

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 30 March 2023 at 18:00**

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

<https://colchester.cmis.uk.com/colchester/HaveYourSay/HYSPlanning.aspx>.

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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

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COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 30 March 2023 at 18:00

The Planning Committee Members are:

Cllr Lilley
Cllr Barton
Cllr Chapman
Cllr Chuah
Cllr Mannion
Cllr MacLean
Cllr McCarthy
Cllr Pearson
Cllr Tate
Cllr Warnes

Chair
Deputy Chair

The Planning Committee Substitute Members are:

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

Councillors:

Tracy Arnold	Catherine Bickersteth	Molly Bloomfield	Michelle Burrows	Roger Buston
Mark Cory	Pam Cox	Adam Fox	Mark Goacher	Jeremy Hagon
Dave Harris	Mike Hogg	Richard Kirkby-Taylor	Jocelyn Law	Darius Laws
Sue Lissimore	Andrea Luxford Vaughan	Patricia Moore	Sam McLean	Kayleigh Rippingale
Lesley Scott-Boutell	Paul Smith	William Sunnucks	Dennis Willetts	Barbara Wood
Julie Young	Tim Young			

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

Please note that Agenda items 1 to 2 are normally dealt with briefly.

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Live Broadcast

Please follow this link to watch the meeting live on YouTube:

[\(107\) ColchesterCBC - YouTube](#)

1 Welcome and Announcements

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

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Council via Zoom. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make

representations in support of each planning application. Each representation may be no longer than three minutes(500 words). Members of the public wishing to address the Committee either in person or remotely need to register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date. In addition for those who wish to address the committee online we advise that a written copy of the representation be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each

6 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 9 March 2023 are a correct record.

2023-03-09 CCC Planning Committee Minutes 7 - 10

7 Planning Applications

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

7.1 **223045 Garrison Building L03, R M P Barracks, Circular Road West, Colchester, CO2 7NZ** 11 - 20

Application for 2 no. Chinook simulators proposed for training purposes. Resubmission of application 222000.

7.2 **230235 Shrub End Depot, 221 Shrub End Road, Colchester, CO3 4SA** 21 - 30

Application for partial demolition, alteration and extension to existing Baling Shed.

7.3 **230159 Whitesands, Keelars Lane, Wivenhoe, Essex** 31 - 38

Application for a lawful development certificate for existing studio for personal use ancillary to and within the curtilage of owners dwelling house.

7.4 **223025 Former St Michael's Church, Rectory Close, Colchester** 39 - 46

Application for installation of Heritage Interpretation Panel to former site of the medieval St Michael's Church.

Planning Committee Information Pages v2 47 - 58

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

9 March 2023

<i>Present:-</i>	Councillors Lilley (Chair), Barton, Chapman, Chuah, Davidson, Hagon, McCarthy, Pearson, Tate and Warnes
<i>Substitute Member:-</i>	Councillor Davidson substituted for Councillor MacLean Councillor Hagon substituted for Councillor Mannion
<i>Also in Attendance:-</i>	

970. Site Visit

A site visit was conducted on the 9 March 2023 and was attended by Councillors Lilley, Barton, Chapman, and Davidson. Members of the Committee visited the following sites:

- 213273 5 Queens Road, Colchester, CO3 3PD
- 223010 Lexden Manor, 8 Colvin Close, Colchester

971. Minutes

The Minutes of the meeting held on the 2 February 2023 and 16 February 2023 were confirmed as a true record.

972. 213273 5 Queens Road, Colchester, CO3 3PD

The Committee considered an application for a Two Storey rear extension, refurbishment and alterations to roof, fenestration and external materials of host dwelling. The application was referred to the Planning Committee as it was called in by the late Councillor Cope on the 22 December 2021 due to the scale and character of the proposal not being in-keeping, was considered out of place in a classic 1930s cul-de-sac of detached dwellings.

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

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

973. 222817 Eustace King, 14-15 Osborne Street, Colchester, CO2 7DP

Councillors Tate and Warnes declared a registerable interest in the application 222817 as Council appointed directors of Colchester Commercial Holdings Limited (CCHL) which directly funds Amphora Homes. As such Councillors Tate and Warnes did not take part in any debate or vote on the item.

The Committee considered an application for the change of use of the upper parts of 14-15

Osborne Street only from C3 to storage/ office space which is to be ancillary to ground floor retail use currently also now let to a Funeral Directors. The application was referred to the Planning Committee as the applicant is Amphora Homes which is part of the City Council.

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

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

974. 223010 Lexden Manor, 8 Colvin Close, Colchester, CO3 4BS

The Committee considered an application for a proposed side extension. The application was referred to the Planning Committee as it had been called in by Councillor Tate on the basis that the proposed development:

- Represents over-development on the site (including the loss of outdoor space)
- Has a harmful impact on the appearance of a historic building
- Is rather small and cramped
- Fills a space for the sake of it
- Represents overdevelopment of the area

Concerns have also been expressed by Councillor Tate about the disruption being caused by the implementation of an approved scheme on an adjacent site. This is not considered to be a material consideration for this particular application.

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

Hayleigh Parker-Haines, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee heard that the proposal for the side extension would provide ancillary accommodation for the existing dwelling and detailed the plans of where it would sit in the wider site boundary. The Case Officer concluded by detailing that the officer recommendation was for approval as detailed in the report and provided a verbal members update advising a condition was to be included to ensure that the proposed development remain ancillary to the host dwelling.

Simon Sorrell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the speaker had been asked to address the meeting on behalf of the residents of Marlowe Way and described that the proposal was significant overdevelopment of the site. The speaker detailed that the site had originally been the single dwelling and gardens but had subsequently been changed into multiple dwellings on the gardens. The Committee heard that there was a loss of the open character of the building which was well known in the Colchester area and queried previous planning decisions which had allowed 5 dwellings including rooms above the cart-lodge. It was noted that there was a condition associated with the cart-lodge that it could not be used as a dwelling and concluded by asking whether the proposed development could be built without overlooking or opaque windows.

Councillor Leigh Tate addressed the Committee as a Ward Member and not as a Member of the Committee. It was noted that they did not take part in the debate or vote on the item. The Ward Member explained that the plans shown on the presentation were incorrect and showed the site in the wrong context to its current surroundings and that they had called in the application due to the overdevelopment of the site. The Committee heard that the this

had originally been a single dwelling and overdevelopment of the site had taken place with the proposal before the Committee adding to this. It was noted that there had been an infringement of policy SP7. The Ward Member concluded by asking that the application be refused but asked that if Members were minded to approve the application they give further consideration to policy DM13, ensuring that the building remained single storey and prevent any overlooking from the proposal onto existing residents properties.

At the request of the Chair the Senior Planning Officer responded to the points raised by the speakers. The Committee heard that officers did not deem that the proposal was overdevelopment of the site with the footprint of the proposed extension being 40 metres squared. It was noted that the site would not be overtly visible from the public realm and apologised that one of the maps was incorrect but confirmed that the floor plans that had been put before the Committee were correct.

Simon Cairns, Development Manager confirmed that there was a limited view from the public realm and that the proposal did not overlook other dwellings as a glazing would be applied so that anyone in the habitable rooms would not be able to overlook existing properties. The Development Manager reminded the Committee that they should look at the application before them and judge it on its own merits.

Members debated the application and noted that there were reasonable concerns regarding an impact on privacy of neighbouring properties and that the obscuring glazing was welcomed to address this issue. A concern was raised regarding the use of the site and whether it could be used as an Air BNB or other holiday accommodation.

