 8.3 There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, 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.

Historic Buildings Officer

- 8.4 The buildings in question are locally listed, dating to 1934. They are within the curtilage of the grade I listed Winnock's Almshouses, necessitating an application for listed building consent for demolition.
- 8.5 The Winnock's Almshouses form a group with some of the later of Kendall Almshouses and the almshouses on the other side of Military Rd, nos 8-22, all constructed to the same design, now in private ownership. The loose group of buildings adjacent to the historic Winnock's Almshouses has a more limited impact on the street scene than the other groups, partly as a consequence of their rather random placement on the site and partly because of their elevated position, well above street level.
- 8.6 Demolition of locally listed buildings is an unusual step and rarely acceptable in principle unless there are overriding reasons why this should be appropriate. It appears that these are very cramped buildings and that some are suffering structurally, although whether this genuinely makes adaptation of the buildings unviable has not been fully explored. I understand the agent has already agreed to provide this information.
- 8.7 If demolition is agreed in principle then the design of the proposed new buildings is sensitive to the setting of the grade I listed buildings, with the nearest building set back slightly further away from the historic buildings. The end buildings remain single storey, with the central buildings, grouped by the south-western corner of the site, rising to two storeys.

- 8.8 The design appears to retain the arts and crafts-type neo-vernacular character of the existing almshouses, despite the increase to two storeys, although the lack of full elevation drawings makes full comments on design impossible. It is regrettable that the aspiration to keep the spans of the new buildings narrow has resulted in flat roofed rear elements. Retention of some details would assist in tying these new buildings to the other nearby almshouses in appearance: for example the re-use of at least one of the inscription stones from the existing almshouses would be appropriate; the incorporation of a new inscription stone for the new buildings and; replicating the cross detail on the chimneys.
- 8.9 Paragraph 135 of the NPPF requires a balanced judgement to be made having regard to the scale of any harm of loss and the significance of the heritage asset. Given that this would constitute total loss of significance it will be necessary for this to be weighed against other considerations including the quality of the design of the replacement buildings in comparison to the existing buildings, and the impact on the setting of the listed buildings on site.
- 8.10 If the principal of demolition can be established by further justification and the minor amendments to the design incorporated there is no objection to approval of the application.

Tree Officer

- 8.11 The Tree Officer has verbally advised that he is content with the conclusions of the submitted tree survey, arboricultural impact assessment and tree protection plan.

Landscape Officer

- 8.12 The Landscape Officer has confirmed that he is satisfied with the landscape content/aspect of the proposals lodged on 25.02.15. Conditions are recommended once proposals have been agreed and/or as part of any planning consent given.

Contamination Land Officer

- 8.13 The submitted contamination report is acceptable for Environmental Protection purposes. It is noted that some potential sources of contamination have been identified in this initial assessment, and that it has been recommended that further intrusive investigations are undertaken, with the risks to be further assessed accordingly. Based on the conclusions that risks to relevant receptors are likely to be moderate to low, it would appear that the site could be made suitable for the proposed use, with the remaining actions being dealt with by way of condition. Since the potential for the presence of asbestos in existing structures has been identified, it is also advise that an appropriate asbestos survey (and action plan) be undertaken by suitably qualified and experienced persons, prior to the start of any modification or demolition works.

Environmental Protection Officer

- 8.14 Should planning permission be granted Environmental Protection has recommended that a condition is attached regarding hours of works together with the advisory notes for the control of pollutions during construction and demolition works.

Highway Authority

- 8.15 The Highway Authority has raised no objection to this application.

English Heritage

- 8.16 Winnock's Almshouses form an interesting group of buildings, and are themselves only one of a remarkable series of substantial almshouses in this part of Colchester. The main range dates from 1698 and forms a fine example of the almshouses of that period. The red brick, two storey terrace is a distinctive if unlearned essay in the classical style. The seven almshouses which it is proposed to demolish are single storey structures built to a neo-Tudor design in 1934, a continuation of the manner used for similar almshouses built earlier in the 17th century on the other side of the road.
- 8.17 The 17th century almshouses are of high significance, and their special architectural and historic interest is reflected in their listing at grade I. The seven almshouses of the 1930s are not of the same interest and are not nationally listed; but they are recognised by local listing, and they contribute to the setting of the 17th century almshouses and to the interest of the larger group of almshouses.
- 8.18 Approval is sought for the demolition of the seven almshouses and the construction of ten new almshouses. The proposal is motivated in part by the poor structural condition of the buildings, but also by their inconvenience to modern requirements and the applicants' wish to provide new accommodation. The loss of the almshouses would cause some harm to the setting of the 17th century range, and thereby modest harm to its significance. It is for your Council to weigh the loss of these almshouses as locally listed buildings. The proposed buildings are thoughtfully designed in a manner derived from the neo-Tudor of the 20th century buildings. Although greater in scale than the existing structures, their effect on the 17th century range would be limited both by the recessed placing of those closest to it and by the fact that the new buildings at the front of the site would be single-storey.
- 8.19 The National Planning Policy Framework provides policies to secure the conservation of heritage assets, an objective which forms part of the over-riding objective of securing sustainable development (NPPF, 7, 17). Local planning authorities are enjoined, inter alia, to take account of the desirability of sustaining and enhancing the significance of heritage assets, and of the positive contribution such assets may make to sustainable communities (NPPF, 131). Great weight should be given to the conservation of designated heritage assets, harm to the significance of which should require clear and convincing justification (NPPF, 132). Should proposed development entail such harm, local planning authorities should weigh that harm against such public benefits as would be secured by the development (NPPF, 134).

- 8.20 As noted, English Heritage consider that the proposed demolition of the seven 1930s almshouses would cause some harm to the significance of the 17th century range of almshouses, but that harm would be modest. Given the listing of the 17th century range, and the weight to be accorded to the conservation of its significance, the harm arising must be considered in determining this application. It will be for your Council to weigh this against the public benefits to which the application would also give rise, in accordance with the provisions of the National Planning Policy Framework (NPPF, 134).

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

9.0 Parish Council Response

- 9.1 N/a

10.0 Representations

- 10.1 One letter of objection has been received in respect of this application. This objection states that these are listed buildings and can clearly be viewed from the street and as such are a public amenity which should be properly protected. They form part of New Town heritage and should not be demolished.

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

11.0 Parking Provision

- 11.1 No car parking is to be provided as a part of the current proposal.

12.0 Open Space Provisions

- 12.1 Communal private amenity space is to be provided as a part of this development.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should have been required to mitigate the impact of this development.

15.0 Report

The Proposed Development

- 15.1 The application site comprises four almshouses (three semi-detached units and one detached unit) that date from 1934 and a utilitarian boiler house. The almshouses are built of red brick with tiled roofs in a fairly simple Neo-Tudor style. Consent is sought for the demolition of the 1930s almshouses and the construction of ten new almshouses. The proposal is motivated in part by the poor structural condition of the buildings, but also by their inconvenience to modern requirements and the applicants' wish to provide new accommodation. Two units will remain semi-detached whilst a further eight units will be arranged in an L-shaped terrace of one to two storeys.

Land Use

- 15.2 The application site is identified in the Site Allocations Plan as Predominantly Residential. CS Policy SD1 and H1 promote development in sustainable locations. The NPPF also has at its heart a presumption in favour of sustainable development.
- 15.3 The application site is located in an established residential area in relatively close proximity to the town centre. Given this, and the existing use of the site (residential accommodation for the elderly), there is not an objection in principle to the erection residential dwellings for the elderly on this site.

Heritage and Design Considerations

- 15.4 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting. CS Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and Development Plan Policy DP1 seek to promote and secure high quality design
- 15.5 The NPPF states that the core planning principles should be to '*conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations*'. In determining planning applications, the NPPF advises at paragraph 131 that account should be taken of '*the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness*'. In weighing applications that affect directly or indirectly non designated heritage assets the NPPF states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 15.6 The 2008 English Heritage (EH) guidance on Conservation Principles, Policies and Guidance is also useful when considering significance, describing a range of '*heritage values*' that may be attached to places.

- 15.7 The application site is located in an area of archaeological interest and there is high potential for encountering medieval and early post-medieval occupation remains. The Archaeological Officer has advised that there are no grounds to refusal of permission in order to achieve the preservation *in situ* of any buried archaeology. However, in accordance with the *NPPF* (Paragraph 141), the Archaeological Officer has advised that 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.
- 15.8 The 1930s Almshouses are located in the curtilage of the 17th century Winnocks Almshouses and, because they pre-date the 1st July 1948, they are afforded listed building protection. The 17th century almshouses are of high significance, and their special architectural and historic interest is reflected in their listing at grade I. The 1930s almshouses are not of the same interest and are not considered to be of listable quality in their own right (i.e. they are not of significant national architectural or historic interest). The almshouses have however been identified as being of local architectural or historic interest (i.e. they are included on the Council's adopted Local List). The 1930s almshouses are also considered to contribute to the setting of the 17th century almshouses and to the interest of the larger group of almshouses that are located in this part of Colchester.
- 15.9 The *NPPF* states that the effect of an application on the significance of a non-designated heritage asset (i.e. locally listed buildings) should be taken into account in determining the application. In weighing applications that affect non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 15.10 Given the above, an assessment needs to be made of the reasons put forward for the demolition of the almshouses. If the demolition of almshouses is acceptable in principle, the proposed replacement building must be of an appropriate quality and provide public benefit to outweigh the loss of the existing buildings.
- 15.11 Architecturally, the 1930 almshouses are built in a simple Neo-Tudor style and replicate the design of the earlier almshouses on the north side of Military Road. Whilst the front façades remain relatively unaltered, the insertion of plastic windows has had a detrimental impact on the appearance of the almshouse). Rear extensions have added to the almshouses and the interiors have been subject to alteration which has stripped almost all original features from the buildings. Given their plain design and extent of alterations, the 1930s almshouses are considered to have medium to low aesthetic value.
- 15.12 The submitted Heritage Statement assigns the almshouses with a low score for their evidential and associative value and medium score in terms of their group value. The primary association of the 1930s almshouses is with George Rose, the benefactor who enabled the construction of these and other almshouses.