The Senior Planning Officer confirmed that the use of the proposal would have to be ancillary to the main dwelling and could not be used as a holiday let.

The Committee continued to debate the application regarding the removal of Permitted Development rights and whether this would be appropriate. The Development Manager advised that if this was to be added to the recommendation that it would require reasonable grounds and asked whether it would cover all classes of Permitted Development Rights. The Committee debated this further until a proposal was made and seconded as follows:

That the application be approved subject to the conditions and informatives set out in the report with the additional conditions:

- That the side extension could only be used or occupied solely as ancillary accommodation to Lexden Manor
- That Permitted Development Rights are withdrawn for Class A (extensions) and Class E (outbuildings) as the curtilage is now much reduced by approved development of new homes.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives set out in the report with the additional conditions as detailed below:

- That the side extension could only be used or occupied solely as ancillary accommodation to Lexden Manor
- That Permitted Development Rights are withdrawn for Class A (extensions) and Class E (outbuildings) as the curtilage is now much reduced by approved development of new homes.

975. Proposed Deed of Variation to the Legal Agreement of previously approved planning application 191830 for the erection of 46 dwellings. Application number 19183. – Land at School Road, Langham.

The Development Manager presented the report to the Committee outlining that the proposed deed of variation had been requested due to the trigger points related to the open market units and how this was linked to the affordable housing which would stop the developer commencing and occupying 3 private plots that had been previously approved. The Planning Manager detailed that the second variation was around community facilities which would change the list that had been previously agreed by the Committee. The Planning Manager concluded by detailing that the full list of changes were detailed in appendix 1 of the report and that the officer recommendation was for approval.

Members debated the deed of variation with the Committee expressing general support for the variation and that it was unfortunate that the crossover point in private and affordable housing had not been seen when the applications were originally approved.

RESOLVED (UNANIMOUSLY) that the deed of variation is approved as detailed in the officer recommendation.



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Item No: 7.1

Application: 223045

Applicant: RMPA Services And MOD

Agent: Mrs Rebecca Howard

Proposal: 2 no. Chinook simulators proposed for training purposes.
Resubmission of 222000

Location: Garrison Building L03, R M P Barracks, Circular Road West,
Colchester, CO2 7NZ

Ward: Shrub End

Officer: John Miles

Recommendation: Approval, subject to conditions.

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 Harris for the following reason:

Local people in Henry Everett Grove and nearby roads have read the document which gives no info of how loud this will be, and indeed the papers seem to give little assurance at restricted times of day or night

To approve this there needs to be answers on how the noise control can be controlled and ways of monitoring disruption to houses near the site.

*Written assurances are needed for all these residents on non operational hours
Call in is in response to calls by residents of the local neighbour association and individual members of Henry Everett Grove.*

2.0 Synopsis

- 2.1 The key issue for consideration is potential impacts on neighbouring amenity from the development proposed.
- 2.1 For the reasons outlined in the main body of the report it is concluded that, subject to the imposition of appropriately worded conditions, the amenity of the surrounding area can be suitably preserved, and neighbouring amenity protected. The proposals are also not considered to give rise to any concerns with regard to other wider material planning considerations.
- 2.2 The application is subsequently recommended for approval, subject to conditions.

3.0 Site Description and Context

- 3.1 The application site forms part of the Merville Barracks site, which is under active MOD use. The nearest residential properties to the application site are those on Monkwick Avenue to the east and those on Henry Everett Grove to the south. There are existing MOD buildings beyond the south and west of the proposed location of the simulators and an earth bund to the east.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for two Chinook simulators to be used by military personal. The information supporting the application advises that the simulators will provide the means to practice, develop and validate low level air skills, mounting/dismounting vehicles, securing vehicles/kit and personnel in a safe and controlled environment. The simulators do not have engines or rotors that would be found in actual aircraft, instead they are formed from replica fuselages, which operate on a hydraulic system.

5.0 Land Use Allocation

- 5.1 Unallocated (active MOD use).

6.0 Relevant Planning History

- 6.1 Of most relevance is application 222000. This application also sought permission for two simulators on the same site. This application was refused on the basis that the proposed simulators were anticipated to give rise to significant adverse impacts to neighbouring amenity as a result of noise and disturbance associated with their proposed operation.
- 6.2 Since this previous application it is however important to note that the proposals have been amended with a view to overcome the concerns previously raised. Most notably, while the chinook simulators previously included a speaker system which would replicate the noise of the actual aircraft and wider environmental conditions, the speaker system has now been removed. Detailed acoustic modelling has also been undertaken in respect of the proposals as revised under this application.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 Local Plan 2017-2033 Section 1
The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021. The following policies are considered to be relevant in this case:
- SP1 Presumption in Favour of Sustainable Development
 - SP7 Place Shaping Principles
- 7.3 Local Plan 2017-2033 Section 2
Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:
- ENV1 Environment
 - ENV5 Pollution and Contaminated Land
 - DM15 Design and Amenity
 - DM16 Historic Environment
 - DM22 Parking
 - DM23 Flood Risk and Water Management
- 7.4 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
EPOA Vehicle Parking Standards

8.0 Consultations

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

Archaeological Advisor: No archaeological issues.

Contaminated Land Officer: No objections.

Environmental Protection: No objections – conditions covering noise levels and hours of operation recommended.

9.0 Parish Council Response

9.1 The site is non-parished.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. Consultation exercises have resulted in two objections, from two local residents. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Concerns about proximity to residential dwellings
- Potential for noise and disturbance
- Impacts on wildlife
- Potential for the speakers to be installed after planning is granted

11.0 Parking Provision

11.1 The proposal is not considered to have a material impact on existing parking provisions or the demand for such.

12.0 Accessibility and Equality Duties

12.1 It has been identified in representations received that were the proposed development to result in noise pollution, local residents with an identified protected characteristic may suffer specific disadvantage as a result of their identified disability and subsequent heightened sensitivity to sources of noise and disturbance. A standalone Equality Impact Assessment [EQIA] has been undertaken and is held on the planning file.

12.2 It is the conclusions of this assessment that subject to the imposition of a condition which imposes limits that the development hereby approved shall not exceed 0dB above background noise levels at the boundary with noise sensitive premises the Council can suitably discharge their duties under the Equality Act.

12.3 Specifically, it is concluded that the action proposed to be taken by the Council removes potential disadvantages suffered by people due to their protected characteristics, as with the imposition of the condition outlined no discernible sound from the development is permitted at the boundaries with neighbouring dwellings. This is considered to provide the necessary security that the development (if approved) would not have an adverse impact on neighbouring

amenity, regardless of whether a resident is particularly sensitive to sources of noise or disturbance owing to an identified protected characteristic.

12.4 The proposal is also not considered to present further conflict with any other arms of the Public Sector Equality Duty.

13.0 Open Space Provisions

13.1 The proposal does not include, nor is it required by policy to make any open space provisions.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in this case are:

- The Principle of Development
- Impacts on Neighbouring Properties
- Design
- Other Matters

Principle

16.2 There is policy support for development that promotes public safety and supports wider security and public defence operations, including under Paragraph 97 of the National Planning Policy Framework [NPPF] (2021).

16.3 In this instance the site is an operational MOD site and the proposed development is required in connection with these existing operations and is understood to be supportive of military training. The proposed development therefore receives in principle support.