- 15.13 The 1930s almshouses are in a poor condition. There is evidence that they have suffered from structural movement and cracking. The buildings have also suffered damage from water penetration. The poor condition of the almshouses is verified by a submitted structural engineers report. A statement from the Trustees explains that the almshouses are currently vacant and have not been used for some time. The submitted Statement goes on to explain that this is in part due to the poor structural condition of the buildings and the failure of drainage system but is also due to the fact that their internal layout is no longer considered suitable for accommodating elderly people.
- 15.14 The demolition of locally listed buildings is an unusual step and rarely acceptable in principle unless there are overriding reasons why this should be appropriate. In this case, the agent has explained that the 1930s almshouses provide cramped living accommodation and are not fit for purpose as they do not provide the separate bedroom and sitting room required under current standards. Internally the almshouses are also awkwardly laid out so that they are not suitable for wheelchair users. The Charity that owns the almshouses is required to use the site for accommodating older people and cannot use the buildings for other purposes. In view of this, the Charity has two options: namely to refurbish and extend the existing buildings or to build new units of accommodation. The first option would not only be unlikely to resolve the existing problems of poor internal layout but would also compromise the external appearance of the building and in doing so further undermine their aesthetic value. The buildings have also suffered from structural movement and cracking. The cost of underpinning, adapting and extending the 1930s almshouses so that they meet modern requirements would be significant and is not considered a practical or viable proposition. As noted above, the Winnocks Almshouses, form part of a group of almshouses in this part of Colchester. The almshouses that are the subject of this application have a more limited impact on the street scene compared to other almshouses in this group, due to their loose random grouping and due to the fact that they are set back and elevated well above the street. In this instance, given the unique circumstances of this case, it is considered that the principle of demolishing the locally listed buildings can be accepted. A recording condition is proposed as is the reuse of the date stone.
- 15.15 The NPPF states that new development should make a positive contribution to local character and distinctiveness. It is important that the proposed replacement building is of a high quality design both to ensure that it makes a positive contribution to the local street scene and to safeguard the setting of the 17th century almshouses.
- 15.16 It is proposed to build ten units of elderly people's accommodation. Two units (nos. 1 & 2) are located in the north west corner of the site adjacent to Military Road. These buildings are located approximately on the footprint of two of the existing almshouses, are single storey in height and have been designed to echo the form of the existing buildings. The remaining units are arranged in an L-shaped terrace. The Design Statement explains that this terrace has been massed so that the tallest part, with two storeys, is concentrated in the southwest corner of the site, where it will have least impact on views from the road and the setting of the Grade I listed almshouses. The Design Statement also notes that this terrace is articulated so that it reads as pairs of units, similar to the existing buildings, rather than as one continuous terrace. The proposed building is thoughtfully designed in a manner derived from the neo-Tudor of the 20th century buildings. Although the new development is greater in scale than the

existing almshouses, it is considered that their effect on the 17th century almshouses would be limited by both its recessed placement and by the fact that the new building is single storey immediately adjacent to the historic range. The proposed new building is considered acceptable both in terms of the setting of the grade I listed building and in terms of its general design.

Residential Amenity

- 15.17 Development plan policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. The adopted Essex Design Guide (EDG) provides guidance on the protection of residential private amenity. The EDG explains that privacy can be achieved by remoteness and indicates that where rear facing houses are approximately parallel a rear “eye to eye” distance of 25 metres is required. The EDG goes on to state that where a new house is at right angles to an existing property and there are no windows in the flank, end the new building may encroach up to a metre from the boundary provided this does not create a problem of overshadowing.
- 15.18 The proposed new almshouses have been designed to both safeguard the setting of the listed building and the amenity of the existing residents. With regard to the neighbouring properties, the existing housing to the south of the site (Atlee Gardens) are set on higher ground (approx. 2m) and are located some 8-12m from the boundary of the application site. There is a two storey residential property set perpendicular to the west boundary of the application site. A large warehouse style building (accessed from Military Road) is located on boundary of the north west corner of the site with commercial uses on the ground floor and accommodation above.
- 15.19 The proposed new almshouses are located some 7.2m from the south boundary of the site, creating a minimum back-to-back distance with the properties in Attlee Gardens of 15m. The lower ground levels of the application site combined with the orientation of the upper floor windows in the proposed new almshouses means that the properties in Attlee Gardens will not suffer a loss of privacy by overlooking. The Building Research Establishment’s Report “Site Layout Planning for Daylight and Sunlight 1991 suggests that acceptable daylight in interiors is achieved if a 25° vertical angle from a point two metres above the floor is not obstructed. The relationship between the proposed development and Attlee Gardens will not infringe this guideline. The housing adjacent to the west boundary (Central Park Heights) is set perpendicular to the application site and there are no windows in the flank walls (facing onto the application site). The proposed development is not considered to generate an unacceptable loss of light or overlooking in respect of these properties. The warehouse style building fronting Military Road has a single first floor window located on the flank boundary wall with the application. Whilst the proposed development is set nearer to the boundary than the existing almshouses, the buildings remain single storey in height and, as such, are not expected to have an undue adverse impact on the adjacent property.
- 15.20 The proposed development has the potential to cause noise and dust during the demolition and construction process; it is however considered that conditions requiring the submission of a construction method statement can adequately mitigate any potential adverse effects of this development.

- 15.21 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the living conditions of the neighbouring residential properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 or Paragraph 17 of the Framework insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

Private and Public Open Space Provision

- 15.22 Development Plan Policy DP16 sets out standards for private amenity space however the text accompanying this policy acknowledges that these standards are not always helpful for producing good quality development in compact urban development.
- 15.23 The proposals provide a landscaped communal garden area to the front of the new almshouses and more private areas will be set to the rear of the units. This arrangement is similar to the existing provision and, whilst the current proposal will result in a net increase of three units, it is not considered unreasonable given the constraints of the site and its edge of town centre.

Trees and Landscape

- 15.24 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in Section 11 of the Framework.
- 15.25 There are a number of trees on the site and a detailed 'Tree Survey and Constraints Plan' has been prepared to inform design proposals. This report notes that the trees are of a mixed condition and age and provide limited amenity benefits. The Council's Tree Officers has reviewed the submitted tree survey and is in agreement with its conclusions. The Council's Landscape Officer has stated there is not an objection to the landscape element of the proposal and that the detailing can be conditioned.
- 15.26 It is considered that the development proposals are acceptable and would accord the Council's development plan and central government guidance.

Transport and Accessibility

- 15.27 Core Strategy and Development Plan Policies seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy.
- 15.28 Pedestrian access to the site is currently via a ramped approach and steps from Military Road. The current application does not propose any alteration to the existing pedestrian access arrangements. There is currently no vehicular access to the site and this will remain unchanged.
- 15.29 There is an existing good pedestrian network surrounding the site which is located in close proximity to the existing bus stop in Military Road and the Colchester Town Rail Station

- 15.30 The Highway Authority has confirmed that they do not have an objection to this application. It is considered that any potential highway impacts during the construction period can be mitigated by means of conditions, including the approval of a Construction Management Plan.
- 15.31 Given the above, it is considered that the proposed development would not harm the safe and efficient use of the highway network, and would accord with the guidance of the NPPF, which advises that development should only be refused on transport grounds where the residual cumulative impacts would be 'severe'.

Parking

- 15.32 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location. Development plan policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009.
- 15.33 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided and that for one bedroom units 1 space per unit is acceptable. In addition to this provision visitor parking at a ratio of 0.25 spaces per unit is generally required. The guidance does however state that where development is located within the urban areas with good links to sustainable transport a lower parking standard can be considered.
- 15.34 No parking is currently provided at the Winnock's Almshouse site and no parking is proposed as part of the current application.
- 15.35 The Military Road frontage forms the site's only access onto an adopted highway. It is not considered appropriate to create a new vehicular access onto Military Road - either from a highway perspective or in terms of the impact that this would have on the setting of the grade I listed Almshouses and the street scene in general. The current application will result in a net increase of three units of elderly person's accommodation. Given the above context, the proposal not to provide on-site car parking is considered acceptable in this instance.

Affordable Housing

- 15.36 CS Policy H4 requires housing development over ten units to provide 20% affordable housing. The proposed development is to provide 10 lifetime homes units of residential accommodation for elderly. The accommodation is to be provided by the Winnocks and Kendalls Almshouse Charity and in their supporting statement they notes that "all the properties are occupied at a "rent" which can be paid through Housing Benefit for those who qualify". The Charity also state that they will work with Colchester Borough Council's Choice Based Lettings Scheme to prioritise referrals.
- 15.37 Whilst the proposal does not provide true affordable housing, the scheme will provide housing that addresses a particular housing need within Colchester and, as such, this weighs in favour of the application.

Contamination

- 15.38 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 15.39 The desk top based contamination report accompanying this application concludes that there is potential for the site to contain contamination and on this basis recommends that further investigation work is undertaken. The Council's Contamination Land Officer agrees with the conclusions of the submitted report and has recommended conditions to provide a framework for further assessment, and remediation works.

Air Quality

- 15.40 The Core Strategy contains policies for the delivery of development, infrastructure, facilities and services in Colchester to 2021. The Council does not have any specific policies on air quality within the Core Strategy; Policy TA4 however states that "The demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character." The adopted Colchester Borough Council - Air Quality guidance note is a material consideration.
- 15.41 The northern part of Mersea Road is located within an Air Quality Management Area (AQMA). The Council's Air Quality Guidance states the designation of an AQMA does not mean that there will be no development allowed within the area [or adjacent to an area], but that greater weight must be given to the consideration and removal of the impacts of any proposed development on air quality.
- 15.42 The proposed development is modest in scale and is not considered to have an adverse impact on local air quality. It is considered that the proposed development is consistent with the requirements of the Council's adopted development plan policies, supplementary planning guidance and the Framework as regards to air quality impacts

16.0 Conclusion

- 16.1 The current application will deliver ten residential units in a sustainable location. There would be economic benefits as a result of construction activity and the possible creation of additional jobs. The redevelopment of this site will also contribute towards the positive regeneration of this part of town and will increase the provision of accommodation for elderly persons. These attributes weigh in favour of the applications. There is also sufficient evidence to be confident that overall the development will not have an adverse impact upon the highway network or the amenity of nearby residents.

16.2 A core planning principle of the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The 1930s almshouses are of local significance because of their historic and socio-cultural interest and have value as a non-designated heritage value. It is accepted that it is not practical or viable to repair, alter and extend the existing the locally listed almshouses so that they meet the modern requirement of elderly person's housing. The demolition of the almshouses would change the setting of the grade I listed almshouses; however the proposed new scheme has been sensitively designed so as not to have a material detrimental impact on the setting of this building. As such, it is considered that the proposal to demolition to the 1930s almshouses and erect a new 10 unit almshouses would not conflict with national and local policy or the requirements of Planning (Listed Buildings and Conservation Area).

16.3 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts and, the officer recommendation is that planning approval should be granted subject to the suggested conditions.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

Planning Application 150234

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers I 232861 / 201C, 203C, 204C, 205B, 206, 207.

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

3 - Non-Standard Condition/Reason

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.

4 - Non-Standard Condition/Reason

No works shall take place until samples of the brick, tiles and ridge tiles to be used in the construction of the external surfaces of the works hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

Reason: In order to ensure that materials are appropriate to the setting of the adjacent grade I listed Winnocks Almshouse.

5 - Sample Panel

Prior to the commencement of any works a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: In order to ensure that the brickwork can be satisfactorily considered on site with regard to preserving the character of the listed building.

6 - 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.

7 -External Joinery to be Painted Timber

All external joinery shall be of painted timber.

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

8 - Non-Standard Condition/Reason

An example of the existing inscription stone shall be preserved on display on the site, in a manner to be agreed in writing with the Local Planning Authority and shall henceforth be so maintained.

Reason: To retain a reference on site to the almshouses proposed for demolition.

9 - *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.

10 - Tree and Hedgerow Protection: General

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

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

11 - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

12 - Contaminated Land Part 1 of 4 (Site Characterisation)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

13 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

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

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

14 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

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

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

15 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 14.

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

16 - *Validation Certificate

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

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

17 - Non-Standard Condition/Reason

The development hereby permitted shall not commence, including any works of 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. The Statement shall:

- i) Specify the intended hours of working on site during the demolition and construction period;
- ii) The arrangement for the parking of vehicles of site operatives and visitors;
- iii) The arrangement for the loading and unloading of plant and materials;
- iv) The storage of plant and materials used in constructing the development;
- v) Arrangements for ensuring dirt and debris from the site is cleared from the highway; and
- vi) Specify measures to control the emission of dust and dirt during construction.

Reason: To safeguard the amenity of local residents.

18 - 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.

19 - Removal of PD for All Residential Extensions & Outbuildings

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

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

20 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) no additional windows, dormer windows or other openings shall be formed in the building including the roof(s), without the grant of further specific planning permission from the Local Planning Authority, unless the opening to be formed matches exactly the fenestration pattern, sills, headers, of the original development.

Reason: To safeguard the private amenity of nearby residents from overlooking.

20.0 Informatives

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

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

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

Listed Building Application 150235

1 - 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 - Non-Standard Condition/Reason

Prior to the commencement of any works, an appropriate programme of building recording shall be carried out in respect of the buildings concerned. This record shall be carried out by an archaeologist or building recorder, or an organisation with acknowledged experience in the recording of standing buildings who shall have previously been agreed, in writing, by the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has previously been agreed, in writing, with the Local Planning Authority.

Reason: To secure the proper recording of the almshouses.

3 - Non-Standard Condition/Reason

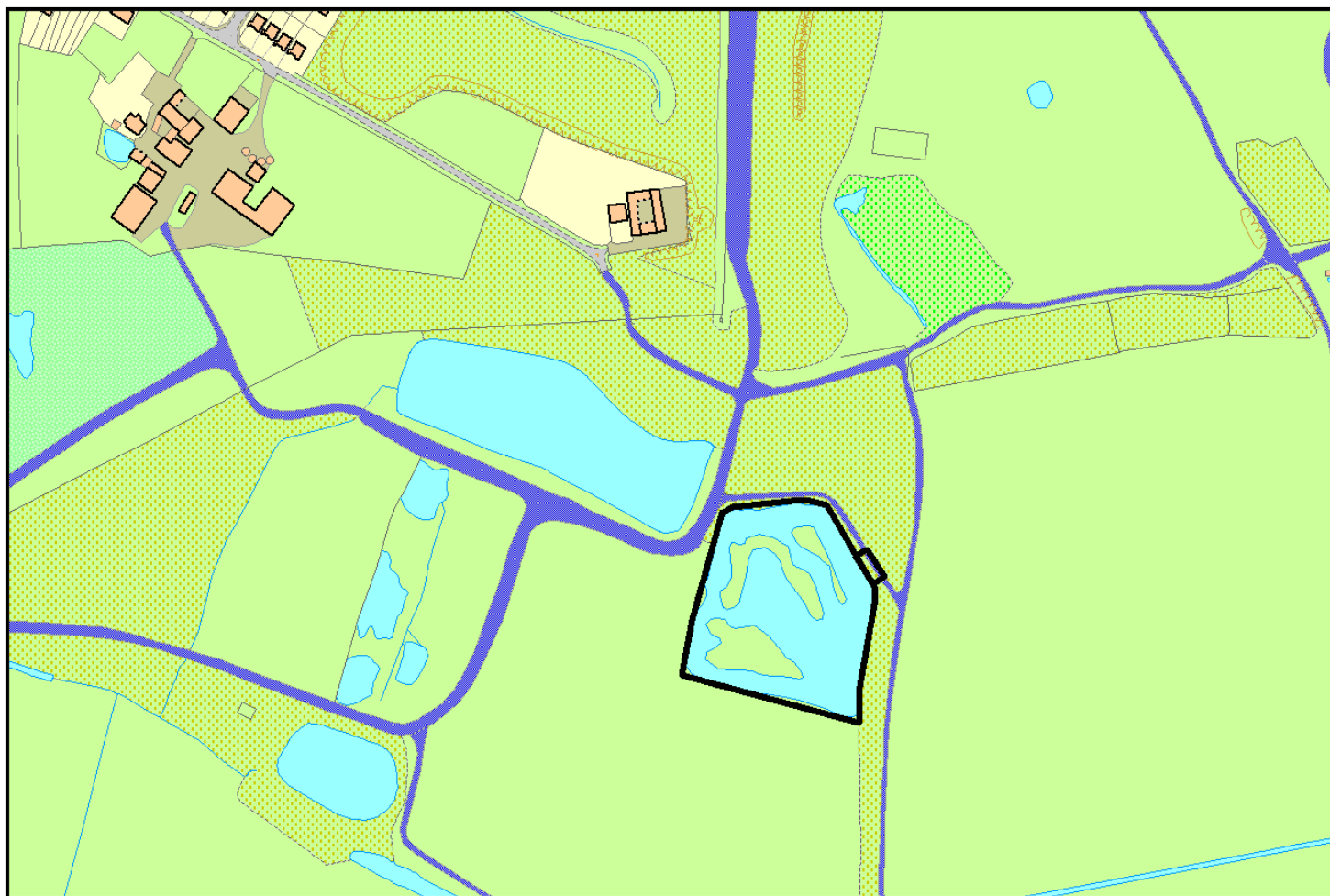
The existing buildings that are subject to this application shall not be altered by way of demolition until:

(a) a binding contract for the full implementation of the scheme of redevelopment granted planning permission under reference number 150234 has been entered into; and

(b) all necessary permissions and consents have been obtained; and

(c) evidence thereof shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure 1930s almshouses are only demolished once the implementation of the development approved under application 150234 has been secured.



Application No: 146566

Location: Land South of, Holmwood Farm, Brook Hall Road, Fingringhoe, Colchester, CO5 7DG

Scale (approx): 1:2500

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7.3 Case Officer: Simon Osborn Due Date: 01/05/2015

MAJOR

Site: **Land south of Holmwood Farm, Brook Hall Road, Fingringhoe, Colchester, CO5 7DG**

Application No: **146566**

Date Received: 30 January 2015

Agent: Guy French, Whirledge and Nott

Applicant: C M Cock

Development: Change of use of lakes to recreational fishing and formation of hardstanding car park.

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is classed as a major application on the basis of the site area and a number of objections have been received.

2.0 Synopsis

- 2.1 The key issues explored below are the principle of recreational fishing of the lake and the implications of the proposal for users of the farm track cum bridleway. It is recommended that approval be granted for the proposal.

3.0 Site Description and Context

- 3.1 The application site extends to 1.65 hectares and forms part of the land within Holmwood Farm. The site includes a lake with a small car park on its northern side, accessed by means of a farm track, which is also used as a public footpath and bridleway. Access onto the farm track is gained from South Green Road, close to the entrance to the Fingringhoe Wick Nature Reserve. The surrounding landscape is gentle and undulating with a patchwork of fields, woods and trees.

4.0 Description of the Proposal

- 4.1 The application seeks to regularise the use of the lake for recreational fishing purposes and the creation of hardstanding for a small car park that can accommodate up to about 8 cars. A pair of gates has been constructed where the car park access meets the farm track/ bridleway and there are also some woodchip pathways around the lakes.

- 4.2 The lake is operated by a fishing syndicate, with 16 active members, which is privately run and not open to the general public. The site is restricted to 16 pegs although the use of these is restricted to ensure the retention of fishing stocks and to avoid over-fishing. The agent states the use is relatively benign and usually has only 1 or 2 cars at any one time at the lake.

5.0 Land Use Allocation

- 5.1 Agricultural/ recreational land
Coastal Protection Belt

6.0 Relevant Planning History

- 6.1 Various historic minerals consents have been granted by Essex County Council
- 6.2 Application 142446 for a proposed solar farm was refused by the Council on land to the south and east of the application site within the land edged in blue.

7.0 Principal Policies

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

UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

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

DP1 Design and Amenity
DP8 Agricultural Development and Diversification
DP10 Tourism, Leisure and Culture
DP17 Accessibility and Access
DP19 Parking Standards
DP21 Nature Conservation and Protected Lanes
DP23 Coastal Areas

8.0 Consultations

- 8.1 ECC Highways stated it had no objection to the proposal subject to the following notes and informatives:
- (a) The public's rights and ease of passage over Bridleway no4 (Fingringhoe) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. Any unauthorised interference with the route will constitute a contravention of the Highways Act 1980,
 - (b) Whilst it is recognised that landowners have the ability to grant access to their property by third parties, the use of the Bridleway by vehicles is, in highway terms, classed as exceptional use. As such the responsibility to rectify any damage caused to the bridleway surface by these vehicles would remain with the landowner,
 - (c) All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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: Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester, CO4 9QQ.
- 8.2 The Ramblers Association stated, "We believe this application should not be considered until the diversion of bridleway Fingringhoe number 4 from out of the fishing lake onto the used track is completed. (It was noted as part of the recent solar panel application on adjacent land). The additional traffic in the quiet lanes and the mix of heavily laden fishermen's cars with walkers and horses on the track is also a concern."
- 8.3 Natural England made no comments.
- 8.4 The RSPB made no comments.
- 8.5 Environmental Control made no comments.

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

9.0 Parish Council Response

- 9.1 The Parish Council has stated that it has no objection to the proposals provided the public rights of way which pass through this area are not obstructed and are still able to be used unhindered by dog walkers and horse riders.

10.0 Representations

10.1 7 representations in support of the proposal and four of objection. Those in favour stated the works to the pond had improved the appearance of the area. Those in opposition made the following points:

1. The route to the fishing lakes is used by local people for quiet country walks who should not have to worry about traffic
2. There have been an increase in the number of speeding vehicles down the narrow country lanes.
3. The bridleway should only be used by light vehicles.
4. The use of the fishing lakes should remain unrestricted.