Neighbouring Amenity

16.4 Paragraph 130 of the National Planning Policy Framework (2021) requires planning decisions to ensure development creates places with a high standard of amenity for existing and future users, while Paragraph 185 further requires planning policies and decisions to ensure that new development is appropriate for its location taking into account likely effects and potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new

development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

- 16.5 Section 2 Policy DM15 states that all development must be designed to a high standard and protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Section 1 Policy SP7 echoes these sentiments, requiring all development to protect the amenity of existing and future residents, including with regard to noise and vibration.
- 16.6 In this instance the site is an operational MOD site, however as discussed there are residential properties in the area, including those along Monkwick Avenue to the east and Henry Everett Grove to the south. The nearest residential properties on Monkwick Avenue and Henry Everett Grove are respectively approximately 70m and 200m from the proposed location of the simulators. Particular attention therefore needs to be paid to ensuring that any noise from the operations of the simulators is not detrimental to the amenity of neighbouring properties.
- 16.7 In this regard, it is important to note that a previous application was refused for simulators on the site, owing to concerns about potential adverse impacts to the amenity of neighbours. Since this previous application the proposals have however been revised with a view to overcome the concerns previously raised. Most notably while the chinook simulators previously included a speaker system which would replicate the noise of the actual aircraft and wider environmental conditions, the speaker system has now been removed. Detailed acoustic modelling has also been undertaken in respect of the proposals as revised under this application.
- 16.8 The submitted noise reports outlines that the noise from the simulators will be generally constant, although levels may vary slightly throughout the simulator's different phases of use. Importantly however noise levels are predicted to be below background noise levels at the boundaries with residential properties, meaning existing established background sound levels are not expected to be exceeded by the development.
- 16.9 The acoustic modelling undertaken predicts that between the hours of 07:30 and 18:00 noise levels from the simulators at the boundary with residential properties on Monkwick Avenue and Henry Everett Grove would be 10dB and 4db **below** background noise levels. During the proposed evening use (18:00-23:00) the simulators are expected to generate noise 7dB and 1dB **below** the background noise levels at the boundary with residential properties on Monkwick Avenue and Henry Everett Grove, respectively.
- 16.10 For comparison the acoustic modelling for the scheme previously proposed and refused (which included the use of speakers) predicted noise levels at the boundary of neighbouring residential properties would be **above** background noise levels.
- 16.11 The acoustic assessment submitted under this current application has been scrutinised by Environmental Protection and no objections have been raised

to its proposed methodologies or conclusions. At the sounds levels predicted - all of which are below background noise levels at the boundary with noise sensitive premises – it is considered the proposed development would operate without any material harm to the amenity of the area, including in terms of the amenity of neighbours.

- 16.12 To provide certainty that the proposed development operates as predicted and without detriment to neighbouring amenity, a condition is recommended specifying that the noise emitted from the simulators shall not at any time exceed 0dBA above the background noise levels determined at all boundaries near to noise-sensitive premises (i.e. it shall not be detectable).
- 16.13 A conditions is also recommended restricting the hours of operation to those applied for (and for which acoustic modelling has been undertaken), in addition to a further condition explicitly prohibiting the installation of speakers and/or the use of amplified sound in connection with the simulators.
- 16.14 The proposal also does not give rise to any concerns from a loss of light or overlooking perspective, taking into account the limited size of the proposed simulators and distance from neighbouring dwellings.
- 16.15 In conclusion, subject to the imposition of the abovementioned conditions the proposal is considered acceptable from a neighbouring amenity perspective with no material impacts to neighbouring amenity expected, including in terms of noise or other disturbance. At the noise levels predicted there are also no concerns the proposed development will result in material harm to the amenity of the area more widely from a noise or disturbance perspective.

Design

- 16.16 The NPPF and the Planning Practice Guidance recognise the importance of good design, with specifically paragraph 130 of the NPPF requiring planning decisions to ensure development is visually attractive as a result of good architecture. Paragraph 126 states that the creation of high quality and beautiful buildings and places are both fundamental to what the planning and development process should achieve.
- 16.17 Colchester Borough Local Plan 2013-2033 Section 1 Policy SP 7 requires all development to meet high standards of urban and architectural design, respond positively to local character and enhance the quality of existing places. Section 2 Local Plan Policy DM15 requires development to be designed to a high standard, respond positively to the context and achieve good standards of amenity.
- 16.18 The simulators have a utilitarian appearance, although this is to be expected taking into account their functional and relatively temporary nature. They would be visually well contained within the site and, where visible, would be viewed in conjunction with the wider military complex. In this context the

development is considered acceptable in design terms and would not result in any material harm to the character and appearance of the wider area.

Other Matters

- 16.19 As discussed, the site is on an existing operational military site and while the proposal would potentially increase the number of vehicle movements to and from the site as a result of the increased training operations located there, it is considered very unlikely any increase would be material such that it posed any issues from a highway safety or capacity perspective, particularly given the size of the current site. No new means of access are proposed and ample on site vehicle parking would be retained.
- 16.20 The proposal has been assessed in line with the NPPF and Natural England Standing Advice. The site is not considered to encompass suitable habitat for protected species, nor is the proposal considered likely to have a material impact upon protected species, or ecology more widely. The proposal is therefore considered acceptable in this regard.
- 16.21 The site is in flood zone one (at a low risk of flooding) and the proposed simulators would be sited on existing hard surfaces. The proposal therefore does not give rise to any concerns from a flood risk perspective.
- 16.22 Finally, in terms of other material planning considerations (e.g. damage to trees, contaminated land, archaeology etc.) the proposed development does not raise any concerns.

17.0 Planning Balance and Conclusion

- 17.1 The proposed development will bring clear social benefits in terms of supporting the MOD's existing operations on the site and the MOD's wider military operations. These benefits are afforded weight in the planning balance. For the reasons outlined above, subject to conditions to provide necessary certainty and control on noise levels, it is also considered it can be ensured the proposed development can take place without resulting harm to neighbouring amenity. In the absence of harm in respect of other relevant material planning consideration officers conclude that the planning balance tips towards an approval in this instance and a conditional approval is therefore the recommendation put forward to members.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following 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 CHRTRA-IWD-XX-XX-DR-E-5100 P02, CHRTRA-IWD-XX-XX-DR-E-5101 P03 and CHRTRA-IWD-XX-XX-DR-E-5004 P01.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3. Noise levels

The rating level of noise emitted from the hereby approved simulators shall not at any time exceed 0dBA above the background noise levels determined at all boundaries near to noise-sensitive premises.

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.

4. Speakers and Amplified Sound

For the avoidance of doubt at no time shall speaker(s) be installed, or amplified sound used, in connection with the development hereby approved. Reason: For the avoidance of doubt, 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.

5. Hours of Operations

The development hereby permitted shall not OPERATE outside of the following times:

Weekdays: 07:30-23:00

Saturdays: 07:30-23:00

Sundays and Public Holidays: 07:30-23:00

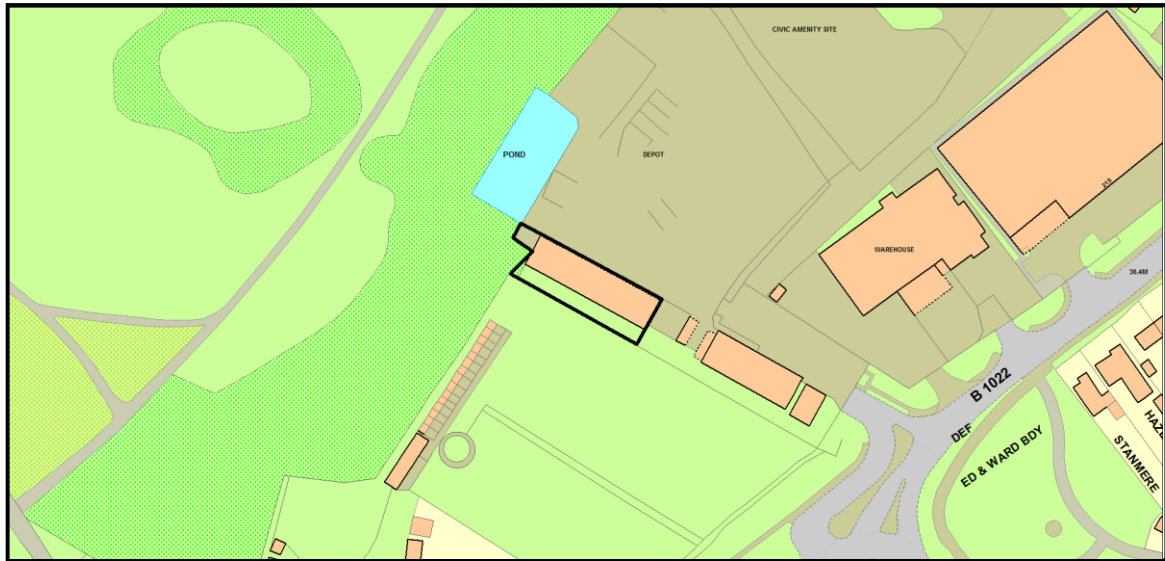
Reason: As this is the basis on which the application has been considered, and in the absence of evidence to the contrary, it cannot be concluded that the development operating outside these hours would not be detrimental to the amenity of the area and/or nearby residents by reason of undue noise.

19.1 Informatives

19.1 The following informatives are also recommended:

ZTB - Informative on Any Application With a Site Notice

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



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Item No: 7.2

Application: 230235

Applicant: Colchester City Council

Agent: Colchester Borough Homes Ltd

Proposal: Partial demolition, alteration and extension to existing Baling Shed

Location: Shrub End Depot, 221 Shrub End Road, Colchester, CO3 4SA

Ward: Prettygate

Officer: Mr Daniel Cooper

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester City Council

2.0 Synopsis

- 2.1 This application seeks consent for the partial demolition, alteration and extension of the existing bailing shed. The proposal is not considered to impact upon the character and appearance of the area or highway safety.

- 2.2 The application is subsequently recommended for approval

3.0 Site Description and Context

- 3.1 The application site relates to a Council owned and well-established recycling/refuse centre located in Shrub End.

4.0 Description of the Proposal

- 4.1 This application seeks consent for the partial demolition, alteration and extension of the existing bailing shed. It should be noted that there is an extant consent for the partial demolition and replacement of the bailing shed. However this new application seeks to amend that permission with a change of design, mainly concerning the roof but also to retain the existing footprint where the extant consent proposed a slightly larger footprint.

5.0 Land Use Allocation

- 5.1 Employment Land

6.0 Relevant Planning History

- 6.1 F/COL/05/1475 - Liquid Petroleum Gas (LPG) storage facility, waste transfer site, recyclable material handling facility, staff car parking area and ancillary works including lighting, small works team workshop, compound and vehicle access. Approved 25/10/2005.
- 6.2 210492 – The erection of 4 canopies to replace temporary canopies. Approved 28/5/2021.
- 6.3 213353 - Replacement of the existing bailing shed with a new bailing shed at the same location and with a slightly larger footprint. (The extant planning permission).

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP5 Employment
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

ENV1 Environment
DM2 Community Facilities
DM15 Design and Amenity
DM22 Parking
DM23 Flood Risk and Water Management

7.4 The area is not subject to a Neighbourhood Plan.

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

External Materials in New Developments
EPOA Vehicle Parking Standards
Sustainable Construction

8.0 Consultations

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

8.2 **Highway Authority** - The Highway Authority does not object to the proposals as submitted. Recommended Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

8.3 **Contaminated Land Officer** - The applicant is reminded of their duties under the Control of Asbestos Regulations 2012.

8.4 Environmental protection - Should planning permission be granted Environmental Protection wish to make the following comments:-

ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;
Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

Hours of operation

Same as currently permitted.

Should permission be granted for development, Environmental Protection recommends inclusion of the following advisory note: -

NOTE: Demolition and Construction

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.

- 8.5 **Archaeological Officer** - The proposed development is in an area of broad archaeological potential, being a short distance to the north of the scheduled monument of Gosbecks. However, given the nature of the proposal, it is strongly unlikely that any undisturbed ground will be impacted. There is therefore no requirement for an archaeological condition.
- 8.6 **Landscape Officer** – The Western boundary is recorded as a field boundary on the 1881 OS mapping. This important historic boundary should therefore be proposed as to be conserved, enhanced and restored within any revised proposals. To do this, a drawing (revision & enlargement to 0004.P02) should be submitted clearly illustrating this historic field boundary line, and a minimum distance of 3m proposed and clearly illustrated between the proposed unit (and any associated hard landscape) and the historic field boundary line. This 3m offset should be proposed as to be soft landscaped, i.e., to be cultivated and sown with species rich native grasses and with a native hedge and hedgerow trees, this set 500mm in from along the historic boundary line.

The line of hedge/hedgerow trees and soft landscape strip within which it is set should be clearly proposed (verbatim) as:

'Any existing dead or failing hedge stock and areas of bramble will be removed along this historic field boundary, and the resulting cleaned boundary fully planted-up, gapped up, reinforced and any missing sections/gaps replaced with new hedging and hedgerow tree planting. The hedge & hedgerow tree planting used will be complementary in makeup to existing local field hedges, planted out at a suitable size and spacing (with hedgerow trees set irregularly a minimum 10m apart), suitably protected, supported and mulched and maintained sufficient to allow the hedge/hedgerow trees to establish and thrive. The soft landscaped strip within which the hedge is set (including between the built form and boundary) will be cleaned, new topsoil bought in where necessary, cultivated and sown with species rich native grasses. During the establishment period failed/failing hedging stock and grassed areas will be replaced and the

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hedge and grassed strip maintained in situ through to maturity/until fully established, the hedge will be maintained at a minimum height of 2m and trees allowed to form natural crowns, the landscape will be maintained in line with good practice thereafter. Both hedge and grassed areas will be planted out and maintained in accordance with the relevant British Standards and implemented during the first planting season following substantial completion of any development consented to under planning application 230235.'

9.0 Parish Council Response

9.1 Non parish

10.0 Representations from Notified Parties

10.1 None received

11.0 Parking Provision

11.1 The proposal does not change the parking provision on site.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. In terms of the proposal, the bailing shed does not include any steps. Based on the submitted information, the scheme is not considered to cause discrimination in terms of The Equality Act.

13.0 Environment and Carbon Implications

13.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that as the proposal makes provision for the recycling of waste, on balance the application is considered to represent sustainable development.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle

16.1 The site relates to an existing recycling and waste processing centre, which is very well established within Colchester. While the proposal would not result in any expansion of the recycling/waste centre or additional activity, it would assist the recycling centre in continuing to meet the needs of local customers by assisting with waste management overall and increasing capacity, which is considered to be in accordance with the principles of the NPPF and National Planning Policy for Waste.