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

11.0 Parking Provision

11. The application includes provision of a small car park that can accommodate up to about 8 cars. There is no adopted parking standard for this form of use.

12.0 Open Space Provisions

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

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that a Planning Obligation was not appropriate for the use and development proposed.

15.0 Report

15.1 Policies ENV1 and DP23 look to conserve and enhance the natural environment of the Borough. In the Coastal Protection Belt development will not be permitted that would adversely affect the open and rural character of the undeveloped coastline. There are a number of adopted policies that look favourably upon farm diversification proposals (DP8) and leisure proposals (ENV2 and DP10) where these proposals are of an appropriate scale and compatible with local character and the natural environment.

- 15.2 The use of the lake for private recreational fishing purposes is considered to be one of the uses that would normally be appropriate for a rural area such as this. The lake was formed between 1966 and 1973 as part of remedial works to the former mineral workings on the land. The current tenant took occupation of the lake and surroundings in 2014 and has improved the fish habitat and management of the surrounding vegetation, and a number of the representations refer to the improvements that have been made. The physical changes around the lake, including the construction of the car park are generally ancillary to the proposed use and in any case are well-screened from public view by existing vegetation features.
- 15.3 The main concern raised by representations to the proposed use relates to the access to the lake by private vehicles. The access to the farm track that ultimately leads to the lake is along narrow country lanes from the direction of Fingringhoe village. These lanes include South Green Road, which is a Protected Lane. At the eastern end of South Green Road one track leads into the Fingringhoe Wick Nature Reserve and Visitor Centre, whilst another track leads toward the fishing lake and ultimately connects into Brook Hall Road and Holmwood Farm. This track is used by walkers and horseriders, as well as vehicles going to the lake and any farm traffic. The track is a bridleway (part of Fingringhoe No. 4).
- 15.4 Policy DP21 states that protected lanes will be protected from development that would adversely affect their physical appearance or would give rise to a material increase in the amount of traffic using them. The agent has stated that an average of 10 vehicles per week is expected as a maximum in association with the use of the lake for recreational fishing purposes. The proposal will therefore result in more private cars using the lane; however, it is anticipated that much of the traffic using the road is associated with the visitor centre at the Fingringhoe Wick Nature Reserve. No objection to the proposal has been received to the proposal from the Highway Authority.
- 15.5 The track from South Green Road to the fishing lake is about 400 metres in length. The Ramblers Association and some of the representations raise concern at potential conflict between the vehicles of the fishermen and horseriders and walkers. These concerns are understood and noted. However, the countryside is there for the enjoyment and livelihood of many different groups, not just walkers and horseriders. Fishing is a legitimate countryside activity and the use of the lake for these purposes is a form of diversification for an agricultural business.
- 15.6 The Highway Authority in their response stated: (a) the public's rights and ease of passage over Bridleway no4 (Fingringhoe) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. Any unauthorised interference with the route will constitute a contravention of the Highways Act 1980, (b) whilst it is recognised that landowners have the ability to grant access to their property by third parties, the use of the Bridleway by vehicles is, in highway terms, classed as exceptional use. As such the responsibility to rectify any damage caused to the bridleway surface by these vehicles would remain with the landowner. These two points were recommended as informatives and are not an objection to the proposal.

- 15.7 The official route of Bridleway No. 4 (Fingringhoe) only follows the farm track for part of its route and much of it lies a little to the west of the actual farm track. This apparently came to light during the consideration of application 142446 for the proposed solar farm. The official route not only crosses farmland, but also fenced in woodland, across the long established lakes and also across the car park that forms part of this application. Paragraph 8.5 of the report for application 142446 included the following response from the Public Rights of Way section of Essex County Council: "Most of the northern end of Bridleway is unavailable, being underwater or running through fenced in wooded areas. An application to divert the Bridleway has been made but it is unlikely this will be dealt with before next summer. In the meantime although the official line of the PROW should be made available, given the physical constraints this is not very likely!"
- 15.8 The Ramblers Association stated this application should not be considered until the diversion of the bridleway from out of the fishing lake onto the used track is completed. However, that would result in considerable delay in the determination of this application. In practice the route shown on the definitive map is impossible to use because much of it is underwater. And, in the unlikely event that the landowner was ever required to reinstate the line of the footpath, the change of use of the application site for fishing purposes and the ancillary car park would not prevent this. It is considered therefore that there are no issues relating to the diversion that would impose a justifiable impediment to the determination of this application.

16.0 Conclusion

- 16.1 The change of use of the lake to recreational fishing purposes and the creation of a small car park associated with this use is considered to be an acceptable activity in a countryside location such as this. The use of the lake for these purposes will result in a number of vehicles using a farm track and bridleway. It is appreciated that this may lead to some occasional conflict with walkers and horseriders. Nonetheless, the countryside is there for the enjoyment and livelihood of many different groups. The proposed use is considered to be small-scale and appropriate for this location in accordance with the Council's adopted planning policies.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings (location plan, site plan and block plan of car park).

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

3 - *Premises Only for a Specific Use

The site shall be used for recreational fishing purposes only as defined in the Use Class Order and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

4 - Non-Standard Condition/Reason

The use of the site for recreational fishing purposes shall be limited to 16 pegs and for members of the fishing syndicate only as described in the Planning Statement submitted with the application and supplementary email sent on 24 February 2015.

Reason: For the avoidance of doubt as to the effect of this permission and to ensure that the level of activity is appropriate for the character of the area and the surrounding roads and bridleways.

5 - No External Light Fixtures

No external lighting fixtures shall be constructed, installed or illuminated at any time.

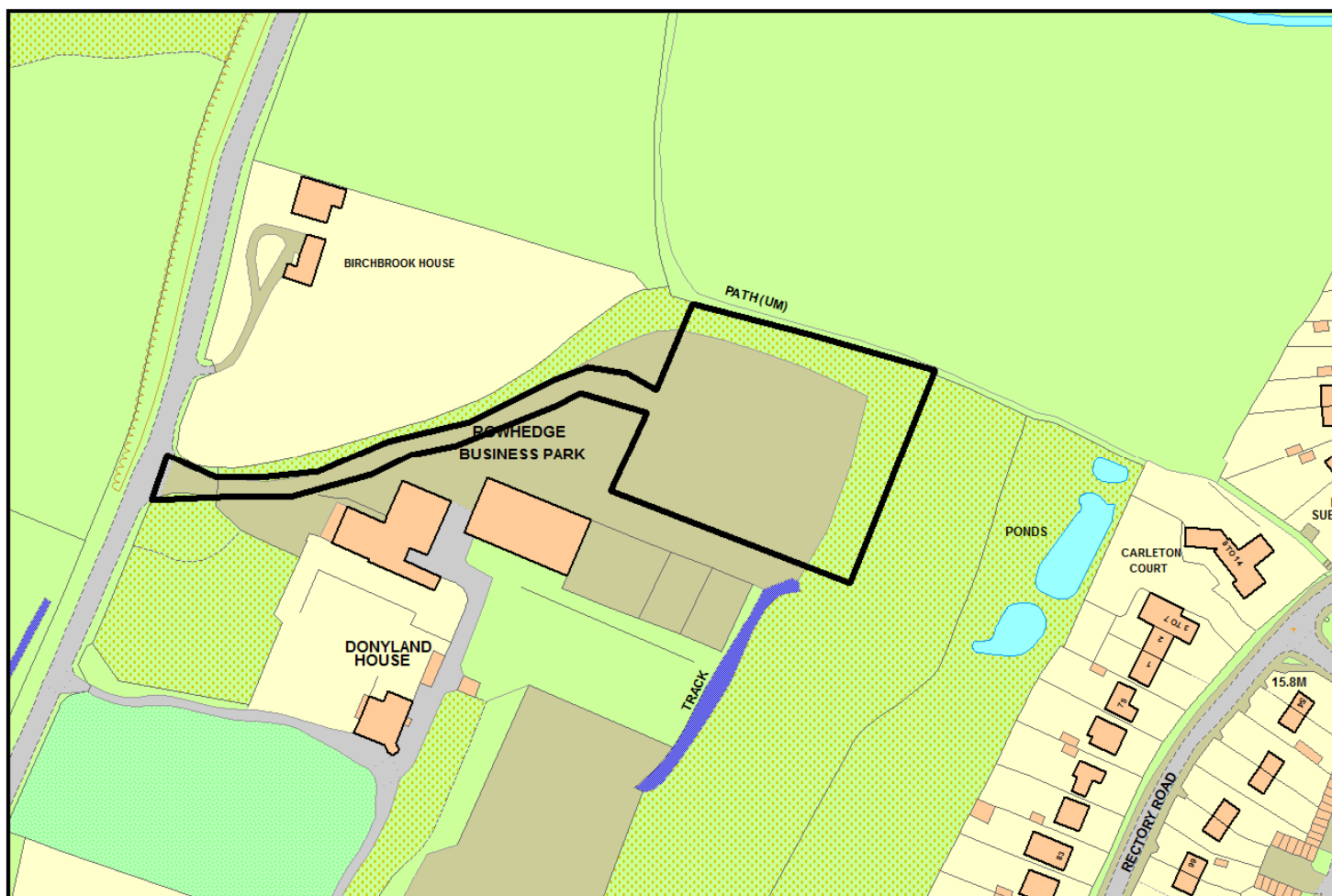
Reason: To ensure that there are no undesirable effects of light pollution

20.0 Informatives

(1) The public's rights and ease of passage over Bridleway no4 (Fingringhoe) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. Any unauthorised interference with the route will constitute a contravention of the Highways Act 1980.

(2) Whilst it is recognised that landowners have the ability to grant access to their property by third parties, the use of the Bridleway by vehicles is, in highway terms, classed as exceptional use. As such the responsibility to rectify any damage caused to the bridleway surface by these vehicles would remain with the landowner.

(3) All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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: Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester, CO4 9QQ.



Application No: 143704

Location: Rowhedge Business Park, Fingringhoe Road, Rowhedge, Colchester, CO5 7JH

Scale (approx): 1:1250

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7.4 Case Officer: James Ryan

OTHER

Site: Rowhedge Business Park, Fingringhoe Road, Rowhedge, Colchester, CO5 7JH

Application No: 143704

Date Received: 7 April 2014

Agent: Mrs Sharon Smith

Applicant: Mr Graham Rampling

Development: Change of use of land to plant hire business.

Ward: East Donyland

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Lilley on the grounds of public safety, environmental issues, noise and nuisance.

2.0 Synopsis

- 2.1 The key issues explored below are the principle of development, the impact on the countryside, the impact on neighbours and the impact on the highway network.

3.0 Site Description and Context

- 3.1 The site is located on the edge of Rowhedge and is accessed off of the Fingringhoe Road. It is broadly rectangular and makes up one part of the larger Rowhedge Business Centre. To the north is an agricultural field, to the east is a small area of mixed woodland with dwellings beyond. To the south is an area of unused land and beyond that is the site that is currently being used unlawfully by Ramplings Plant Hire. To the north-west is Birchbrook House which is a residential dwelling and to the west is the rest of the Business Park and the main Fingringhoe Road beyond that.
- 3.2 At the entrance to the Business Park is a car sales area which is currently under investigation by the enforcement team. Further into the site are more car based uses (eg servicing) and a plant hire compound relating to another company.

4.0 Description of the Proposal

- 4.1 The change of use of this section of the business park to a plant hire business is proposed. A number of buildings to facilitate this use are also proposed.

5.0 Land Use Allocation

- 5.1 The land is not allocated on the Council adopted Proposals Maps. It is therefore brownfield land located in the defined countryside.

6.0 Relevant Planning History

- 6.1 COL/1070/75 – Workshop and toilet to house plant hire and equipment – Colchester Plant Hire – Approved.
- 6.2 COL/217/77 – A 12000 square foot building approved for the storage of building and plant – Colchester Plant Hire – Approved.
- 6.3 COL/1548/77 – Erection of computer room and extension to offices – Colchester Plant Hire – Approved.
- 6.4 COL/1603/79 – Erection of single storey building for use as plant cover – Colchester Plant Hire – Approved.
- 6.5 COL/1402/80 – Erection of walls, cladding and doors to make machinery storage buildings secure and enclosed – Colchester Plant Hire – Approved.
- 6.6 There are also a number of historic refusals but these have no particular relevance to this scheme.
- 6.7 Therefore it is clear that plant hire has taken place on site in the past, however this appears to have stopped some years ago. Another plant hire firm uses a compound on the site for plant storage however it does not actively operate from the site.
- 6.8 The planning history of the site to the south access off of Rectory Road where the use is currently operating from is also relevant. The Council refused an application for the existing use in 2012, application reference 121389. Following this application 131756 was received which was not materially different to the 121389 scheme and the Council declined to determine.
- 6.9 Following this, application reference 144677 was received which the Council did not determine but was accepted for appeal determination by the Planning Inspectorate. This scheme (application reference: 144677 and appeal reference: APP/A1530/A/14/2221633) was dismissed at appeal.
- 6.10 That appeal decision is particularly important as it pertains to the same use that this application proposes and the application site at hand is only located a matter of metres away from the dismissed appeal site to the south. The important issues arising from the Inspector's decision will be set out in a section below.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
CE3 - Employment Zones
UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP8 Agricultural Development and Diversification
DP9 Employment Uses in the Countryside
DP17 Accessibility and Access
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

8.0 Consultations

8.1 Highway Authority - The access to the Business Park is a matter of fact and is used regularly by larger vehicles. As such the existing highway users in the area are aware of the traffic associated with the site. Whilst the proposal would intensify the use of the access, the original application for this proposal utilised an access onto Rectory Road which necessitated the use of the Rectory Road/Fingringhoe Road junction. It is noted that the Business Park access is provided with better visibility splays than the aforesaid junction and as such the current proposal is less likely to create safety or efficiency issues for the existing highway users. The Highway Authority raises no objection to this proposal.

8.2 Essex and Suffolk Water - We note that the Cussen drawing number 1011/03 Rev B shows the revised building positions as a result of our response given in our email dated 30th October 2014, regarding our easement of our two Strategic Trunk Water Mains. We therefore have no objection to the change of use of the land to a plant hire business.

- 8.3 Environmental Protection – No objection subject to conditions to control the storage of oils, groundwater protection and full set of contaminated land conditions.
- 8.4 Natural England – Natural England are satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which these sites has been notified. We therefore advise your authority that these SSSI's do not represent a constraint in determining this application.
- 8.5 Planning Policy – The team initially stated: 'The main proposal is considered in accordance with adopted national and local policies: the proposal would result in the sustainable relocation of the applicant's business from non-previously developed land (operating without planning permission) to a Business Park with existing and historic plant hire use. However, in order for the development to be policy compliant highway access should be served from Fingringhoe Road only'.
- 8.6 Following the revisions Planning Policy has now stated: 'This application sets out revisions made to the planning application which originally sought to use an existing access directly off Rectory Road. The application is now varied to utilise the existing access into the Business Park, directly off Fingringhoe Road. With the addition of the revised site access it is considered that the proposed development is consistent with national and local planning policy. On this basis, there is no planning policy objection to this application.'
- 8.7 Environment Agency – The Environment Agency consider that this scheme requires more detail with regards to the method of foul water drainage and have a holding objection to the scheme on that basis. They do not however object to the principle of the use or to non-mains drainage. Further information has been requested from the agent in relation to the foul water drainage and the outcome of that will be reported on the amendment sheet. The precise details of the foul water drainage could be secured by pre-commencement condition if need be.
- 8.8 Health and Safety Executive – No particular comments to make subject to pointing the LPA towards its online advice.
- 8.9 Ramblers (not a statutory consultee) - At present the whole site is hidden behind a bund from the adjacent Public Footpath. Will this continue? How will it look in future? I also note that a bunded fuel store is planned. Will this be regulation distance from walkers? Will it offer additional dangers?

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

9.0 Parish Council Response

- 9.1 East Donyland Parish Council objects to this proposal on the grounds of noise pollution and increased traffic movement detrimental to the area and residential village environment.

10.0 Representations

- 10.1 30 objections have been received. One of which was a lengthy representation that responded point-by-point to the applicant's supporting statement. It is beyond the scope of this report to replicate every point of the objector's response to the applicant's statement however the full text of that and all of the other representations are on the website.
- 10.2 In summary the representations received objected to the scheme on the following grounds:
- >The applicant has been operating on the site next door without consent for years.
 - >What are the Council doing about this unlawful development?
 - >The applicant is dragging mud all over the newly surfaced highway and mounting the verge opposite.
 - >We don't know what is in this mud or what contaminants may be present.
 - >As the site next door was unacceptable how can this one be acceptable?
 - >The scheme will cause noise and pollution to the detriment of our residential amenity.
 - >The new access will be harmful to highway safety.
 - >The applicant should be made to work from a site allocated for this kind of use.
 - >Strong enforcement action should be taken.
 - >The employment figures are incorrect and differ from previous applications.
 - >This scheme does not take into consideration the application for residential development at Rowhedge Wharf.
 - >The land does not form part of the Business Park.
 - >The site is not as well screened as the applicant states.
 - >The occupation of the current site is unlawful and the applicant is totally flouting planning regulations.
 - >The access proposed is from Rectory Road.
 - >The planning history makes no mention of the refusals that the applicant has received on the site.
 - >The fact the applicant does work for the Environment Agency is irrelevant.
 - >The site is a greenfield site.
 - >The site is near a nature reserve.
 - >The applicants suggest the Planning Department are in favour of the move to the Business Park site.
 - >The previous plant hire stopped 20 years ago and Rowhedge is a different place now.
 - >The applicant is a far bigger operation than the smaller scale plant storage use that occurs on site now.
 - >This is not the kind of rural business envisaged by the planning policies.
 - >The applicant shows no intention of promoting employment.
 - >The applicant is interpreting Council policy in a manner which suits him.
 - >This use is not small scale.
 - >There is no economic justification for this use.
 - >The applicant should be relocated to somewhere more suitable like Colchester Business Park.
 - >If this application is unsuccessful it is arguable it would actually affect the workforce.
 - >The other businesses on site are of a size and scale that are acceptable.
 - >The uses can be heard at 5.30 in the morning and even on Sundays.
 - >How can moving 0.3kms create new employment?

- >Where do the staff actually live?
- >Fingringhoe Road is narrow, hilly and twisty and therefore unsuitable, this site should be near a trunk road.
- >The site was not chosen for a specific planning reason.
- >The bus stop nearby is irrelevant.
- >The noise survey was taken at the wrong time of the day.
- >The site does not enhance the entrance to Rowhedge.
- >The owner of the skip hire company is very helpful.
- >The site is much noisier than the skip hire company.
- >Sometimes plant misses the site entrance and heads into Rowhedge with nowhere to turn around.
- >The business park access is not suitable for the proposed use.
- >There are a number of issues with the Rectory Road access including mud on the road and the churning of the verge.

10.3 A letter from Bernard Jenkin MP was also received, this was accompanied by a letter from one of his constituents. The issues raised have been included above.

10.4 In response:

The issue of the unlawful site to the south is being dealt with by the enforcement team and a prosecution is imminent.

The issues relating to the impact on highway safety and neighbouring amenity will be dealt with in the main body of the report.

The employment figures must be taken at face value. The NPPF is supportive of all economic development as long as any harmful impacts can be mitigated against and as set out in the report this is achievable.

This site is materially different to the refused scheme to the south and therefore must be assessed on its own merits. The fact that there are other sites that may be more acceptable to neighbours does not warrant a refusal of this scheme.

As will be set out in the relevant section of the report, the access has been moved from Rectory Road to the existing access on Fingringhoe Road. This will remove the issues currently experienced with this access.

The land does form part of the Business Park and will be read as such visually.

It is considered that this scheme benefits from more screening than the previously refused site to the south. It is also set well back from the road unlike the unlawful site.

The refusal mentioned relate to the site the applicant is currently operating on. This was refused by the Council and the resubmission was refused at appeal. It is important to note that the two sites although close to each other are not connected physically and are served by different accesses off of different roads.

The Highway Authority has no objection to the scheme.

This scheme will not cause material harm to nearby nature reserves.

This site is Brownfield land as it is previously developed.

The Policy Team is comfortable with the scale of the development in the context of policy.

If the site is refused it would have an impact on the workforce as the applicant has not identified an alternative site and therefore may have to move out of the Borough altogether.

The Environmental Control team is satisfied with the findings on the noise survey. The hours of working can be controlled by condition and will be restricted in line with the hours on the application form.

The issue of mud being washed off the plant causing possible contamination will be dealt with by condition.

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

11.0 Parking Provision

- 11.1 This scheme provides ample opportunity for off-street parking which will be dealt with informally on site. It is expected that staff will park near to the office building. There is no reason that this scheme will force additional on-street parking.

12.0 Open Space Provisions

- 12.1 This scheme does not have an impact on public open space nor does it generate a requirement for one.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Background

- 15.1 Rampling's Plant Hire is currently operating unlawfully from the site to the south using an access on Rectory Road. An application was made to regularise the use on site which was refused. An enforcement notice was served but the applicant did not comply nor did they appeal. A resubmission was then submitted which was dismissed at appeal. The enforcement notice on the site is therefore still extant and the prosecution process has been commenced as the applicant has not complied with the enforcement notice to date. The Council is currently awaiting a court date.