16.2 The extant planning permission should also be given great weight in these considerations as alterations and improvements to the existing bailing shed under planning reference 213353 benefit from extant planning permission. This new application is essentially to apply for alterations to the previous consent. The main alterations include mesh netting to the top half of the building.

16.3 The applicant has outlined the proposed changes as below:

- Taking down the superstructure to the existing baling area, whilst retaining the superstructure to the existing sweeper bay.
- Constructing a 3.5 m high reinforced in-situ concrete wall to the rear and end of the baling area.
- Installing 3.5 m high mesh netting above the new concrete wall to the rear and end of the baling area on new steel columns (*7.0 m high overall*), including a return above the roof at the other end.
- Replacing the corrugated (asbestos) fibre cement sheet cladding to the roof of the existing sweeper bay (*new storage bay*) with new profiled steel sheet cladding, including new gutters and rainwater downpipes.
- Removing the existing metal framed window and concrete cill to the rear wall of the existing sweeper bay and bricking up opening.
- Installing a new vertical lifting door to the front of the existing sweeper bay.
- Constructing a new sweeper bay on the end of the existing building, comprising steel frame, dwarf brick walls and profiled steel sheet cladding, all as previously proposed.
- Laying an unbound path to the rear of the building.

16.4 The above stated changes are intended to modify the building rather than demolish and build again under the extant permission.

Impact on Residential Amenity

16.5 Policy DM15 Design and Amenity states that all development must be designed to a high standard and achieve good standards of amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.

16.6 Given the site is already in active use as a waste sorting and recycling centre and the proposal is for works and alterations to the existing bailing shed, impact

upon residential amenity is considered to be neutral. The new bailing shed will not result in significant additional vehicle movements and is located a good distance away from the nearest neighbouring dwelling. In addition, the new bailing shed will be in the same location as the existing therefore, additional impact through introduction of new built form will be minimal and not incongruous with the existing setting. Given the above and nature of the proposal, the proposal is considered to be acceptable in this regard.

Impact upon Surrounding Area

- 16.7 Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment. Policy DM15 states that development must respect and, wherever possible, enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features.
- 16.8 The scheme will refurbish a dilapidated structure that has come to the end of its life and is not considered to be of good quality due to its age and condition. The bailing shed will be located within the existing site at the same location as the existing bailing shed. Wider public views will be limited to those approaching the site by road from the West heading East, with the majority of other view points well screened from the public. Therefore, the proposal is not considered to create a harmful impact upon the street scene or the wider area. The addition of the mesh netting is not considered to result in significant and unacceptable visual impact to the wider area. On balance, the proposal is considered to be of an acceptable design and appearance is in compliance with the aforementioned policies.

Highway Safety and Parking

- 16.9 Policy DM20 seeks to change travel behaviour to more sustainable modes of transport and improving accessibility of development through the promotion of walking and cycling as an integral part of development. Policy DM22 states that parking Standards for non-residential development should be agreed through joint discussions with the local Highway Authority and the Local Planning Authority in accordance with the most recent local Parking Standards
- 16.10 In this instance, the proposal is located away from the access road and designated parking. The Highway Authority has been consulted and does not raise an objection to the scheme. As such, it is considered that the proposed development would accord with relevant development plan policies.

Contamination

- 16.11 The Council's Contaminated Land Officer has not objected or identified any significant risks and has recommended precautionary informatics to be included as part of this approval.

Landscaping

16.12 The Council's Landscape Officer has not objected to the proposal however, it is important to ensure that the new bailing shed does not harm the landscape character of the surrounding area. While it is stated above that the new shed will replace the existing at the same location, it is noted that the rear (West) boundary is in a poor condition with a chain link fence that has fallen down in some sections.

16.13 The Landscape Officer seeks to enhance and protect the Western boundary and the applicant notes that this resubmission includes the bailing shed to remain on the current footprint and will be over 4m away from the boundary rather than the previous consent being only 3m away. With regards to built form impact, this revised application results in less impact to the boundary. However, it is noted that a condition was included in the previous approval requiring a boundary treatment scheme to be submitted. In the interests of enhancing and protecting this western boundary, the same condition will be carried over to this permission.

17.0 Conclusion

17.1 To summarise, given the context of the existing consent and the alterations to that proposed here, the proposal is considered to be acceptable and in conformity with relevant plan policies and is consequently recommended for approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 003 Rev P02, 004 REV P02 dated October 2021 and 621 REV P02 and 622 REV P02 dated November 2021.

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

3. ZBB - Materials As Stated in Application

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

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

4. ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

5. ZGR - *Light Pollution for Minor Development*

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

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

6. Z00 – Landscape Boundary Treatments

No boundary fence, wall or any other boundary treatment shall be constructed until a scheme of enclosure has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include details of the boundary enclosure to the site, specifying the type and height of fencing in a green RAL colour complementary to the wider rural landscape. The implementation of the enclosure works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any enclosure which is removed or seriously damaged shall be replaced without delay, like for like, with enclosure of similar specification, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

19.1 Informatives

19.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

INS – Asbestos in Existing Buildings

In accordance with the applicant's obligations under The Control of Asbestos Regulations 2012, prior to undertaking the permitted development works, an appropriate pre-demolition asbestos survey should be undertaken, by suitable qualified and experienced persons, and any relevant identified material managed,

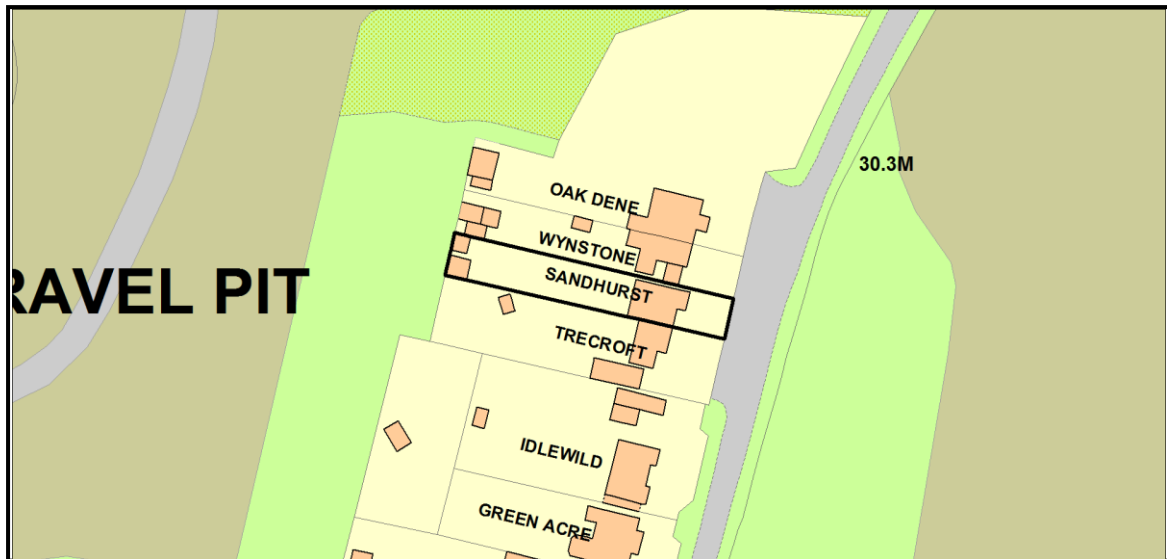
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removed safely, and appropriately disposed of at a suitable waste acceptance facility. The enforcing authority for this type of work is the Health and Safety Executive and it is recommended that you contact them directly to discuss their requirements.

Reason – insufficient detail has been supplied in support of this application and the potential presence of asbestos containing materials (ACM's) on the site therefore cannot be discounted and Environmental Protection wish to ensure that no new contamination pathways are created by the proposed development.

INS – Highways

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



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Item No: 7.3

Application: 230159

Applicant: Mr Tim Whitnell

Agent: N/A

Proposal: Application for a lawful development certificate for existing studio for personal use ancillary to and within the curtilage of owners dwelling house

Location: "Whitesands", Keelars Lane, Wivenhoe, Colchester, CO7 9LA

Ward: Wivenhoe

Officer: John Miles

Recommendation: **Grant LDC** - On the balance of probability, based on the information available to the Council, the studio/outbuilding has been in place for at least four years, as such demonstrating the development is immune from enforcement action under section 171B of the Town and Country Planning Act 1990 (as amended) and as such lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended).

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been submitted by or on behalf of a Council officer (or their spouse/partner)

2.0 Synopsis

- 2.1 The key issue for consideration is whether the studio/outbuilding is lawful.
- 2.1 The certificate is not an application for planning permission and conditions cannot be attached. The planning merits of the case are not relevant.
- 2.2 Based on the evidence available it is recommended that a Certificate of Lawfulness is granted for the existing studio/outbuilding identified on the submitted plans.

3.0 Site Description and Context

- 3.1 The site contains a single semi-detached residential dwelling which lies within a run of ribbon development along the west side of Keelars Lane.
- 3.2 The host dwelling benefits from a generous rear garden, while to the front of the dwelling there is smaller area laid to lawn and an area of hardstanding for off-road vehicle parking.

4.0 Description of the Proposal

- 4.1 A Lawful Development Certificate is sought to confirm that the existing studio/outbuilding in the dwelling's rear garden is lawful.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 None.

7.0 Principal Policies

- 7.1 A Lawful Development Certificate is a legal document which confirms the lawfulness of past, present or future building use, operation, or other development.
- 7.2 The certificate is not an application for planning permission and conditions cannot be attached. The planning merits of the case are also not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law, regulations or judicial authority.
- 7.3 Anyone can apply to the local planning authority to obtain a decision on whether an existing use or development is lawful for planning purposes. If the local planning authority is satisfied, on the balance of probabilities that the appropriate legal tests have been met, it must grant a lawful development certificate. Where an application has been made under Section 191 of the

Town and Country Planning Act 1990 (as amended) ["the Act"], a lawful development certificate only confirms what is lawful as at the date of the certificate application.

- 7.4 The amended section 194 of the 1990 Act states that it is an offence to provide false or misleading information or to withhold material information with intent to deceive. Section 193(7) enables the Council to revoke, at any time, a certificate they may have issued as a result of such false or misleading information.

8.0 Consultations

- 8.1 Due to the circumstances of the case no stakeholders were required to be consulted on the application.

9.0 Parish Council Response

- 9.1 Wivenhoe Town Council provided the following comments:

WTC wishes to make sure that the building is in the village envelope.

Note: As a legal determination, usual material considerations cannot be taken into account.

10.0 Representations from Notified Parties

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

11.0 Report

- 11.1 The main issues in this case are whether the existing development that is the subject of this application is lawful.

Assessment

- 11.2 Section 191 of the Act provides a person with the opportunity to apply to the Local Planning Authority (LPA) for a Certificate to confirm that an existing use or building operation is lawful. The application is an evidence-based application and not a determination of the planning merits of the proposal. The applicant is required to describe the proposal with sufficient clarity and precision to enable the LPA to understand exactly what is involved in the claim. The burden of proof for establishing lawfulness rests firmly with the applicant, and the evidential test applied is on the "balance of probabilities". The question can be phrased "is it more likely than not that the existing development is lawful?" The LPA should accept the applicant's evidence, provided that it is sufficiently precise and unambiguous, unless they have evidence to contradict or undermine it. Section 191(4) of the Act provides that if the LPA is satisfied on the evidence provided with the application that the existing development is lawful, they shall issue a certificate; in any other case they shall refuse the application.

- 11.3 While residential outbuildings often constitute ‘permitted development’ in that they don’t require express planning permission, to benefit from the permission(s) granted by the General Permitted Development Order certain conditions and limitations need to be met. These include limits on height. In this case the outbuilding exceeds the height limits set out under the General Permitted Development Order and therefore would have required express planning permission from the LPA at the time of its construction, however it is understood no such permission was obtained.
- 11.4 S171B (1) of the 1990 Town and Country Planning Act (as amended) stipulates however that for any building or engineering in, on, over or under land, such as is the case here, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. This LDC was applied for in order to establish whether the studio/outbuilding has been substantially built and in situ for such a period of time that it is considered lawful for planning purposes under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
- 11.5 The application requires sufficient information to support the claim submitted. The assessment of the application is based upon the evidence submitted rather than an assessment through planning policy.
- 11.6 The applicant’s claim is that the building works for the outbuilding were substantially completed by 31st January 2005. A letter identified as being from the occupier of the adjoining property state that the outbuilding in question was constructed in ‘2004/5’.
- 11.7 There is no evidence to refute these claims, on the contrary there is evidence available which appears to support the claims made. Available aerial imaging appears to show the outbuilding in question in place in 2006, 2009, 2012, 2014 and 2018.

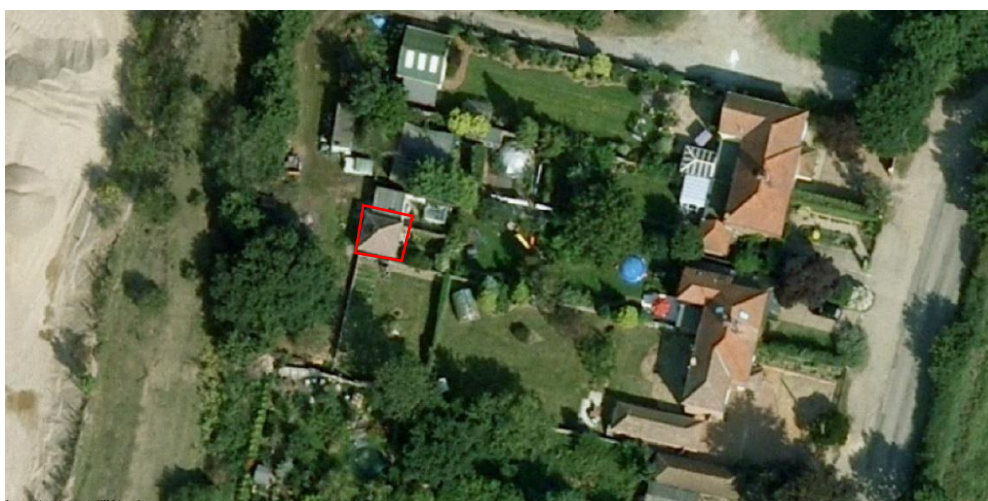


Figure 1: Aerial image from 2006.



Figure 2: Aerial image from 2009.



Figure 3: Aerial image from 2012.



Figure 4: Aerial image from 2014.

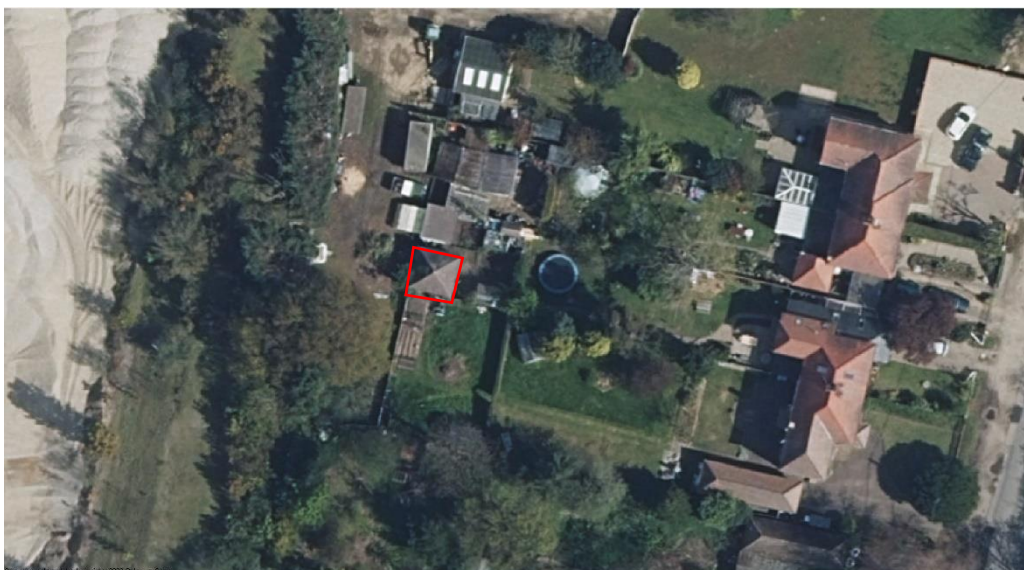


Figure 5: Aerial image from 2018.

12.0 Conclusion

- 12.1 On the basis of the information submitted and otherwise available it is concluded that, on the balance of probabilities, the outbuilding has been substantially completed for a period well in excess of the 4 years required to be immune from enforcement action.

13.0 Recommendation to the Committee

- 13.1 The Officer recommendation to the Committee is that the application for a lawful development certificate is APPROVED for the following reason:

Under the key statutory framework for such applications and their determination, as set out in sections 191-193 of the Town and Country Planning Act 1990 (as amended) the development is on the balance of probabilities found to have been substantially complete since at least 2008. With reference to the Town and Country Planning Act 1990 Section 191, as amended by section 10 of the Planning and Compensation Act 1991 and section 171B of the Town and Country Planning Act 1990 (as amended) the time limit for any enforcement action has therefore expired and regardless of the structure's lawfulness at the time of construction, owing to the passage of time the studio/outbuilding is found to be lawful.

Draft Certificate:

COLCHESTER BOROUGH COUNCIL hereby certifies that on 3rd February 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in red on the plan attached to this Certificate, would be lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

It has been demonstrated on the balance of probabilities that the studio/outbuilding has been substantially complete for a period in excess of four years, as such demonstrating the development is immune from enforcement

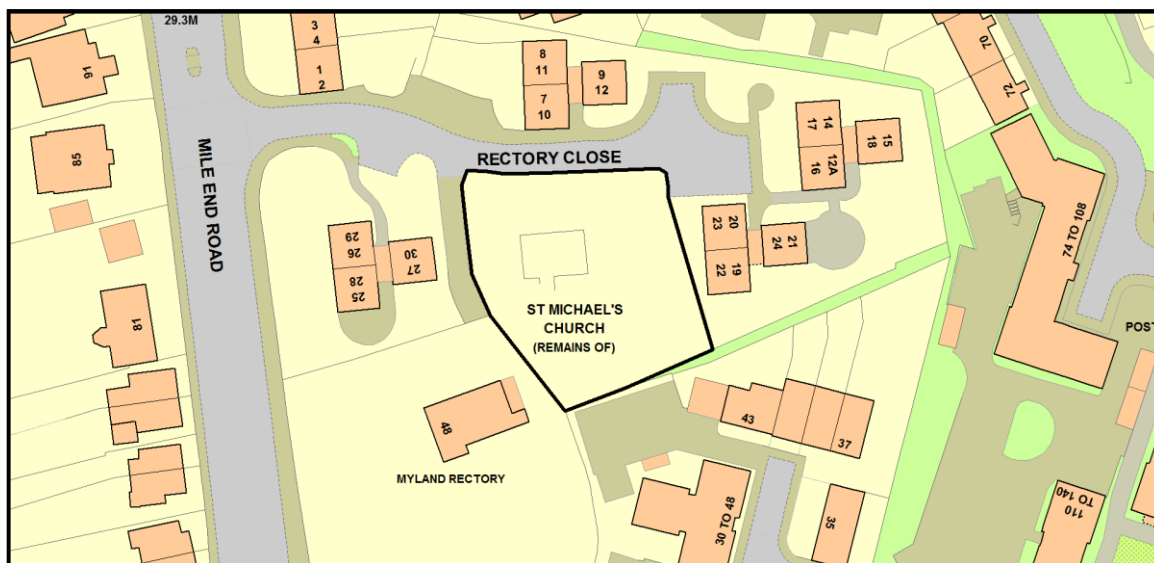
action under section 171B of the Town and Country Planning Act 1990 (as amended) and as such lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended).

FIRST SCHEDULE

Existing studio/outbuilding for personal use ancillary to and within the curtilage of the dwelling known as “Whitesands”, Keelars Lane, Wivenhoe, Colchester, CO7 9LA, as shown on Drawing Number ‘Studio, Whitesands – 001’ and as shown on the submitted undated photo (indexed as ‘SITE PHOTO’).

SECOND SCHEDULE

“Whitesands”, Keelars Lane, Wivenhoe, Colchester, CO7 9LA



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Item No: 7.4

Application: 223025

Applicant: Cllr Peter Hewitt

Agent: Philip Wise

Proposal: Installation of Heritage Interpretation Panel to former site of the medieval St Michael's Church.

Location: Former St Michael's Church, Rectory Close, Colchester

Ward: Mile End

Officer: Nicola Perry

Recommendation: Approve

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee due to the applicant being Colchester City Council on behalf of Myland Community Council.

2.0 Synopsis

- 2.1 The application seeks advertisement consent for an interpretation panel of pedestal style, to provide information to the public about the original St Michael's Church. The key issues for consideration are the design and visual impact of the proposal on the application site and surrounding area, as well as amenity and public safety.
- 2.2 Having assessed the application against local and national legislation, policy and guidelines it is considered that the proposed development would not have a detrimental impact visually, or cause harm to amenity or public safety.
- 2.3 The application is subsequently recommended for approval, subject to conditions. All relevant issues are assessed in the report below.

3.0 Site Description and Context

- 3.1 The application site is an area of open green space bounded by hedging and fencing, situated on the south side of Rectory Close, a small residential cul-de-sac off Mile End Road. It contains the remaining foundations of the former medieval St Michael's Church, tombstones, and several mature trees, however these trees are not covered by Tree Preservations Orders (TPO's).
- 3.2 The remains of the original St Michaels Church are included on Colchester's Local List which recognises non-designated heritage assets that are valued by the local community and make a significant contribution to the heritage of the area.
- 3.3 The application site is not situated within designated land such as a Conservation Area, an Area of Outstanding Natural Beauty (AONB), and is not a designated Scheduled Monument.
- 3.4 The application site is owned by Colchester City Council and the necessary certificate of ownership has been completed to confirm they have been given requisite notice.

4.0 Description of the Proposal

- 4.1 Advertisement consent is required for the interpretation panel which will contain historical information and graphics in relation to the original St Michaels Church. This is to be of the same design and specification as used elsewhere within Colchester as per the concept drawing (Balkerne Gate – 130350).
- 4.2 Planning permission would be required for the installation of the proposed interpretation panel, measuring 921mm in width by 674mm in height and 40mm

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in depth and would stand 0.8m in height from the ground. Planning Permission can be sought separately.

5.0 Land Use Allocation

5.1 Within Colchester settlement limits.

6.0 Relevant Planning History

6.1 There is no recent planning history of particular relevance to this application.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG8 Neighbourhood Plan
ENV1 Environment
DM5 Tourism, leisure, Culture and Heritage
DM15 Design and Amenity
DM16 Historic Environment

7.4 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the City.

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

- The Essex Design Guide
- External Materials in New Developments
- Myland Parish Plan AND Myland Design Statement

8.0 Consultations

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

Historic Buildings and Areas Officer

- 8.2 The Historic Buildings and Areas Officer has analysed the impact upon heritage, stating that; “The application proposes the installation of an interpretation panel at the site of the former St Michael’s Church . The site is included in Colchester’s adopted Local List and comprises stones and gravestone marking the site of the Church. By virtue of its design and content, the interpretation panel would be similar to other panels of this type that are located along the remains of the Town Wall and on other heritage points of interest within the historic city centre. The panel would raise awareness of the site’s significance and enhance its appreciation by the public . Therefore, it is a welcome addition and there are no objections to its erection.”

Archaeological Advisor

- 8.3 The Archaeological Advisor has confirmed there are no archaeological issues.

Contaminated Land Officer

- 8.4 The Contaminated Land Officer has responded with no objections.

Essex Highway Authority

- 8.5 The Highway Authority does not object to the proposals as submitted and ask that an informative is added to any permission granted requesting any works within or affecting the highway to be agreed with them before commencement.

9.0 Parish Council Response

- 9.1 The Parish Council have not commented on this application as it has been submitted on their behalf by Colchester City Council.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties.
- 10.2 A local resident raised concern via telephone that not all neighbouring properties had received notification letters. These were re-issued where necessary with the 21 day statutory period allowed for representations to be made and instructions how to submit.
- 10.3 The application received no written representation from members of the public (objections/or support) in response to notification.

11.0 Parking Provision

11.1 Parking provision would be unaffected by this proposal.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. In considering the application, due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Representations have not been received identifying any specific equality implications potentially arising from the proposed development and requiring additional consideration. The height of the proposed panel would appear to be suitable to be read by wheelchair users. The proposal does not give rise to any other concerns from an accessibility or equality perspective.

13.0 Open Space Provisions

13.1 The proposal does not include, nor is it required by policy to make any open space provisions.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 Regulation 3 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) requires local planning authorities when determining an application under these provisions shall only exercise its powers in the interests of amenity and public safety, taking account of policies within the development plan, in so far as they are material, or any other relevant factors.

16.2 Paragraph 132 of the National Planning Policy Framework (NPPF) states that the quality and character of places can suffer when advertisements are poorly sited and designed. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

16.3 The main issues in this case are:

- The Principle of Development
- Amenity
- Public Safety

- Other Matters

Principle of Development

- 16.4 The principle of erecting interpretation panels at key points of interest in Colchester is established. This proposed panel would provide members of the public access to information about the significance of the former St Michael's Church, that they may not have otherwise have been aware of.

Design and Amenity

- 16.5 Section 1 Local Plan Policy SP7: Place Shaping Principles states that all new development should respond positively to local character and protect and enhance assets of historical value.
- 16.6 In considering design and visual impact, Section 2 Local Plan Policies DM15, DM16 and ENV1 are particularly relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings and safeguarding heritage and landscape features.
- 16.7 For the purposes of advertisement consent, the NPPG confirms that "Amenity" is not defined exhaustively in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. In practice, amenity is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site where the advertisement is to be displayed, where residents or passers-by will be aware of it. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic scenic, architectural, cultural or similar interest.
- 16.8 The proposed interpretation panel is considered acceptable in this location in terms of its design, colour, size, form and use of materials. Owing to its limited scale and relatively muted colour palette, the proposed panel would not introduce an overly prominent feature or significantly alter the character of the site. Therefore, it is considered that it would not have a detrimental impact on the visual amenities of the surrounding area.
- 16.9 The site is included on Colchester's adopted Local List, which recognises non-designated heritage assets that are valued by the local community and make a significant contribution to the heritage of the area. For the reasons stated above, the proposed interpretation panel would not be visually dominant, consequently it is considered that it would not have an adverse impact on the historic significance of the site. The Council's heritage officer has no objections to the proposal, which would raise awareness of the significance of the site and enhance its appreciation by the public.
- 16.10 The site contains several mature trees, which although not covered by TPO's have high amenity value. Due to the location and scale of groundworks associated with the installation of the proposed interpretation panel, additional surveys are not necessary or justified. A standard condition would be applied to

any grant of planning permission, to ensure they are afforded appropriate protection during construction works.

Impact on Neighbouring Properties

- 16.10 The proposed interpretation panel is modestly sized and would be situated a substantial distance from any nearby dwelling, it is therefore felt that it would have no material impact on residential amenity. The proposed panel would not be illuminated and so there are no concerns that the nearby dwellings would be impacted by light pollution.

Public Safety

- 16.11 In assessing an advertisement's impact on public safety, it is necessary to consider the effect upon the safe use and operation of any form of traffic or transport. Section 2 Local Plan Policy DM21 requires all development to maintain the right and safe passage of all highways users.
- 16.12 The National Planning Practice Guide (NPPG) states that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety.
- 16.13 The proposed panel would be located inside the entrance to the site, in an area of public open space. The content of the proposed panel relates to the site in which it is located and is not significantly different to the other interpretation panels throughout Colchester. The proposed panel would be set back from the highway where it is considered that it would not be mistaken for traffic signs so as to pose a danger to highway safety. The proposed panel would attract passers-by to a certain extent (as they are designed to do), but are not considered to distract passers-by unnecessarily or to a hazardous extent. The Highway Authority have been consulted as part of the application and have confirmed that they have no objections to the proposal.
- 16.14 Consequently, there are no concerns that the proposed interpretation panel would pose a risk to public safety. Although the site lacks street lighting, it is situated off a residential cul-de-sac and does not contain a public footpath, therefore pedestrian footfall is limited. There would be no dangerous protrusions and therefore no significant concerns that the interpretation panel would be a potential trip hazard at dusk or in the dark.

17.0 Planning Balance and Conclusion

- 17.1 To summarise, the proposed interpretation panel is acceptable in design terms, including taking into account of the visual impact upon the site and surrounding area. The level of harm to neighbour amenity is not considered to be material or unacceptable. Additionally, the proposed interpretation panel has been assessed in accordance with guidelines for advertisements and is acceptable in terms of public safety and amenity, subject to conditions. No objections have been received and it is felt that the proposal accords with the Council's policy requirements.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of advertisement consent subject to the following conditions:

1. Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

19.1 Informatives

19.1 The following informatives are also recommended:

Highway Authority Informative

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

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

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.

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