Principle of the use.

- 15.2 Whilst officers did not support the scheme in its current unlawful position, the principle of the same use relocated to this site at the rear of the Rowhedge Business Park is acceptable in principle. This area is already used for a number of industrial activities and has been for many years as set out in the planning history section of this report. Another company that owns HGVs and other plant already has a plant storage compound on site. There is no objection from the Policy Team in this instance.
- 15.3 The existing lawful use of the application site is unclear. It does appear to have been used for plant hire purposes in the past, however that use ceased some years ago – representations state this was 20 years ago. Much of what falls into the application site has been used in the more recent past for informal industrial uses such as the parking of HGVs and external storage of materials. The Council's GIS aerial photographs from 2000, 2006 and 2009 all show much of the land in question as being used for what looks like informal storage. HGVs, cars and the external storage of materials can all be seen. If anything, the external storage use appears to be more intensive in the 2009 photo than in 2000.
- 15.4 Whilst it is clear that this site has been subject to a degree of activity up to, and possibly beyond, 2009, it is important to note that the site does *not* however benefit from a Lawful Use Certificate for any particular use on the site and therefore this scheme must be assessed on its own merits.
- 15.5 Being situated within the Business Park the land is considered previously developed and an extensive planning history confirms this. National and local policy is supportive of the principle of reusing previously developed land. A core planning principle of the NPPF is to: 'encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value...'
- 15.6 In a similar vein, the Council's Core Strategy in policy CE1 states: 'The Council will promote employment generating developments through the regeneration and intensification of previously developed land... at sustainable locations.' The Council's adopted policies DP9 and ENV2 promote employment development schemes where they contribute to the local area and the benefits of the scheme outweigh any negative implications that may be a consequence of the development. DP9 states: 'Employment development proposals within the countryside outside of designated local employment zones must contribute to the local rural economy and help sustain rural communities'
- 15.7 Policy ENV2 states that the Council will favourably consider schemes outside of settlement boundaries that:
'...are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment.'

- 15.8 DP9 and ENV2 both ensure that the positive and negative impacts of development must be assessed locally so that those who are negatively impacted by development also enjoy the benefits brought about by development. For this reason the applicant must evidence the employment benefits to the local community if a proper balance is to be determined. It is submitted that the site's operations employ 14-20 people with additional temporary employment of a further 30 people if demand dictates. Employees are considered to be from 'Colchester and the surrounding villages' which does not necessarily mean they are employed 'locally' in respect of DP9, however it is accepted that employees are transitory in nature and this must therefore be viewed in general terms.

Points to note from the Inspector's decision

- 15.9 As this scheme is very close to the site that was dismissed at appeal it has a great deal in common with it and therefore the Inspector's decision is an important material consideration.
- 15.10 The Inspector considered that the site to the south was unacceptable as it constituted unsustainable development on Greenfield land and the wide access point onto Rectory Road afforded views of the starkly industrial appearance. The Inspector did not consider that the appeal site related to the Business Park but related far more to the countryside.
- 15.11 This application proposal actually forms part of the Rowhedge Business Park and therefore visually reads as part of it. It is previously developed land and is therefore classed as Brownfield. It uses the existing access on Fingringhoe Road and will not afford the direct views to the site due to the long access-way through to the rear of the site.
- 15.12 The Inspector noted neighbouring representations that objected to the scheme in terms of noise and disturbance, but did not consider these issues to warrant a refusal of the scheme in their own right. This is a key point as, due to its proximity, the scheme currently before Members would have a very similar impact in terms of noise and disturbance to neighbours.

The evolution of the scheme.

- 15.13 As originally submitted, the scheme before Members used the existing unlawful access on Rectory Road, passed through the site which is the subject of the enforcement notice and entered the site in its south eastern corner. Officers highlighted that this would not overcome the issues of countryside impact that the Inspector put significant weight on as it would not enable the removal of the extremely industrial access point needed for the large and slow moving plant that the applicant deals with. Retaining this access would also afford views right up the access-way and would inevitably be used for the short-term parking of plant as it manoeuvres.
- 15.14 Following the dismissed appeal, the application scheme was amended to take access via the existing business park access point. This means access will be taken from the main Fingringhoe Road which will remove the need for large and slow moving HGVs to turn down Rectory Road and then into the site.

- 15.15 The positions of the buildings on site have also been amended on two separate occasions. This is due to an Essex and Suffolk mains water easement that runs across that section of the site. As Essex and Suffolk Water does not allow buildings to be sited over the mains pipe or within the easement it was necessary to re-jig the layout to get the buildings into positions that were away from the easements and also away from trees on the boundary.

Design and Layout

- 15.16 The proposed buildings comprise a covered workshop of 14.5 metres by 8 metres by 5.5 metres to the ridge and a covered store measuring 15 metres by 7 metres by 4 metres to the ridge. The office, pipe store, parts store and the bunded diesel store are all metal shipping containers and are those that are already situated on the appeal site to the south. A wash-down area is also proposed for the cleaning of plant. The rest of the site will be used for plant storage and parking on an ad-hoc basis depending on which plant is off-site at the time.

Scale, Height and Massing

- 15.17 The proposed buildings are acceptable in terms of scale height and massing. Where one container sits on top of another they are no higher than five metres. The buildings will be visible from the Public Right of Way to the north however in the context of the other structures on the Rowhedge Business Park they are considered to be acceptable in design terms. The visual impact the scheme will have is not considered to be demonstrably harmful to the point that warrant a refusal, especially as the site is already used for a number of industrial uses.

Impact on the Surrounding Area

- 15.18 As the scale, height and massing are considered to be acceptable and as the scheme now proposes to use the existing Rowhedge Business Park access, it is not considered that this scheme will have a materially harmful impact on the surrounding area. Relocating the access away from Rectory Road is considered to be a significant improvement for the surrounding area as it will remove the need for HGVs to use the Fringringhoe Road and Rectory Road junction and will also remove the issue of HGVs pulling out across Rectory Road as they currently do. The current situation is so poor that when heading out of Rowhedge as they do in the main, the large low loaders exit the unlawful access, cross both carriageways, mount the highway verge as they swing out and then straighten up. This has resulted in a churned up verge and a great deal of mud on the highway. Removing this issue will be beneficial to the surrounding area. Notwithstanding the comments of the Parish, it is considered that this scheme will not have a materially harmful impact on the village as there will be no need for vehicles to turn into the village in the overwhelming majority of cases.

Impacts on Neighbouring Properties

- 15.19 Policy DP9 refers to the avoidance of detrimental effects of development such as noise. A number of residential dwellings are located beyond the woodland buffer to the east. In particular, the dwellings that front onto Rectory Road and some in Ashurst Close have gardens that back onto this woodland.

- 15.20 This scheme has the potential to generate noise from the movement of plant around the site and from the pressure washing of vehicles. The scheme has come with a noise survey that demonstrates that the noise generated by this scheme will not be materially harmful to neighbouring amenity as it will be below background levels, subject to the installation of an acoustic fence (two metres in height) on the eastern boundary. The details of this will be secured by condition.
- 15.21 The Environmental Control team has not objected to this scheme but requires conditions which will be imposed. On that basis the scheme is not considered to have a materially harmful impact on neighbouring amenity.
- 15.22 The application form sets out the use will operate from 7am to 6pm Monday to Friday and 7am to 1pm on Saturdays with no working on Sundays or Bank Holidays. This is considered to be acceptable and will be conditioned accordingly.

Impact on the Public Right of Way

- 15.23 This scheme will not have a material impact upon, nor will modify the definitive route of the PRoW to the north. The scheme will not change the bund that the Ramblers mention in their response. The fuel store that they mention will not encroach upon the PRoW either as it sits within the site.

Highway Issues

- 15.24 The Highway Authority has assessed the scheme and has no objections. The internal turning area is workable and the existing access is also acceptable in highway terms mindful of the size and low speed of the types of vehicles that will be using the access.
- 15.25 Objectors have stated that this access is not appropriate for the types of vehicle movements that this use generates. As the Highway Authority has no objection to the scheme, a refusal on that basis would not be reasonable.

Other Matters

- 15.26 Policy ENV2 refers to the environmental impacts and considerations caused by development. In respect of environmental impacts, the ecological and aboriginal assessments of the land have demonstrated that no significant harm will be caused by the development. Where identified, the ecological report makes appropriate recommendations for the protection of wildlife during development works. This concluded that the site was of limited ecological potential and did not require any further surveys. In this instance, considering the disturbed nature of the site, on balance it is acceptable.
- 15.27 The application also included a tree survey, but this only deals with the previously proposed new access track through the old site which has been removed from the scheme. The buildings on site have been moved to pull them away from any sensitive trees. The trees on the north and east boundaries will need to be protected during the construction phase and the precise details of the methodology pertaining to this will be secured by condition.

16.0 Conclusion

- 16.1 The scheme will allow a local business to relocate from an unlawful site nearby to a far more suitable site in the immediate vicinity. It complies with the NPPF and local policy as it involves economic development and employment without causing a materially harmful impact on neighbouring amenity. Whilst the proposed scheme is acceptable when assessed on its own merits, it will also facilitate the removal of an unacceptable unlawful use that is materially harmful to visual amenity and also causes a number of issues in terms of its impact on the highway network. Therefore on balance this scheme is considered to be acceptable.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1011/03 Rev C and 1011/06.

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

3 - Non-Standard Condition/Reason

The site and buildings on it shall be used for the storage of plant and for plant hire purposes only as defined in the Use Class Order and for no other purpose.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

4 - *Restriction of Hours of Operation

The use hereby permitted shall not OPERATE - including moving of plant, running of engines and washing down of plant - outside of the following times:

Weekdays: 7.00hrs to 18.00hrs

Saturdays: 7.00hrs to 13.00hrs

Sundays and Public Holidays: No working.

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.

5 - *1.8m Screen to be Erected

Prior to the first USE of development, a 2 metre high acoustic screen boundary treatment that shall have previously have been approved, in writing, by the Local Planning Authority, shall be erected along the Eastern Boundary as set out in the acoustic report. The screen boundary treatment shall thereafter be retained as approved.

Reason: To protect the amenities and privacy of occupiers of the adjoining property.

6 - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

7 -Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

8 - Tree and Hedgerow Protection: General

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

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

9 - Tree and Hedgerow Protection: General

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

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

10 - 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 0dBA 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.

11 - 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

12 - Contaminated Land Part 1 of 4 (Site Characterisation)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

13 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

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

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

14 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

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

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

15 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 14.

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

16 - Groundwater Protection

There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage in order to prevent pollution of the water environment and to protect the groundwater quality in the area in the interests of Health and Safety.

17 - *Protecting Public Rights of Way

The public's rights and ease of passage over PUBLIC FOOTPATH 29 shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility.

18 - Wheel Washing Facilities In Perpetuity

No works shall take place until details of a wheel washing facility within the site and adjacent to the egress onto the highway have been submitted to and approved, in writing, by the Local Planning Authority. The wheel washing facility shall be provided at the commencement of the development and maintained at all times thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

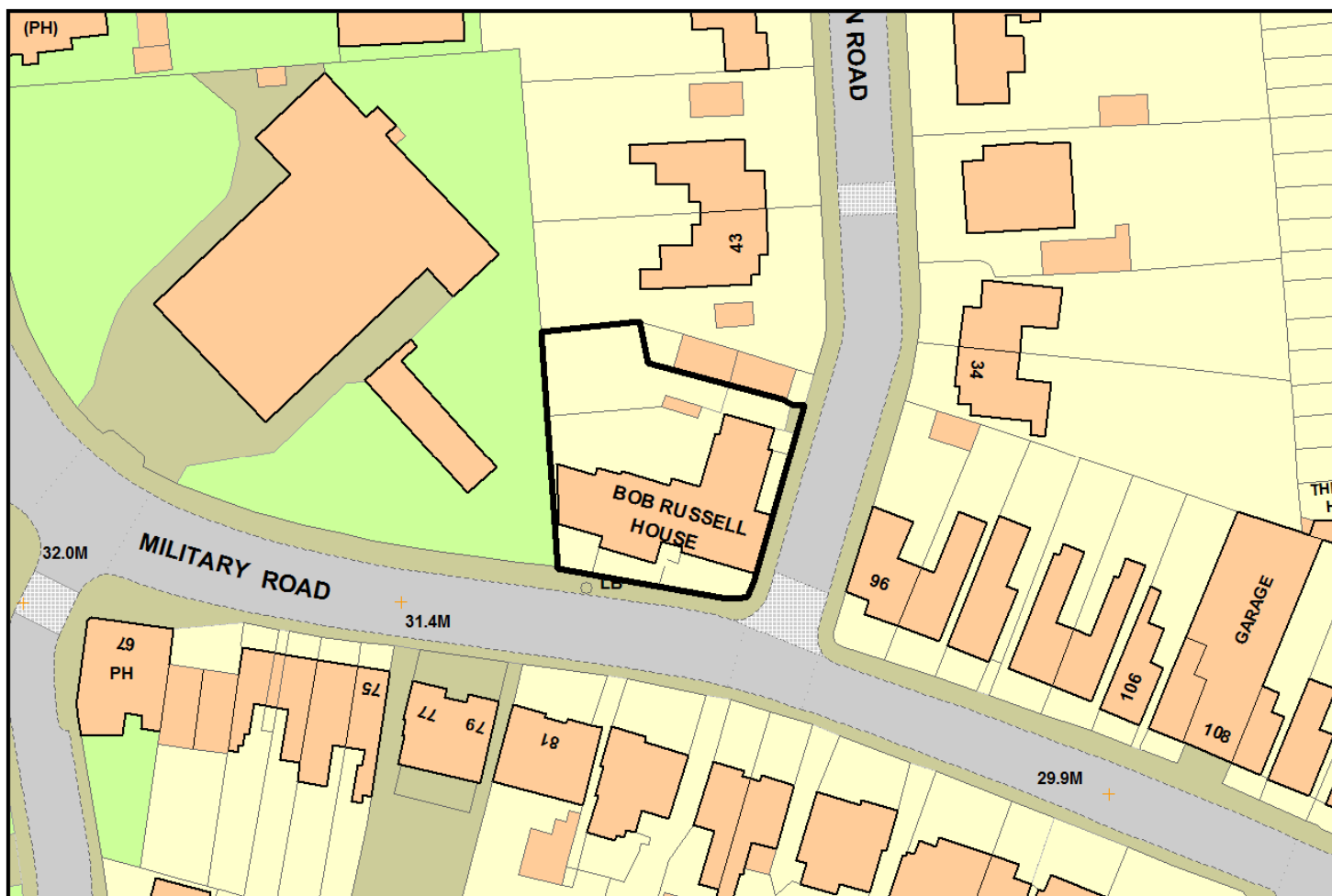
Reason: To ensure that loose materials and spoil are not brought out onto the highway, in the interests of highway safety.

20.0 Informatives

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

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

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



Application No: 146237

Location: Flats 1-9, Bob Russell House, New Town Road, Colchester, CO1 2EF

Scale (approx): 1:1250

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7.5 Case Officer: Daniel Cameron Due Date: 17/04/2015 HOUSEHOLDER

Site: **Flats 1-9, Bob Russell House, New Town Road, Colchester, CO1 2EF**

Application No: **146237**

Date Received: 5 November 2014

Applicant: Mr Andrew Shelmerdine, Colchester Borough Council

Development: Replacement windows and rear doors to flats, and replacement windows to communal areas.

Ward: New Town

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Homes.

2.0 Synopsis

- 2.1 The key issues to be explored are the impact of the proposed replacement windows and doors to Bob Russell House will have on the character and setting of the New Town conservation area.
- 2.2 In particular attention will be drawn to the overall design of these features.

3.0 Site Description and Context

- 3.1 Bob Russell House is a two storey, red brick purpose built block of flats at the corner of New Town Road and Military Road, currently consisting of 9 units. It is adjacent to St. John's Orthodox Church which formerly served as the Garrison Church and is Grade II* listed. The site sits within the New Town conservation area.

4.0 Description of the Proposal

- 4.1 The proposal seeks permission to replace the existing timber framed, aluminium casement and sash windows as well as the rear doors serving the residences and communal areas of the building. It is proposed that the windows be replaced on a like for like basis with timber, storm proof windows and the doors with either aluminium or composite doors.

5.0 Land Use Allocation

- 5.1 The current land use of the area is classified as predominantly residential.

6.0 Relevant Planning History

- 6.1 76/0691 – Camp Yard Depot, Military Road, Colchester
Residential development
Approved conditionally – 17/08/1976

7.0 Principal Policies

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

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

UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP14 Historic Environment Assets

8.0 Consultations

- 8.1 The application has been put out to a consultation period which ended on the 26th November. It was advertised through site notice, press advert and on the Council website. No representations were received.

- 8.2 An internal consultation was sought from Colchester Borough Council's Heritage and Conservation Officer.

"This application relates to a modern building in the New Town Conservation Area. The building is designed to appear as a reasonably traditional building, in keeping with the character of the conservation area, and for this reason replacement windows need careful management to ensure that they assist in reinforcing this traditional detailing.

After extensive negotiation windows appropriate for the conservation area have been agreed and it is possible to support the designs now proposed. The new windows would be timber and flush fitting, mostly they would be casement windows, which suit the proportions of the openings better than the existing sash windows do.

The only disappointing detail is the fixing bead, which does not attempt to replicate a traditional fixing and will look bulky and harm the sight-lines of the windows. The design would be improved by use of a fixing bead that replicates a putty fixing. It would be appropriate to impose a condition requiring this detail to be revised before works commence.

No details have been submitted of the intended finish of the windows and doors, and it would be appropriate to impose a condition requiring them to have a painted finish.

Some doors are noted as being constructed of composite materials. This is disappointing given the work that has been done to get the windows right. Please can you impose a condition requiring the doors currently marked as Composite to be made of timber. These are indicated on the drawings as Door 1 and Door 2.”

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

9.0 Parish Council Response

9.1 Not applicable, location is a town ward with no Parish Council.

10.0 Representations

10.1 No representations have been received.

11.0 Parking Provision

11.1 Not applicable.

12.0 Open Space Provisions

12.1 Not applicable.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 *Policy* – The application is broadly in keeping with relevant policies DP1 and DP14 as well as UR2 and ENV1. There are minor amendments, outlined below, which would allow the application to make a entirely positive contribution to the area.

- 15.2 *Design* – In terms of design the windows are very much a like for like replacement of what is already present on Bob Russell House. The existing windows are in a poor state of repair and are constructed with materials which are not appropriate to the area. The proposed windows are to be fully constructed with timber and flush-fitted which is more appropriate to the character of the area, however, they have been shown with inappropriate fixing bead detailing which would be inappropriate to the area. It has been suggested that a more appropriate fixing bead which replicates traditional putty be used and this could be controlled by condition.
- 15.3 The doors, again, are a like for like replacement, however, are proposed to be either composite or aluminium. While there is no objection to aluminium, the composite doors are not appropriate to the area and should instead be timber. This could be managed by condition.
- 15.4 There is no specific information supplied with the application as to the intended finish of the windows and doors once installed on the properties. This should ideally be a painted finish and could be controlled by condition.
- 15.5 *Impact* – The replacement of the windows and doors to Bob Russell House will have a minimal impact upon the character of the conservation area and is broadly in keeping with the simple, vernacular style present in the area. The design details highlighted above would create a negative impact upon the area, however, could be managed by condition.

16.0 Conclusion

- 16.1 The application is broadly in keeping with Council policy; its design is mostly good and its impact on the surrounding area minimal. This said it could be better and any deficiencies it presents managed by condition.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions.

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted approved plans WPA/2775 – 3 and WPA/2775 – 4 with the following exceptions:

The windows to be installed shall utilise a fixing bead which replicates the finish of traditional putty.

All windows and doors to be installed shall be finished as painted timber in colours to be agreed in writing with the Local Planning Authority.

The composite doors labelled as “Door 1” and “Door 2” on drawing WPA/2775 – 3 shall be constructed of timber rather than composite and shall be constructed in accordance with plans to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of works.

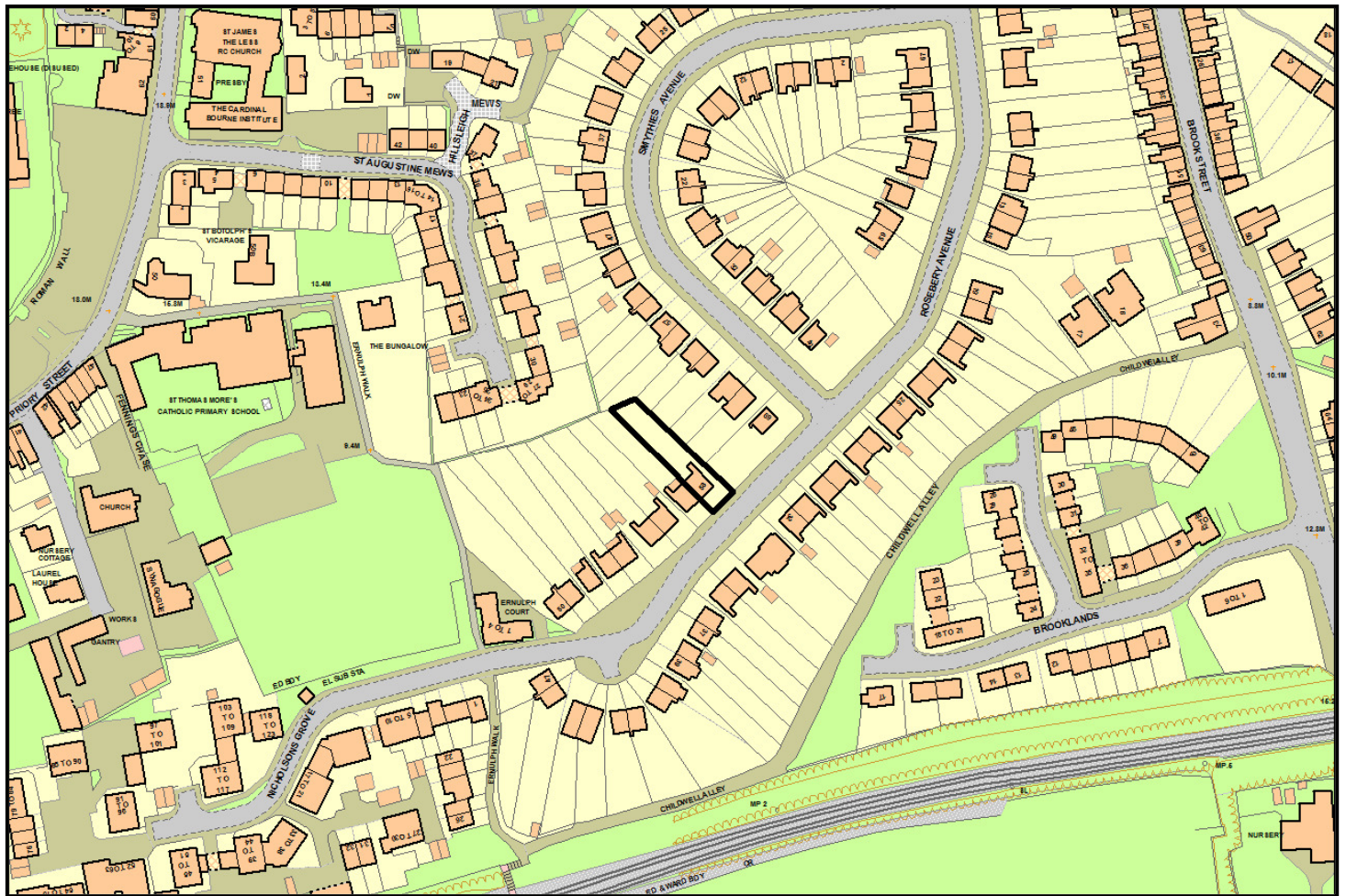
Reason: To ensure appropriate materials, techniques and finishes are used within the development to protect the character of the conservation area.

20.0 Informatives

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

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

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



Application No: 146530

Location: 58 Rosebery Avenue, Colchester, Essex, CO1 2UP

Scale (approx): 1:1250

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7.6 Case Officer: Carl Allen

HOUSEHOLDER

Site: 58 Rosebery Avenue, Colchester, Essex, CO1 2UP

Application No: 146530

Date Received: 3 February 2015

Agent: Mr Andrew Feasey

Applicant: Mr & Mrs Hockett

Development: Proposed 2 storey rear extension with new detached garage on rear boundary

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Frame has called it in, stating: 'the mass and form of the extension will visually detract from the character of Rosebery Avenue. The proposed large garage at the bottom of the garden introduces an alien element to the adjoining gardens which is not in keeping with the rest of the area'.

2.0 Synopsis

- 2.1 The key issues explored below are of design and amenity. It is concluded that the proposal would not result in any amenity issues and whilst there could be some disturbance from vehicles accessing the proposed rear garage this would be no different to the disturbance from vehicles parking in the rear garden without requiring planning permission. The design is acceptable and approval with conditions is recommended.

3.0 Site Description and Context

- 3.1 58 Rosebery Avenue is a semi-detached house which has the attached neighbour (number 57) to the south-west. The rear (north-west) elevation has two single storey elements beside each other and a rear garden extending approximately 26 metres from the rear. All the rear boundaries with neighbours consist of wooden panel fencing. Six properties in Smythies Avenue border the site's northern boundary whilst number 57 Rosebery Avenue borders to the south-west. There is an access beside number 58 to the north.

4.0 Description of the Proposal

- 4.1 The proposal is for a two-storey rear extension that would project 2.7 metres from the main dwelling replacing the single storey elements. This would be 6.8 metres high with a hipped roof and would be 0.25 metres from the boundary with the neighbour. Materials would match the existing dwelling.
- 4.2 A detached garage is proposed at the bottom of the garden and would be a maximum of 4.07 metres high (2.4 metres to the eaves), 5 metres wide and 6.8 metres long.

5.0 Land Use Allocation

- 5.1 Residential.

6.0 Relevant Planning History

- 6.1 None.

7.0 Principal Policies

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

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

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

- Extending Your House?
- The Essex Design Guide
- External Materials in New Developments

8.0 Consultations

- 8.1 N/A.

9.0 Parish Council Response

9.1 N/A.

10.0 Representations

10.1 Three comments received – two of objection and one of support.

10.2 Objections on the following lines:

- will unreasonably harm the living conditions of neighbours and the environment.
- natural environment already destroyed by the removal of trees and shrubs at the site and the conversion of garden into paved access road and garage forecourt would result in more noise and exhaust fumes from cars and increase run-off resulting in flooding in the area.
- unneighbourly, will overshadow and be overbearing to those in Rosebery and Smythies Avenues.
- cramped form of development and unacceptable reduction in garden area and loss of important green space which is a feature of 1930s development.
- would set precedent.
- design is of an inferior quality.
- disrespectful of rear building line.
- Residents' Association is campaigning for a residents' parking scheme which would reduce need for garages.
- garage imposes too much on neighbours.

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

11.0 Parking Provision

11.1 No change.

12.0 Open Space Provisions

12.1 N/A.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Residential Amenity

- 15.1 The proposal would bring the two-storey rear elevation 2.7m beyond the existing two-storey part of the dwelling and would replace the existing single-storey elements. The only dwelling that would be close to this proposed element is the neighbour at number 57, which is to the south-west. Given this orientation it would be highly unlikely to receive any shadow from the proposal. The areas that would receive shadowing would be to the north-east and would be the site's own side access and small areas of the bottom gardens of 69 and 67 Smythies Avenue. This is considered to be acceptable and does not raise any amenity concerns.
- 15.2 The neighbour at number 57 does have a first floor window on its rear elevation and this does need some consideration with regards to the proposal being overbearing. The neighbour's window would be 1.5 metres from the proposed extension and appears to serve a habitable room. It is considered that an argument that this would have an overbearing impact would be difficult to sustain as the proposal would extend beyond the rear wall by 2.7 metres, be 1.5 metres from the window and would not result in any amenity impacts normally associated with overbearing development.
- 15.3 The proposal would include two first floor windows – one serving an en-suite and the other serving a bedroom. Given that the existing rear elevation has an existing bedroom window and the proposal would bring this window forward by less than three metres, the proposal would not increase overlooking by any significant amount.

Design

- 15.4 The proposal would have a limited visibility in the street-scene and would not detract from the publically visible parts of Rosebery Avenue. For these reasons the proposal is considered to comply with DP1 and DP13.
- 15.5 The comments that the proposal would result in a cramped form of development are not agreed with. Although the proposal has two elements – a two-storey rear extension and a detached garage – there would still be a great length of garden (18 metres x 8 metres) that would remain as open garden and this would ensure that the proposal would not appear to be an over-development of the plot.
- 15.6 The proposed design would read as a subservient addition with a ridge height 0.6m below the existing ridge with a hipped roof. The proposed materials are considered acceptable as they would match the existing. The proposal would be in line with neighbouring extensions (which are mainly single-storey) and so would not break any perceived rear building line. It is noted that a few doors to the west of the site are some existing two-storey rear extensions. The proposal is considered to comply with the design requirements of DP1 and UR2.

Garage

- 15.7 The proposal also includes a new detached garage that would be located at the bottom of the garden. This has raised some objection from neighbours due to the position imposing on their amenity.

- 15.8 Members are reminded that the garage requires planning permission as it is within two metres of the boundary and would be higher than 2.5 metres. The proposed garage would not be close to any neighbouring dwellings and would be close to the end of neighbours' gardens. Most of the surrounding gardens contain sheds close to the site and in the case of number 63 Smythies Avenue there is quite a large outbuilding on the boundary with the site. Given these factors, it is difficult to see how the position of the garage would be out of character with the area.
- 15.9 Turning to noise and disturbance, the garage would have a longer access track than its neighbours – most of which have a garage positioned close to the rear elevation, so there could be a slight increase in disturbance during the evenings. However, this has to be balanced with the fact that the applicant could choose to hard surface their garden and park their vehicles in their rear garden without requiring planning permission which would also cause noise and disturbance to neighbours. The question is therefore does the garage itself generate any additional amenity issues? From the previous discussion the conclusion was that it did not. That the Residents' Association is campaigning for a residents' parking scheme is not a consideration as, even if adopted, the scheme may not dampen the desire for private, off-street parking and garages.

Other Matters

- 15.10 That trees and shrubs may have been removed at the site is not a consideration as there is no Tree Preservation Order in place at the site and it is not in a Conservation Area. As such the applicant is and was entitled to remove trees from their property if they so wish.
- 15.11 Comment has been made that the access surfacing would result in flooding in the area, however, hard surfacing is not part of this application. That said, hardstanding to the rear would not require Planning permission under Class F of the General Permitted Development Order. Given that this is not a Flood Risk Area it would be unreasonable to remove all permitted development rights for this. However, it would be profitable to remind the applicant by informative as to the restrictions to the front – namely any hardstanding in excess of five metres square that is not free draining requires permission.
- 15.12 The proposal would not set a precedent for others in the area, as any proposal would be judged on its own merits and would be highly likely to have different relationships with neighbours etc.

16.0 Conclusion

- 16.1 It is considered that the proposal would not result in any amenity issues such as overlooking or overshadowing and whilst there could be some disturbance from vehicles accessing the rear garage this would be no different to the disturbance from vehicles parking in the rear without requiring planning permission. The design is considered acceptable.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions.

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 104, 102 Rev C, 101 Rev A, Location Plan and Block Plan unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Non-Standard Condition/Reason

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

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

20.0 Informatives

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

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

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

(4) The applicant is reminded of Schedule 1, Part 1, Class F of the General Permitted Development Order (1995) as amended which, in relation to the front, states that where:

“the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse”