

Planning Committee Meeting

**Online Meeting, Virtual Meeting Platform
Thursday, 22 October 2020 at 18:00**

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to observe all meetings of the Council, its Committees and Cabinet including those which may be conducted online such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least 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>.

Occasionally certain issues, for instance, commercially sensitive information or details concerning an individual have to be considered in private. When this is the case an announcement will be made, the live broadcast will end and the meeting will be moved to consider in private.

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. Planning Committee meetings, other than in exceptional circumstances, are subject to one representation in opposition and one representation in support of each application. Representations can be a statement or questions of no longer than three minutes when spoken (maximum 500 words) submitted online by noon on the working day before the meeting date. Please use the form [here](#).

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>.

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 22 October 2020 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Lyn Barton	Deputy Chairman
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Nick Cope	Simon Crow
Robert Davidson	Paul Dundas	Andrew Ellis	Adam Fox
Dave Harris	Theresa Higgins	Mike Hogg	Mike Lilley
Sue Lissimore	A. Luxford Vaughan	Sam McCarthy	Patricia Moore
Beverley Oxford	Gerard Oxford	Chris Pearson	Lee Scordis
Lesley Scott-Boutell	Lorcan Whitehead	Dennis Willetts	Julie Young
Tim Young			

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

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

An Amendment Sheet is 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:
<https://www.youtube.com/user/ColchesterCBC>

1 Welcome and Announcements (Virtual Meetings)

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all

Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

2 Substitutions

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

3 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.

4 Declarations of Interest

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

5 Have Your Say! (Virtual Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. Each representation, which can be a statement or a series of questions, must be no longer than three minutes when spoken (500 words maximum). One single submission only per person and a total limit of 30 minutes (10 speakers) per meeting. Members of the public may register their wish to address the Committee members by registering online by 12 noon on the working day before the meeting date. In addition, a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself. The Chairman will invite all members of the public to make their representations at the start of the meeting.

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 Meetings

7 - 18

The Councillors will be asked to confirm that the minutes of the meetings held on 30 July 2020 and 20 August 2020 are a correct record.

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(i)	St Peters Church, conversion to single dwelling	19 - 54
	Demolition of majority of south aisle (retaining western gable wall). Renovation of retained building envelope, Conversion to single dwelling, including new reinforced concrete raft foundation, partial mezzanine and new floors to tower .	
8	18120 Land at Queen Street, Colchester	55 - 64
	Proposal for the southern pedestrian access that is required to be delivered as a part of the approved Alumno development.	
9	Applications Determined in Accordance with the Officer Scheme of Delegation	65 - 66
	See report by the Assistant Director, Place and Client Services giving details of the applications which have been determined up to 1 October 2020 in accordance with the revised scheme of delegation agreed at the Committee's meeting on 18 June 2020.	
10	Exclusion of the Public (not Scrutiny or Executive)	
	In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).	
	Planning Committee Information Pages v2	67 - 78

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

Planning Committee

Thursday, 30 July 2020

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford
Apologies: Councillor Martyn Warnes
Substitutes: Councillor Chris Pearson (for Councillor Martyn Warnes)

804 192828 & 192829 Colchester University Foundation NHS Trust, Essex County Hospital, Lexden Road, Colchester

Councillor Chuah (as Colchester Borough Council's stakeholder governor on Colchester Hospital University Foundation Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the redevelopment of the former Essex County Hospital to provide 120 homes comprising the residential conversion of Main Hospital Building, Nurses Home, Kitchen Store, G.U. Medicine Building and North East Block to provide 70 apartments and houses, and demolition of additional outbuildings and replacement with 50 new apartments and houses and associated enabling works including public open space, landscaping, parking and access. New electricity substation and relocation of existing gas governor.

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

The Committee members had been provided with video clips of the site taken by the planning officer to assist in their assessment of the impact of the proposals upon the locality and the suitability of the proposals for the site.

Mr Avison addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He reminded Committee members that the Essex County Hospital site was an important site, on an attractive route into the town and within a conservation area. The comments made about the impact of the outpatients and radiotherapy buildings on the setting of the principal listed building applied equally to the proposed new blocks facing on to Lexden Road. They were featureless and of no architectural merit. The proposals did not meet policies UR2 or ENV1 and would not conserve and enhance the historic environment. Consideration also had to be given to the impact on all residents and visitors who would see this development as they entered the town centre area. The majority of objections cited the impact on Lexden Road, on the conservation area and the poor quality of the design.

Laura Dudley Smith of Strutt and Parker, agent for the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application was brought forward by Essex Housing who were the residential development arm of Essex County Council. Funds from the development would be reinvested into a local NHS Trust. There had been public engagement and discussions with Colchester Borough Council, Historic England, Essex Highways and Essex Police, who all supported the scheme. The proposal would provide high quality housing in a sustainable location, retaining the principal listed building and other important features, whilst replacing more contemporary buildings with new homes, whose design would complement the site. The reinstatement of the lawn to the front of the main building would reference the original design and restore the site's contribution to Lexden Road and the conservation area. The section 106 agreement would yield 4 affordable homes, contributions for cycleways, doctors' surgeries and other facilities. The site's central location provided the opportunity for the provision of sustainable measures such as a car club, electric vehicle charging points and cycle parking.

Councillor Cope attended and with the consent of the Chairman addressed the Committee in support of Mr Avison's views. He expressed concern about over development and pointed out that the proposals had changed after public engagement had been held and he queried the validity of the conclusions of the traffic statement. He stated that the design of the development had attracted many comments and suggested that an independent architectural view on the design would be useful.

James Ryan Principal Planning Officer presented the report and, together with Simon Cairns, Development Manager assisted the Committee in its deliberations. He explained that the design of the development was high quality, combining new properties with works to extant buildings. The design approach for the new buildings was "New London vernacular" which would create an area with buildings that would stand the test of time. They were of significantly better design quality than the buildings they would replace. The proposals would improve the setting of the principal listed building. Historic England were now content with the proposals.

There was significant provision of amenity space, both private and shared spaces, and there would be considerable tree planting on the site. An independent viability appraisal had been undertaken, which showed that viability of the scheme was marginal. There were significant public benefits to the scheme as the development would secure heritage assets for years to come. Four affordable housing units would be provided.

Members of the Committee were pleased that Historic England had been actively involved and that the main listed building and nurses' home were being retained. The Committee noted some of the concerns raised about the design of some of the new build, but considered that this was to an extent a subjective matter, and did not consider the design caused significant harm to the setting of the listed building or to the character of the conservation area. The Committee were reassured by the maintenance of a varied roof line and noted that view of the site from Lexden Road would be maintained so there would not be a negative impact on the street scene. The Committee were also pleased to note

the provision of green space and areas for children to play. It was highlighted that there would be a contribution towards the upkeep of Castle Park, although some members queried whether this could be used to increase amenity on site or on sites nearer the development such as Hilly Fields.

Members requested that a condition be attached requiring that an interpretation board highlighting the history of the site be erected by the developer.

Members were concerned at the small number of affordable homes provided but understood that the cost of the renovation and conversion of listed buildings meant the viability of the scheme was marginal. Whilst this was a lower level of affordable housing than would normally be agreed, the Committee was of the view that there were other benefits from the scheme, particularly the retention of the historic assets. A number of other queries were raised about the scheme, relating to access, the potentially contaminated nature of the site, the usability of the roof terraces and the provision of electric car charging points. The Principal Planning Officer explained that most of these issues were addressed by conditions attached to the permission. The roof terraces were usable spaces and could be converted into gardens. The Council would seek the installation of as many electric charging points as was practical.

RESOLVED (Unanimously) that –

Planning permission and listed building consent be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, authority be delegated to the Assistant Director Place and Client Services to refuse the application, or otherwise to be authorised to complete the agreement. The permission will also be subject to the conditions as set out in the report with the addition of a condition for the provision of an interpretation board on site, the precise wording of which may also be amended under delegated authority with respect to both the full application and the application for Listed Building Consent.

805 200960 Land at Brierley Paddocks, West Mersea

The Committee considered an application for approval of reserved matters following outline approval (192136) for the erection of 101 dwellings and commercial D1/B1 uses with associated parking, public open space, landscaping, sustainable urban drainage system. The application had been referred to the Committee because it has been called in by Councillor Jowers.

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

The Committee members had been provided with video clips of the site taken by the planning officer to assist in their assessment of the impact of the proposals upon the locality and the suitability of the proposals for the site.

Councillor Chris Wood, West Mersea Town Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application saying that the Town Council did not consider the changes that had been made addressed the concerns that had been expressed and that there had been no consultation on those changes with residents. The development was inappropriate in its proximity to existing stock, overbearing, out of scale and character with high density and layout, and not in accordance with policy DP1. There were concerns over the impact on privacy, overlooking, noise, crime and security issues and access for maintenance. Confirmation was sought that the landscaping and scheme had the approval of the Police. West Mersea Town Council and residents strongly objected to the proximity of the development to Farthing Close and was of the view that a wider buffer needed to be provided. The design was not in keeping with the houses on Seaview Road, and the site was overdeveloped with some houses being only 5 metres from Seaview with windows facing the gardens. The developer's commitment to the seed bed centre needed to be clarified. Any affordable homes should be allocated to West Mersea residents.

Robert Stafford addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application and spoke of the concerns around the use of Brierley Paddocks as the access road to the development. It was a private road owned and maintained by residents of Brierley Paddocks. The plans showed the access road going through the duck pond and implement shed, which was unacceptable. The levels of traffic would generate traffic noise, air pollution and safety problems for residents of Brierley Paddocks and East Road. Using Brierly Paddocks as the main point of access was flawed, unacceptable and dangerous, not only to residents of Brierley Paddocks but also to the occupants of the main development.

A written submission provided by Stephan James was read to the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1) in opposition to the application. The application took away enjoyment of property from Seaview Avenue residents, which could lead to legal action for a breach of the Human Rights Act. Local councillors should have met with local residents to discuss their concerns. The amendments had not materially changed the layout and the plan did not comply with policy DP1. The revised layout did not address key objections made by residents. Details of the proposed tree belt were not clear, and a green swathe would be more appropriate. There were also concerns the impact of construction traffic accessing the site from Seaview Avenue. A formal complaint had been made asking for the report to be withdrawn on the grounds it was inaccurate and misleading. Councillors had a duty to vote and should not abstain. There were unresolved objections and no balance between the development and needs of the community. The application should be rejected.

Richard Winsborough, City and Country, agent for the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He drew attention to the officer recommendation. The application proposed a compliant, high quality and appropriate layout for the site. The layout incorporated an abundance of open space in excess of the policy requirement and the houses were well designed reflecting the Essex

vernacular. The provision of 30% social housing would help address local need. The proposals had been subject to rigorous consultation and they had listened to residents' concerns and responded where appropriate with changes to the layout. Whilst not all local concerns had been met, discussions would continue.

Councillor Moore attended and with the consent of the Chairman addressed the Committee and raised the issue of planting and whether there was sufficient screening and fencing to protect existing properties. She also had concerns about the security of residents and the distance between the proposed properties and Farthings Close. Allocation of affordable housing should allow for at least 10 of the homes to be reserved for local families. The effect of construction traffic on Seaview Avenue and access was raised along with the issue of access for emergency vehicles.

Councillor Jowers attended and with the consent of the Chairman addressed the Committee. He had called this in in view of the number of objections and there had not been enough consultation. Affordable housing was grouped together on the edge of the development and should be pepper-potted through the development. Farthing Close should be made secure with a close boarded fence, Seaview Avenue residents would lose amenity with headlights from passing vehicles shining into their gardens, which needed to be addressed through screening. Access for traffic was an issue and it was suggested that this could be reduced with one way and one way out. The Mersea community should see some benefit from the application and there should be allocation of social housing for Mersea residents. There had not been enough debate and community involvement with the application, and a meeting with the developer would be beneficial.

James Ryan, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager and Karen Syrett, Lead Officer: Planning, Housing and Economic Growth, assisted the Committee in its deliberations. He explained that the principle of development and access had been approved as part of the outline permission. The design of the housing reflected the local vernacular and was in accord with the Essex Design Guide. The street scene was attractive and pedestrian friendly. The design layout showed an appropriate distance from existing properties and the proximity was in excess of policy requirements. The site was not overdeveloped. The allocation of the affordable housing had been agreed with the Council's social housing team. The applicant had the right to install the proposed access and had made a commitment to replace that part of the pond that was removed.

Committee members were concerned about the issues raised regarding the site boundaries and security. It was suggested that a two-metre close boarded fence that ran along the western boundary of the site would provide the necessary security for residents of Seaview Avenue and Farthings Chase. The Principal Planning Officer confirmed that this could be secured through the discharge of the condition on fencing and boundary treatments. Concern was also expressed about the potential for the developer to bring forward a further application to develop the rural edge of the site. The Principal Planning Officer confirmed that this was addressed through the legal agreement, and that in any case officers would be unlikely to support such

a development.

Members of the Committee considered that the development was attractive, spacious and welcomed the 5-metre landscaping belt. There was concern about access to the site, particularly in respect of construction vehicles and the proposal that the access road would not be adopted. It was pointed out that there was no obligation on the developer to provide an adopted road so the private road would be the responsibility of the management committee for the site. It would be built to an adoptable standard and comply with Essex Design Guide standards on turning heads and emergency access. The suggestion for an in/out access was not possible and officers had resisted an access point off Seaview Avenue because of the impact on amenity from additional traffic.

The affordable housing provision was welcomed, but members queried whether it would be possible for Mersea residents to be given priority for a proportion of the housing. The Lead Officer Planning Housing and Economic Growth explained that it may be possible to introduce a local lettings policy which would allow a third of the affordable units to be reserved for local residents and an informative to this effect could be added to the permission.

In response to members queries it was confirmed that electrical vehicle charging points had been secured as part of the outline application. In response to concerns raised about consultation, it was highlighted that the application had been subject to normal consultation on receipt of the application. Whilst consultation had been difficult in the Covid 19 pandemic, the applicant had met with representatives of Brierley Paddocks and Seaview Avenue to discuss their concerns, which had resulted in amendments to the plans.

RESOLVED (Unanimously) that the application be approved subject to conditions and informatives as set out in the report (with authority delegated to officers for the precise wording with the addition of a revised a landscaping condition requiring provision of a close boarded fence 2.0 m in height along western side boundary plus informative explaining this requirement around security for neighbouring properties and an informative lending support to local lettings policy for one third of Affordable Housing units (10 No.) favoured pursuant to the clause in the associated section 106 on the outline Planning Permission be added.

806 Applications Determined in Accordance with the Officer Scheme of Delegation

The Committee considered a report by the Assistant Director, Place and Client Services giving details of the applications which have been determined since the last meeting in accordance with the revised scheme of delegation agreed at the Committee's meeting on 18 June 2020.

The Committee had before it a report and detailed amendment sheet in which all information about the applications were set out.

RESOLVED that the applications listed in the Assistant Director's report and Amendment Sheet which had been determined under the revised scheme of

delegation.

Planning Committee

Thursday, 20 August 2020

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford

Apologies: Councillor Martyn Warnes

Substitutes: Councillor Chris Pearson (for Councillor Martyn Warnes)

808 Minutes of Previous Meeting

The minutes of the meeting held on 9 July 2020 were confirmed as a correct record.

809 191093 Land at Berechurch Hall Road, Colchester

The Committee considered an application for a residential development of 32 detached and semi-detached dwellings and flats complete with garages, access and open space. The Committee had before it a report and detailed amendment sheet in which all information about the application was set out.

The Committee members had been provided with video clips of the site taken by the planning officer to assist in their assessment of the impact of the proposals upon the locality and the suitability of the proposals for the site.

Simon Cairns, Development Manager presented the report and, together with Karen Syrett, Lead Officer for Planning, Housing and Economic Growth, and Martin Mason, Strategic Development Engineer, Essex County Council assisted the Committee in its deliberations.

Mary Stuttle addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8. Mrs Stuttle explained that she had previously commented on this site and the new plan raised questions. There are real concerns regarding road safety when all 3 sites of the development are considered. The additional traffic generated by new users of an already congested and dangerous part of Berechurch Hall Road would increase the volume of traffic and impact on existing and new residents (both motorists and pedestrians).

The possible removal of the ditch and the hedgerow that runs along the ditch that was removed in February was of concern. In addition, some work had been undertaken on oak trees. Assurance was sought that the remaining hedgerow would be protected.

The proposed temporary site entrance would impact greatly on the houses opposite and this impact would be worsened if the permanent site entrance to the adjoining 164 dwelling site was allowed to go ahead as it would be directly opposite a mews entrance.

At times it was extremely dangerous to pull out onto Berechurch Hall Road due to the

volume of traffic and the number of speeding motorists, and that crossing the road as a pedestrian was similarly difficult. Details of any road improvements by Essex County Council Highways were requested as well as information on services and facilities accessible by foot. Public transport provision was queried. The Committee should consider traffic calming measures, a pedestrian crossing and relocation of the permanent entrance further towards Maypole Green in an area not opposite existing dwellings entrances and with the provision of a roundabout.

The Development Manager explained that in course of negotiations with the planning officers the proposals had been revised taking into account the concerns of residents including those on the boundary in Catkins Mews and Amber House, particularly in regard of overlooking.

A traditional approach to the development had been taken with an L shaped site that includes public open space, 1 wheelchair adapted unit, nine affordable units and a significant number of single storey buildings/chalet bungalows and bungalows mitigating the impact on dwellings on the west of the site. Points for electric vehicles would be provided.

The temporary access to Berechurch Hall Road would be closed when the adjacent site was developed and brought forward for consideration in due course. Pedestrian links to the next phase of the site and links to the Colchester orbital footway were proposed.

The footway on the frontage was a requirement of the scheme and the ditch on the site frontage would be culverted to maintain existing drainage capacity allowing the footway over it for eventual use by pedestrians and cyclists. The coppicing of a heavily overgrown hedgerow had been undertaken to improve visibility splays and any new planting will be covered in planned landscaping. It was confirmed that an archaeological survey had already been undertaken but had yielded little. The Council's archaeological adviser was content with the archaeological condition.

Members of the Committee acknowledged the quality of the proposed development, the changes to ameliorate residents' concerns and the provision of affordable housing. The Committee requested the provision of a disabled parking space

Committee members were primarily concerned with road safety issues arising from the development and sought an assurance regarding road safety and to assist with this consideration accident statistics had been provided by Essex County Council. Members explored the need for road safety measures such as a vehicle activated sign at the Layer Road end of Berechurch Hall Road and a layby for the bus stop;

Martin Mason explained that Essex County Council could only ask the developer to mitigate the impact on the application before the Committee which was for 32 dwellings. When the larger scheme was brought forward, then a transport assessment would be required which would lead to more significant highway improvements and safety measures such as a central refuge island and possible half lay-by. The Development Manager agreed that the highways infrastructure provision required as a result of this particular application must be proportionate.

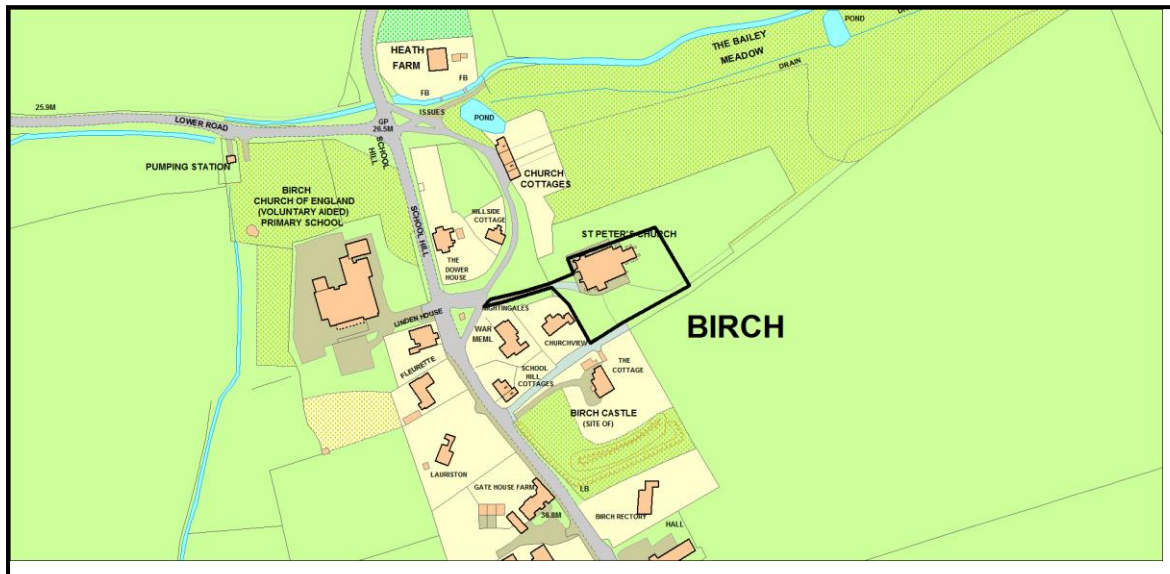
Concern was expressed that applications being submitted in small parcels made it difficult to look at the schemes as a whole. The Development Manager clarified that when the remainder of the site allocation comes forward the wider mitigation sought by the Committee should be delivered and was required by the site allocation policy. The Committee considered that an informative should be added advising that the applicant must make appropriate provision for effective traffic calming on Berechurch Road when bringing forward the remainder of the allocation, and that the Planning Officer should write to land owner and developer of the remainder of the allocation to stress the need for a Transport Assessment including full and effective mitigation of the highway impacts of the development including pedestrian safety and crossing points on Berechurch Hall Road.

RESOLVED (SEVEN voted FOR, TWO voted AGAINST) that –

(a)The application be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure the developer obligations identified, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Assistant Director Place and Client Services to refuse the application, or otherwise to be authorised to complete the agreement. The permission will also be subject to the conditions as set out in the report, the precise wording of which may also be amended under delegated authority and an additional condition to require the provision of a disabled parking space;

(b)further Informative advising that future applications for the remainder of the allocation pursuant to the allocation policy ref: SC1 must make appropriate provision for effective traffic calming on Berechurch Hall Road to ensure highway safety and safe access/egress for residents.

(c)Planning to write to land owner/promoter and developer of remainder of ELP allocation SC1 (Berechurch Hall Rd) to explain the policy requirement for a Transport Assessment and full and effective mitigation of highways' impacts of development including pedestrian safety and crossing points on Berechurch Hall Road.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No:	7.1
Applications:	181908/181909
Applicant:	Mr G Cottee
Proposal:	Demolition of majority of south aisle (retaining western gable wall). Renovation of retained building envelope, Conversion to single dwelling, including new reinforced concrete raft foundation, partial mezzanine and new floors to tower
Location:	St Peters Church, Church Road, Birch, CO2 0NA
Ward:	Marks Tey & Layer
Officer:	Alistair Day
Recommendation:	Approval

1.0 Reason for Referral to the Planning Committee

1.1 The planning and listed building applications are being presented to the Planning Committee because they have been called in by Cllr Bentley on the grounds of:

- **PRINCIPLE OF DEVELOPMENT AND DESIGN AND LAYOUT** - The new dwelling would require demolition of the church and the construction of a dwelling very close to a graveyard that is very much still in use. Such a dwelling would, I believe, not be appropriate and could lead to unnecessary stress to grieving relatives at a funeral or visiting loved ones. It would not afford the peace, privacy and tranquillity that a graveyard should provide.
- **HIGHWAYS IMPACT AND PARKING PROVISION** - Secondly, this area is in a cul-de-sac and is already crowded at peak school times with parked cars and will add further vehicular movements to an already congested and dangerous area.

2.0 Synopsis

2.1 This committee report covers both the planning and listed building consent applications.

2.2 The main issues are: (i) whether the proposed development would provide a suitable site for housing; (ii) the impact that the proposals would have on the identified heritage assets (notably the church as a grade II listed building and the Birch Conservation Area); (iii) the effect of the proposal on highway safety; and (iv) the effect on the amenity of nearby residents. These matters are assessed in the report, taking into account the representations of statutory consultees, professional advisers, and local residents. The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

3.1 The application site relates to Church of St Peter and St Paul [the Church] and part of the associated churchyard. The site has an open aspect and is relatively level from east to west, but the ground slope down to the north. The churchyard is laid to grass with gravestones across the majority of the site and remains in active use. There are a number of mature trees within the churchyard which are predominantly native species.

3.2 The Church is a mid-nineteenth century gothic-revival structure built on the site of a mediaeval church. It was designed by the eminent Victorian architect Samuel Saunders Teulon in 1849/50. Whilst Teulon is famed for the 'roguish' character of his architectural designs, the Church is remarkably restrained in its design and has "none of the offensive features" for which the architect was renowned (Pevsner, Buildings of England).

3.3 The Church is listed at Grade II for its special architectural and historic interest and sits as the centerpiece of the Birch Conservation Area. The church spire is seen in many key views, both from within the conservation area and from a distance as a focal point in the wider landscape. The views of the church spire

DC0901MWeV9.3

are significant to the character and appearance of the conservation area; indeed, the church is probably the *raison d'être* for the conservation area as it acts as a focal point and hub of this 'estate' village. The conservation area is included in the Historic England's Heritage at Risk Register. The 'At Risk' status of the conservation area is primarily due to the current redundancy and condition of the Church, which has been ongoing since 1990, the threat to its long-term preservation and the negative effect that this will have on the character and appearance of the conservation area.

- 3.4 The Birch village is generally linear in nature with a small green at its center; the Church sits to the west of the green on raised ground. The Church is accessed via a hard-surfaced track from School Hill. A Public Right of Way (runs east – west) to the south of the application site. There are a number of residential properties located in the immediate vicinity of the church. These includes: Church Cottages; Linden House; the primary school; and School Hill Cottage which are listed grade II for their special architectural or historic interest. The site of the former Birch Castle is located to the south of the site.

4.0 Description of the Proposal

- 4.1 Planning permission and listed building consent is sought for the conversion and alteration the Church into a single dwelling house with associated internal and external works. It is proposed to use part of the churchyard yard as a driveway and private garden.
- 4.2 To facilitate the conversion works, it is proposed to remove the roof of the south aisle of the Church and the majority of the south and east walls. The south porch will also be demolished. A retained section of the south aisle wall and the west gable of the aisle will be retained to screen a new boiler room with a terraced area above. The south arcade of the existing nave, (currently an internal wall) will become the proposed southern external wall of the new dwelling and will be infilled with glazing. Internally, the chancel and a substantial area of the nave will remain as open double height volumes and will be adapted to provide the principal living areas of the new dwelling. An inserted floor is proposed within the north aisle and at the western end of the nave which will provide bedroom accommodation on the upper floor and smaller scale domestic accommodation on the ground floor. The upper floors of the tower would also be utilised to provide an additional bedroom suite.

5.0 Land Use Allocation

- 5.1 Unallocated

6.0 Planning Policy Context

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprise: the Core Strategy (adopted 2008, reviewed 2014); Development Policies (adopted 2010, reviewed 2014) and the Site Allocations (adopted 2010).

- 6.2 The Core Strategy contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- H1 - Housing Delivery
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities

- 6.3 The Development Policies sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

- 6.4 Some “allocated sites” also have specific policies applicable to them; none are of particular relevance to this application.

- 6.5 The Council is developing a new Local Plan (Submission Colchester Borough Local Plan 2017-2033). The whole of the emerging Local Plan was submitted to the Secretary of State in October 2017; however, the examination of the two sections is taking place separately. The Section 1 examination hearing sessions were held in January and in May 2018 and January 2020. The Inspector has issued his letter in respect of Part 1. The examination of Section 2 of the emerging Local Plan has not commenced.

- 6.6 The National Planning Policy Framework (the Framework) must be taken into account in planning decisions and is a material consideration, setting out national planning policy

- 6.7 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings together with their setting and any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Managing Archaeology in Development.
Developing a Landscape for the Future

7.0 Consultations

- 7.1 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.

Landscape Officer

- 7.2 The following point should be taken into consideration as part of any revised proposals:

- The existing hedge to the southern boundary of the site with the adjacent field should be gapped up and reinforced and the open boundary to the site's eastern boundary planted up with native hedgerow. This planting is in addition to the proposed railings. This is to help the development complement existing local landscape character which is defined, in part, by robust native hedgerow field enclosure. The reinforced and new hedge planting would, in this case, help to screen the proposed rear & side gardens from the open countryside and graveyard, and thereby protect public amenity for users of PRow 124_33 which runs alongside the southern boundary of the site and from which those users currently have glimpsed views back across the graveyard to the church from the southern boundary and through the hedgerow beyond the site's eastern end.

Urban Design

- 7.3 Comments made by the Council's former Urban Design Officer in respect of the original submitted scheme include:
- It is important that the local community can enjoy views of the western frontage of the church and access into the western forecourt, and linking through to the wider church grounds and in turn to nearby Public Rights of Way
 - In order to function as a viable dwelling, a private secure garden and parking are necessary and the proposed location primarily to the south are along the right lines due to the position of graves and sun. Preventing public access in this particular area is unfortunate though probably necessary and reasonably mitigated by alternative walking routes.
 - The "rear" garden appears to inappropriately intrude on the (key) western forecourt, the driveway seems too much within the western forecourt. Gating should instead be reined back to only secure the to the south of the main building.

- There is concern that the eastern side of the church would be wrapped in rear-type garden, which in practice will inevitably result in privacy screening blocking further views of the church from publicly accessible grounds and rights of way.

Tree Officer

- 7.4 The Tree Officer has advised that the the arboricultural content of the proposal is satisfactory

Archaeological Officer

- 7.5 In terms of below-ground archaeology, there is very high potential for encountering burials relating to current church and, in particular, to the earlier medieval church, as well as structural archaeological remains from the earlier church. There are likely to be many unmarked graves to the south of the church (burials were often located on the south side of the church). I would advise the need for an archaeological trial-trenched evaluation to assess the significance of archaeological remains and in order for the LPA to be able to take into account the particular nature and the significance of any below-ground heritage assets at this location.
- 7.6 Every opportunity should be undertaken to minimise the extent of the groundworks. Detailed information is required about all groundworks relating to the project - depth and extent of ground reduction in and around the Church (including for new floors, wall foundations, fence posts and car parking), any underpinning to wall/first floor structural supports with groundworks (if at all); the location, size and extent of all services. It is also unclear from the application what, if any, works are proposed in the enclosed/walled area outside of the Church; this needs to be provided in the application.
- 7.7 The application does not establish if there any grave stones within the area of the proposed development – if there are, proposals need to be provided in the application for the future of these.
- 7.8 There will also need to be a requirement for a maximum dig limit within the enclosure (i.e. with a non-dig zone below this depth), to prevent damage to underlying archaeological remains in the future (if consent is forthcoming); this can be established by the archaeological evaluation.
- 7.9 In terms of the standing building, a historic building survey should be carried out, by a historic buildings' specialist.

Natural England

- 7.10 It has been identified that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect

DC0901MWeV9.3

on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered ‘in combination’ with other plans and projects

Highway Authority

- 7.11 No objection. The Highway Authority observes that the red line boundary includes the access track across the frontage of “Nightingales” and “Churchview” which is considered to be highway. 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.

Historic England

- 7.12 The principal impacts of the proposed works on the significance of the church will arise from the demolition of the majority of the south aisle, and the subdivision of a considerable area of the remaining interior volume of the church. These works should be considered as harm, as defined by the NPPF. The alterations will remove the integrity of the original structure, leaving only part of the listed building to be converted. Such a harm may well be justified in the need to make radical change to adapt the building to a sustainable use, as the deep plan form and scale of the building would make conversion difficult without major interventions. Your authority should establish beyond reasonable doubt that the extent of demolition is justified to guarantee the future of the building.
- 7.13 The south side of the church is not prominent in key views of the church from within the Conservation Area, such as that from the village green, but the areas of demolition will be evident from viewpoints to the south, especially the public footpath that runs along that edge of the existing graveyard. The retention of a significant area of the interior of the church undivided horizontally will allow the current spaciousness of the interior to be still experience, if in the rather changed environment of a domestic interior.
- 7.14 By maintaining the west elevation of the church complete, including the tower and spire, the proposal avoids any major impact on the contribution that the church makes to the wider conservation area. By bringing the currently unused and neglected church back into use and good repair the proposals have the potential to have a very positive impact on the conservation area, and if carried out might lead to the removal of the conservation area from the Heritage At Risk Register.
- 7.15 In the NPPF the Government puts great weight on the goal of achieving sustainable development (para 7). The church at Birch has been redundant for 27 years. During that time various schemes for conversion and reuse have come forwards, but none were shown to be fundable and they were all subsequently abandoned. It seems reasonable to conclude that the present residential conversion scheme represents the last opportunity to allow a sustainable future for the listed building into the future.

- 7.16 In considering the acceptability of the current proposals your authority should give considerable weight to the public benefit of the conversion, in securing a sustainable future for the long redundant and at risk former church building, against the potential harm that the conversion proposals, which include considerable demolition works and subdivision, might be seen as representing, as set out in the NPPF. While the fabric of the building might be radically altered by the proposals, the key significance of the building will be preserved, and its contribution to the Conservation Area enhanced.
- 7.17 Historic England supports the proposals on heritage grounds, as representing the only known opportunity to conserve the key elements of this historic building, and its contribution to the Birch Conservation Area. Your authority should take these representations into account in determining the application.

Ancient Monument Society

- 7.18 The application involves compromise most obviously in the loss of the aisle but at this stage in the life of the building, we fully accept that the other option is complete destruction. You will note reference to the three significant fittings – the reredos, the East Window and the Bridges monument. Can express assurances be offered that these will either be retained in situ or suitably rehoused

Victorian Society

- 7.19 As far as the information it brings to bear on aspects of the landscaping we are grateful for it. However, we remain concerned by the somewhat insubstantial and, ultimately, inadequate amount of information supplied in support of the scheme as a whole. In that sense the concerns we raised when we first responded to the application, in November 2018, remain unaddressed. I should reiterate that the Victorian Society is very keen to see the future of this nationally important building secured with a sympathetic scheme of reuse. We consider that the building's conversion to residential use capable of achieving this.
- 7.20 However, in order to do so planning and listed building consent applications would need to be granted consent. In addition to which, as I understand it, a faculty would be required for the relevant archaeological investigations. Much information is required to satisfy these various processes; a great deal more than has been supplied to date. This is a concern: unless the applicant is prepared to fulfil statutory requirements, the Council will be unable to process the applications and the scheme will never come to fruition. In that case it would seem the most likely outcome would be the complete loss of the listed building.
- 7.21 In November we requested an articulation of the rationale for the proposed demolition of the south aisle. We reiterate that request now. Notwithstanding the terrible state of the building, and the broad recognition on our part that some significant interventions would likely be required in order to achieve a suitable conversion of the building, the fact is that the demolition of an entire

aisle and the church's porch would constitute a major and destructive intervention. Some rationale for it will be necessary. Even if one accepts the loss of much of the aisle, there seem to us – as we stated previously – alternative ways of detailing that south side that would not necessitate such extensive demolition.

- 7.22 Details are missing too over the proposed treatment of the interior and what remains of its historic finishes and fixtures. What of the stained glass, tilework, memorials and reredos? And, for that matter, anything else. Details of what survives, in what state, and how it would be treated will help all consultees draw conclusions on the significance of the building as it stands now, and what the impact on that significance is likely to be by the works proposed. At present it is impossible to accurately assess the interest of the interior and, by extension, what the impact of the transformative works will be.
- 7.23 We encourage the applicant to submit the additional information required to appropriately process this application. We wish also to impress on them, via the Council, the urgency of the present situation. It is now almost a year and a half since we were last consulted. The condition of the building is known to be perilous. This process cannot be protracted indefinitely. It is our view that an acceptable scheme can be realised here: all it requires is the necessary preparatory work and documentation.

8.0 Parish Council Response

- 8.1 Birch Parish Council considers that the proposed development is undesirable and inappropriate development within a churchyard that remains open for burials.
- 8.2 Access to the open churchyard is a serious concern of the Council. The plans show that part of the churchyard is to be used for a private garden and car park which means that this section of the churchyard, like the building itself, would become private property with no public access. The proposed site plan shows a grey hatched area denoted as grassgrid gravel drive at the west end of the church. Is this area to be appropriated as part of the applicant's car parking spaces? If so how are funeral processions with coffins, grave digging machinery and grass cutting machinery to access the open graveyard? It is also noted that that this gravel drive to the left of the main door lies outside the boundary of the proposed development site as delineated on the Block Plan submitted with the planning applications.
- 8.3 The proposal offers no element of public amenity for the local community. The Parish Council considers the Church Commissioners' Draft Scheme for demolition, retaining the footprint of the building as a garden of remembrance which would be incorporated into the churchyard, is a far more appropriate alternative in the open churchyard. The Council would be fully supportive of this scheme which would retain the whole of the current churchyard as a public space within the village and within the Birch Conservation Area.

- 8.4 In further correspondence the Parish Council has raised concern regarding the access and the extent of highway ownership; the reconciliation of the proposed residential conversion of the church with the ongoing operation of the open consecrated churchyard; the reliance on an old structural survey; whether the applicant has the resources to fully undertake the project (leading to the abandonment of the project and the length of time that it may take to complete the project causing prolonged disturbance).

9.0 Representations from Notified Parties

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

- A large family dwelling in the middle of a churchyard is not appropriate.
- The site should be kept as a place where funeral services are conducted, and where mourners can have space for quiet and contemplation.
- The proposal will limit access to graves
- The question of how existing graves will be managed and re-sited has not been answered
- Loss of amenity for the public in that the proposal effectively privatises part of the churchyard
- Prefer the demolition of the church and creation of a memorial garden
- Residents of the dwelling will be able to watch mourners / funerals
- There is the potential for future social activities in the new property to overspill into the remaining churchyard
- The extent of the highway ownership is not correctly shown
- Opinion regarding the architectural and historic value of the church is unflattering
- The original church on this site was over 600 years old and was demolished to build this current structure; the original church would have been worthy of saving.
- The only real shame is the loss of the spire to the overall landscape which would be significant.
- The church is letting the property fall into considerable disrepair and seem to have a complete lack of interest in dealing with this matter correctly
- The applicant has failed to produce detailed costings / the scheme is not financially viable
- The spire could be rebuilt at a fraction of the cost
- Once the applicant owns the land what is to prevent him declaring the spire unsalvageable or the church structure unsafe.
- It is part of a plan build houses on the fields just outside the existing conservation area
- Most local residents would like to see the spire retained but not if we have to endure increased noise and disturbance in the conservation area
- The proposal will add to parking problem in the area, particularly at school drop off and pick up times.

- the chaos, noise and disruption that will occur from heavy commercial vehicles and others, will make our life, as an immediate neighbour to the church, extremely unpleasant.
- The drawings are inconsistent
- Ownership notices have been incorrectly served
- Why did we not receive the formal Notifications of the Planning Application until a week after the letter was written, thus reducing the period we have had to respond? Similarly, the Public Notice was not posted until Friday 7th September 2018 and then fixed to a street sign outside the School.
- we should have a public hall for Birch, Layer Marney and Layer Breton run by the church after an upgrade. The church is rich and could do a better job than selling the land.
- do not let our local history, heritage and architecture be destroyed
- the building is key to the character of Birch village
- We are very keen that Birch Church is not demolished and would support any project that would keep this local iconic building in existence, provided that the necessary checks and balances are put in place by local building preservation organisations.
- A petition for the previous scheme had almost 100% support for the church's conversion into a residential property and reached around 1000 signatures.

10.0 Planning Obligations

- 10.1 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.

11.0 Air Quality

- 11.1 The site is outside of any Air Quality Management Area and in terms of the planning submission does not generate the need for an Air Quality Impact Assessment.

12.0 Environmental and Carbon Implications

- 12.1 New developments need to help address the challenges of climate change and sustainability, and therefore contribute positively towards the future of Colchester. In support of achieving sustainable development, the Council has committed to being carbon neutral by 2030. The Framework has at its heart the promotion of sustainable development. Consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework. It is considered that on balance the application represents sustainable development as it reuses a building with considerable embodied carbon and avoids demolition and disposal of arisings that would itself generate further emissions.

13.0 Accessibility

- 13.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

14.0 Report

Principle of the Development

- 14.1 Policy SD1 of the Core Strategy (CS) sets out the Council's strategy for delivering housing ensuring that developments are directed towards accessible locations and also to ensure the character and vitality of villages is sustained. CS Policy H1 sets out how this will be delivered with the majority of new housing development located in Colchester with a smaller proportion within the villages. CS Policy ENV2 expands upon the requirements for development within rural communities, confirming that the Borough Council will enhance the vitality of rural communities by supporting appropriate development of infill sites and Previously Developed Land (PDL) within the settlement development boundaries of villages. These policies are intended to ensure the protection of the countryside and to ensure housing is located in areas that are accessible and sustainable. It is however important to note that these policies do not prevent the development of land outside of settlement boundaries. The requirements of CS Policy TA1 is also relevant such that it requires development needs to be focused on highly accessible locations to reduce the need to travel.
- 14.2 The application site is not located within a defined settlement boundary and is therefore in the countryside for planning policy purposes. It should however be noted that both CS Policy SD1 and the Framework seek to focus development to PDL; the Church, as a redundant building, is considered to constitute PDL. It is also important to note that CS Policy ENV1 does not apply to the principle of development in this case. This policy states that unallocated greenfield land outside of settlement boundaries will be protected; whilst the site is unallocated, it is PDL and is therefore not protected by this policy. The development of PDL is encouraged so this weighs in favour of the proposal.
- 14.3 It is relevant to consider that Government guidance acknowledges that rural housing is essential to ensuring the viable use of local facilities such as schools, local shops, cultural venues, public houses, and places of worship. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Indeed, where there are groups of smaller settlements, development in one village may support services in a village nearby. Paragraph 84 states that the use of PDL, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist, although Paragraph 79 makes it clear that planning policies and decisions should avoid the development of isolated homes in the countryside unless specific circumstances apply. Given the site's central location within village of Birch, the site would not result in the creation of an isolated home in the countryside in the context of paragraph

DC0901MWeV9.3

79 of the Framework. Para.79 includes exceptional circumstances that may justify even isolated new homes. These include the optimal viable re-use of a heritage asset or the re-use of redundant buildings.

- 14.4 The village of Birch benefits from a primary school and village hall. The Hare and Hounds public house and a church (St Mary the Virgin) are located approximately 1km and 1.5km from the application site respectively. Given the distance to the latter two facilities, walking and cycling would for the most part be an unattractive option for occupiers of the proposed dwelling, especially during the winter months where daylight hours are limited. For a wider range of shopping, healthcare, leisure and entertainment facilities, occupiers of the proposed development would have to travel to Colchester or other nearby larger settlements.
- 14.5 In terms of the public transport, there are bus services that run through Birch village and the bus timetables indicate that these services run at regularly intervals. It would therefore be possible for occupiers of the proposed dwelling to access nearby local services and facilities via means of transport other than the private car. It is however accepted that bus services have limitations, and whilst it may be possible to access some facilities by bus, it is recognised that future occupiers would be more likely in reality to use private motor vehicles for most journeys.
- 14.6 The concerns raised by residents regarding the appropriateness of having a dwelling located within an active churchyard are appreciated. The Church Commissioners and the Diocese of Chelmsford have both confirmed that they do not have an in-principle objection to the conversion of closed churches for residential use. The concerns that have been raised by the 'church' are based on the specific factors in this case, principally in relation to where the church building is relation to the only access point into the churchyard and the subsequent impact that this could have on burials and visitors to the churchyard. The comments made in respect of access implications are discuss later in the report.
- 14.7 In conclusion, the proposal would result in the redevelopment of PDL which is encouraged in both national and local planning policy. The proposed development is also not considered to be 'isolated' in terms of the Framework definition. The application site is however not considered to be in a highly accessible location having regard to access to services and facilities. The development would therefore not comply, in this regard, with policies H1, ENV2 and SD1 of the CS which together seek to direct growth towards sustainable and accessible locations. For this reason, it is necessary to consider other material planning matters. However, the exceptional circumstances set out in para.79 of the NPPF that justify a new home in an isolated location are met in principle in this case as a redundant heritage asset would be reused.

Heritage Implications

- 14.8 Both CS Policy ENV1 and DPD Policy DP14 reflect the statutory obligations as set out in s.66 of the Planning (Listed Buildings and Conservation Areas)

Act 1990 to have special regard to the desirability of preserving a listed building or its setting and s72 of the same Act that requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In a similar vein, the Framework gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. This is irrespective of the level of harm.

14.9 The key heritage considerations are:

- i Whether the proposal would preserve the special architectural and historic interest of this Grade II listed building and its setting;
- ii Whether the proposal would preserve or enhance the character or appearance of the Birch Conservation Area; and
- iii Whether the extent of any harm that would result to the significance of the designated heritage assets would be substantial or less than substantial;

14.10 The Framework gives a clear guidance for decision making for cases involving the above and the different balancing acts required depending upon whether the proposal results in substantial harm or less than substantial. The Framework notes that where a proposal would result in less than substantial harm, the relevant balancing exercise is to weigh-up the harm caused against the public benefits of the proposal, including securing the optimum viable use for the building.

14.11 The Church dates from 1849 and was designed by Samuel Teulon in the late Decorated style. The Church is composed of a nave, a north and south aisle, chancel and a west spire. The building is clad in flint with limestone dressings. The spire, which rises to 110ft, is decorated by three rows of lucarnes (gothic dormer-like features) of carefully diminishing sizes and creates an unrivalled landmark in the local area. The interior is a conventional Decorated design of two matching arcades with columns of octagonal section and rendered brick arches above. The roofs are in pitched pine to a simple arch and wind-braced form. The impressive internal spatial qualities of the church's nave, aisles and deep chancel contribute positively to its special interest. The majority of the internal fixtures and fittings have been removed (pews, font, pulpit, altar, most stained glass etc). Matthew Saunders (an expert on Teulon) notes that, in terms of fittings there are three principal survivors: the east window by Mary Lamb; reredos screen and the monument to Oliver Simpson Bridges.

14.12 The Church has been vacant (closed) for nearly thirty years and is currently in a poor condition due to lack of active maintenance. Much of the damage has been caused by water ingress due to damaged and defective rainwater goods and the valley gutters. This damage could have been prevented by route maintenance. Metal sheeting has been erected around the north side of the Church due to concerns about the poor condition of the flint work. More recently, internal scaffolding has been erected due to concerns over the structural integrity of the roof (decay caused by water ingress).

- 14.13 The Church has retained considerable heritage significance. This significance is: evidential due to the survival of original elements; historical, representing High Victorian church architecture and the work of an eminent architect; aesthetic due to its design (including surviving fixtures and fittings); and communal value associated with its social contribution to the wider community.
- 14.14 The Church of St Peter was rebuilt by Charles Gray Round to the plan of Samuel Teulon, a prominent and important Victorian architect. The Church is designed in the decorated Gothic style. As Saunders and Pevsner (both notable architectural commentators) note, the Church lacks the flamboyancy that typically characterises Teulon's architecture; whilst the design of the church is more restrained than Teulon's typical work, it is nevertheless ambitious which makes it all the more accessible from a design perspective. The architecture of the church and fact that it is an atypical design by such an important Victorian architect contributes to the buildings special interest. Internally, the Church has lost much of the furniture and fittings associated with its historic use as a village church (*altar table, pulpit, organ, pews and font*) and yet despite this, it still retains special architectural qualities. In particular, the impressive internal spatial qualities of nave and chancel, the elaborate east end stained glass window, the reredos and the surviving memorials all contribute to the Church's special architectural and historic interest and significance. Some local residents have expressed the view that the Church is not of particular architectural or historic significance; whilst it is appreciated that some residents may not consider the church to be of architectural value, it is important to note that the church has been identified as being of significant architectural or historic interest and is afforded listed building protection, which reflects its national importance.
- 14.15 In terms of the conservation area, designation report notes that the village has a range of social and domestic uses, including farmsteads, a school and the church. The report notes that both the church and the school owe their origin to the Round Family who commissioned their construction. The Church forms the centre piece of the conservation area. The exterior of the Church has mellowed with the surrounding landscape and the west front forms a pleasing feature standing on rising ground above the memorial green. The spire is a prominent feature in the local landscape and contributes positively to views from both within and outside the conservation area. The designation report refers to the spire as a silent finger [that] points to Heaven. In more localised views (notably from within the churchyard) the current poor condition of the church (and more particularly the metal sheeting that has been erected around part of its perimeter) detracts from the appearance of the conservation area.
- 14.16 To achieve the proposed change of use to a residential dwelling, it will be necessary to carry out alterations to the fabric of the Church and part of the churchyard. It is proposed to remove the roof of the south aisle and the majority of its south and east walls together with the south porch. The south arcade of the existing nave, currently an internal wall, will be infilled with glazing and become the southern external wall of the new dwelling. The principal access to the building will remain at the west end via the existing

main entrance. Internally the chancel and a substantial area of the nave will remain open and will be adapted to provide the principal living areas. A new floor will be inserted within the north aisle and at the western end of the nave to provide bedroom accommodation on the upper floor and smaller scale domestic accommodation on the ground floor. The upper floors of the tower will be utilised as bedroom accommodation.

- 14.17 The above alteration works will constitute a major intervention to the original church structure. The applicant has explained that they have considered various options for the conversion of the church and are of the view that it would impractical to retain the full the footprint of the church due to its size; they consider that the demolition of the south aisle provides best solution to creating a new dwelling that is suitable for modern family living. The removal of a significant element of the south aisle and the south porch would be damaging to the special interest of the building. The southern side of the Church is not however prominent in key views from within the conservation area, such as that from the village green, although it will be evident from viewpoints to the south, especially the public footpath that runs along that edge of the existing churchyard. By maintaining the west elevation of the church complete, including the tower and spire, the proposals will avoid any major impact on the contribution that the Church makes to the conservation area when seen from the street and to that of the wider area, including in longer views. The prominence and importance of the church spire as local landmark (including its contribution to the character and appearance of the conservation area) will be retained.
- 14.18 Internally, it is proposed to insert a new floor in the north aisle and at the west of the nave. A new wall will be set behind the aisle of the nave arcade and has been designed as a freestanding / self-supporting structure so that there is minimum interference with the existing structure. Whilst these works will compromise the internal spatial qualities of the aisle and west end of the nave, they are considered necessary to enable the adaption of the church to residential use. These works would also be reversible. Key aspects of the church that contribute to its special interest are be retained. The distinctive floor plan of the nave, chancel and north aisle would still be legible. The chancel and two bays of the nave will also remain fully open and therefore retain the church's impressive spatial qualities and continue to allow an appreciation of the east stained-glass window. Matthew Saunders has identified three key features within the church that contribute to the special interest of the building; the monument to Oliver Simpson Bridges; the reredos and the west end stained glass window. The monument to Oliver Simpson Bridges is set on the south wall of the south aisle, which is proposed for demolition. The monument can be carefully removed re-sited to an appropriate location within the retained section of the church. The reredos is set at the western end of the chancel and is to be retained in-situ as a part of the proposed conversion works. The east end stained glass window is also being retained in-situ. In addition to these features, the church also contains a number of additional features (other memorials, stained glass windows, floor tiling etc) which are to be retained where possible.

- 14.19 The Church was built on the site of an earlier church, probably dating from the late 11th or 12th century and is adjacent to the site of a possible motte and bailey castle (Birch Castle). There is thus the potential for encountering the remains from the medieval church and burials relating to the current church and/or the earlier church. The Council's Archaeological Officers has advised of the need for an archaeological trial-trenched evaluation to assess the significance of archaeological remains and thereby allow the Local Planning Authority to take into account the particular nature and the significance of any below-ground heritage assets. Despite requests to undertake archaeological investigations, the applicant has not submitted such a report. The applicant has however stated that he is fully aware of the high potential for encountering buried remains, and for it is this reason, that he has proposed a raft foundation. Whilst officers would normally seek to establish the depth of any buried remains prior to granting planning permission, in this instance, it is considered that the evaluation works can be subject to a condition. The reason for this is that there is scope to allow for adjustment of the finished floor level within the interior of the church following the investigation work and thereby minimise the potential for impact on any buried remains. Should buried remains be discovered, these can be recorded. Regarding external works (such as the installation of new drainage runs), it is again considered that there is the scope for the adjustment of these works following the grant of planning permission and therefore investigation works can be the subject of a condition. No grounds works are indicated to the proposed garden area; it is however acknowledged that any grave markers will need to be re-sited (as it would not be appropriate to retain them within a domestic garden); likewise the burials in the church crypt will need to be relocated. As discussed later in the report there is separate legislation that covers the relocation of graves; however a condition is proposed requiring a scheme to be submitted for the relocation graves stones prior to the commencement of work.
- 14.20 The proposed alteration works to enable the conversion of the church to a dwelling are substantial. It is however considered that overall, the works required to enable the conversion of the church to residential use, have retained the essential interest of the church. Indeed, following the implementation of the proposed alteration works, the new dwelling would still read as a being within an historic church and therefore much of its significance would be conserved. The contribution that the church makes to the conservation area would also be retained (particularly in terms of long-distance views) and the repair of the retained fabric would enhance the appearance of the Church within the conservation area. For this reason, taking the scheme as a whole, it is considered that the proposed works would result in less than substantial harm being caused to the special interest of the Church. Accordingly, this harm needs be weighed against the public benefits of the proposal, including securing its viable use (paragraph 194 of the Framework).
- 14.21 Benefits do not always have to be visible or accessible to the public in order to be genuine public benefits. These can include heritage benefits, sustaining or enhancing the significances of a heritage asset or the contribution to its setting, reducing or removing risks to a heritage asset and securing the

optimum viable use of a heritage asset in support of its long-term conservation.

- 14.22 There is a significant benefit in bringing the building back into use. As stated above, the Church is classed as being "at risk" and, as a consequence of its threat of demolition, the Birch Conservation Area has been placed at Risk by Historic England. The proposed conversion of the Church would result in investment in the building which would bring about necessary and urgent long-term repairs, which would be wholly welcomed. Beyond essential repairs, the proposal would also repair the important timber roof structure, refurbish the stained-glass windows; internal plasterwork and repair decayed stonework and flint work.
- 14.23 Additional benefits which include maintaining the historic relationship between the church and the churchyard and the important contribution that the spire makes to the character and appearance of the conservation areas and the wider landscape setting. By bringing the currently unused and neglected Church back into use and good repair the proposals have the potential to have a very positive impact on the conservation area, and if carried out should lead to the removal of the conservation area from the Heritage at Risk Register. The new unit would also make a modest contribution to the supply of housing in the Borough.
- 14.24 The Framework (paragraph 192) states that when determining applications account should be taken of desirability of sustaining the significance of the asset and putting it to viable uses consistent with their conservation. A viable use is one that would secure a long-term use for the Church. Since the church was closed in the 1990s, various schemes have been promoted to find an alternative use for the building without success. The current proposal to convert the building into a single dwelling would be compatible with the fabric of the building and would represent a viable long-term use of this building. Furthermore, the proposal would preserve, as far as reasonably possible, the special interest and significance of the church and this would be the viable use. The alternative to the conversion of the church to a dwelling would be the complete demolition (total destruction) of the church equating to substantial harm in heritage terms.
- 14.25 The comments made by various objectors, including the Church Commissioners, that the applicant does not have the resources for the conversion of the church are noted. The resources of the applicant and whether they can afford to undertake the works is not a planning consideration. If the land owner [the Church Commissioners] have concerns about whether the applicant is able to complete the proposed conversion works, they can impose restrictions on the land sale – for example they could give the applicant a lease enabling him to undertake the repair of the envelop of the building within a set time frame or require security (a bond or an Escrow account) to be put in place to cover the potential scenario that the applicant is unable to complete the works.

- 14.26 The proposed development presents a permanent and viable solution which is acceptable on the basis that it would secure the long-term future of the Church, and would safeguard the special architectural and historic interest as far as possible. Whilst it is accepted that the proposal will result in some harm being caused to the listed building and potential buried archaeological remains, the alternative to this scheme is the demolition (total destruction of the church) and should this eventually arise, this would result in 'substantial harm' to the identified heritage assets. For the reasons given above, the current application is considered to be consistent with local planning policies and national guidance.

Trees and Landscape

- 14.27 CS Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with DPD Policy DP1 requiring development proposals to respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.
- 14.28 The application site is relatively level from east to west but slopes down to the north. The churchyard is laid to grass with gravestones and scattered mature tree planting. To the west and north of the site is residential development which is composed around the village green or the access track that extends from it. To the south of the churchyard there is part of the rear garden to The Cottage (accessed from School Hill) and agricultural fields.
- 14.29 A Tree survey has been submitted in support of this application. This states that there are seven trees that are of high amenity value on the site. The Tree Survey recommends that an arboricultural impact assessment and arboricultural method statement is submitted to assess the impact and associated mitigation relative to any development of the site. The report also recommends that retained trees are protected during the construction work. Conditions are proposed to cover these matters. The Council's Tree Officer has confirmed that he is satisfied with the submitted Tree Report.
- 14.30 It is proposed to create a driveway / turning area to the west of the Church and a private garden area to the south of the building. The enclosure to the garden area has been amended in the light of the initial comments made by the Urban Design Officer and Landscape Officer. The Landscape Officer has commented further on the amended drawings recommending that the existing hedge to the southern boundary of the site is 'gapped up' and that the open boundary to the site's eastern boundary is planted with a native hedgerow (in addition to the proposed railings). This additional planting has been suggested to help reinforce the existing local landscape character, which is defined by robust native hedgerow field enclosure, and to assimilate the development into the wider countryside setting. Landscaping conditions are accordingly recommended

- 14.31 For the foregoing reasons, it is considered that the proposed development would have not have a significantly harmful effect on the character and appearance of the surrounding landscape. The development would not therefore conflict with policy ENV1 which seeks to ensure that development is compatible with and enhances the character of the locality and policy DP1 which requires development to respect and enhance the character of the site and its context.

Residential Amenity

- 14.32 DPD Policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. DPD Policy DP12 requires high standards for design, construction and layout in new residential development. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity. Policy DP16 sets out space standards for private amenity space.
- 14.33 Representations have been received regarding the effect of construction activity will have on the amenity of nearby residents. It is accepted that construction activity can cause noise and disturbance; however, it is considered that such concerns can be adequately controlled by a Construction Method Statement.
- 14.34 Concern has also been raised that the conversion of the church to a dwelling house will result in the overlooking of nearby dwellings and that new dwelling would erode the tranquility of the churchyard.
- 14.35 'Churchview' is located to the south west of the church and is the nearest property to the proposed dwelling (the Church). 'Churchview' is orientated north / south (i.e. the principle windows face in these directions) and therefore do not face towards the church. There is a long single storey structure that runs parallel to the churchyard and the boundary between the church and the house is formed by tall hedge. The distance between the 'Churchview' and the church is approximately 19m. Church Cottages and Hillside Cottages are located some 55m and 42m to north and north west of the church. To the south of the churchyard is part of the rear garden to The Cottage. Concern has been expressed that the bedrooms within the church tower would overlook the rear gardens of the adjacent residential properties. 'Churchview' is the property that has the potential to be most affected by this proposal. The majority of the church windows face north and south and will therefore not affect the amenity of this property. The windows in the west end of the church are offset from the neighbouring property such that there would not be any direct overlooking caused the development. Furthermore, the existing outlook from 'Churchview' is be retained (i.e. by the existing structure of the church) and would not therefore be significantly harmed by this proposal. The use of the land to the west of the church frontage for car parking is also not considered to create significant disturbance to the occupiers of 'Churchview'. Other nearby dwellings are

located at a sufficient distance from the church for the proposal not to affect their private amenity,

- 14.36 For the reasons given above, the proposed development would not be significantly harmful to the living conditions of the nearby residents in respect of overlooking or adversely affect their outlook. In respect of this these issues, the proposal is in accordance with Policy DP1 of the DP and paragraph 127 of the Framework, which aim to protect the living conditions of occupiers of residential properties.

Ecology

- 14.37 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the Framework that planning should contribute to conserving and enhancing the natural environment. DPD Policy DP21 seeks to conserve or enhance biodiversity.
- 14.38 The application is supported by an initial ecological appraisal. This has identified that bats are using the church as a bat roost. It is therefore recommended that a detailed bat surveys is carried out to locate any additional bat roosts and determine the species and roost types. The initial report also identified that barn owls make use of the church and further survey will need to be undertaken to enable a detailed mitigation strategy to be developed. Conditions are recommended in respect of these matters.
- 14.39 The whole of Colchester Borough is within the zone of influence (Zol) for the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and the proposal is thus subject to Appropriate Assessment (AA) under the Habitats Regulations. The proposal is likely to have a significant effect upon the interest features of Habitat sites (Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Colne Estuary (SPA and Ramsar), The Dengie (SPA and Ramsar and Essex Estuaries (SAC); through increased recreational pressure, when considered either alone or in-combination with other plans and projects. A condition requiring a scheme of mitigation to be submitted is proposed.
- 14.40 Subject to conditions to secure ecological enhancement measures, it is considered that the proposed development accords with adopted policy ENV1 and the requirements of the Framework which seek to minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity.

Highway and Transportation Matters

- 14.41 CS Policy TA – TA4 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy. DPD Policy DP17 requires all development to maintain the right and safe passage of all highways users. The Framework states that development should only be

prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 14.42 The site is currently accessed via a lane from School Hill. The application proposes improvements to the existing access to enable vehicles to access the part of the churchyard immediately beyond the existing gates.
- 14.43 The Highway Authority has considered the proposals and has confirmed that, from a highway and transportation perspective, they do not object to the proposal subject to conditions. Concerns regarding the impact of construction workers vehicles and, in particular the potential for conflict during school drop-off and pick-up times, are appreciated. These concerns can be adequately mitigated via the requirement to submit a construction method statement. It is not considered that the use of the church as a single dwelling house will result in a severe residual cumulative impacts on the road network – the threshold set by the Framework when considering refusing an application on highway grounds. The Highway Authority has also not raised an objection in terms of highway safety.
- 14.44 In view of the above, it is considered that the proposed development will not have a detrimental impact on highway capacity or safety and, as such, there is no conflict with the aforementioned local planning policies and/or the guidance set out in the Framework.

Parking

- 14.45 CS Policy TA refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. DPD Policy DP 19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November.
- 14.46 The adopted Parking Standards require two parking spaces to be provided for residential dwellings and 0.25 spaces per dwelling for visitor parking. The application shows an area for parking of vehicles to the west end of the Church which is adequate to accommodate the required number of parking spaces. The adopted Parking Standards also require secure cycle parking to be provided as a part of development proposals. A condition is recommended to ensure that secure cycle parking is provided.
- 14.47 Comment has been made that hearses will not be able to access the site. The applicant has advised that funeral hearses do not currently access the churchyard and that the proposed scheme will allow hearses to access the site. The development is not dependent on the delivery of this benefit and should it not be possible to deliver 'on-site' parking for the hearse this would not render the scheme unacceptable in planning terms.

- 14.48 For the reasons given above, the application is considered to accord with the requirements of local policy DP19 and the Council's adopted parking standards.

Other Matters:

- 14.49 Local representations have been taken into account as part of the assessment of the application. The majority of comments have been addressed in the above assessment, but there are some points that require additional clarification.
- 14.50 Concern has been expressed that the notice has not been served on all of the landowners and the extent of the highway land was incorrectly identified. These points were raised with the applicant shortly after the submission of applicant and the applicant has served notice on the correct landowners.
- 14.51 The level of information provided with the application(s) has been criticised. It is considered that the level of information submitted is acceptable and that the application(s) can be assessed on the basis of this information along with additional research and site visits undertaken by the Case Officer. Sufficient information has been provided with which to assess the impacts of the proposal, with precise details being approved via condition.
- 14.52 Whilst both the Church Commissioners and the Diocese of Chelmsford have both confirmed that they do not have an in-principle objection to the conversion of closed churches for residential use they have made comment regarding the implications that this would have on access to the retained open churchyard. The Church Commissioner, whilst accepting that the area to the south of the church is the logical place for a private garden, they have raised concern that the proposal does not adequately address the operational requirements of the open churchyard (access to the south of the church has a shallower gradient and therefore provides an easier / more convenient route to the 'active' area of the churchyard). These concerns are fully appreciated and have been raised with the applicant. The applicant notes that there is an alternative access to the north of the church that is unaffected by the proposed scheme and that this route will be improved when the hoarding is removed. The applicant also states that their designs have always included the churchyard to the south, up to the public right of way, as private amenity space. The applicant goes on to state that Church Commissioners recorded their tacit acceptance of this proposal at the aborted public inquiry in their Turley document Statement of Common Ground April 2018 v4 where they listed under matters agreed Fact Section 2.1 "What constitutes the Cottee proposal for alternative residential use". Notwithstanding this, the Diocese has advised that it is not practical for grave diggers and pallbearers to use the land to the north of the church for access due the gradient of the land, which means that they are reliant on the land to the south of the church for accessing the churchyard; the current proposal does not facilitate. The future access to the retained areas of the open churchyard clearly need to be maintained and, in the view of Officers, this best secured through covenants attached to the sale of the land. A condition

has nevertheless been recommended to require details of the access route to be submitted to ensure that this is sensitively designed.

14.53 With regard to the potential impact on burials, the Diocese of Chelmsford has advised that the churchyard still has considerable space for future burials toward the eastern end of the churchyard. In addition, there are graves near to the church building, to the north east, where there have been recent additional burials and are visited on a regular basis. It is important that due regard is given to the potential impact that this proposal will have on existing graves as well as land not yet utilised for burials. It is significant that neither the Church Commissioners nor the Diocese of Chelmsford have an objection in principle to the conversion of the church to residential use. The applicant also accepts that there should be no diminution to the passive enjoyment of the burial ground by those visiting graves. The proposed garden area of the dwelling is located to the south of the church which is subject to historic burials (i.e. new burials do not take place in this area) and officers are conscious that the creation of the garden in this area the potential to impact on these burials. The Church Commissioners have advised that legislation requires any burials within the curtilage of the proposed dwelling (including those within the church building itself) to be re-interred in another part of the churchyard unless an Order is first obtained from the Ministry of Justice 'dispensing' with this requirement after consultation with the Bishop and the Commonwealth War Graves Commission. To achieve dispensation, Officers are advised that it has to be demonstrated that burials will not be disturbed by excavations (for example by incoming services, drainage provision including septic tanks and landscaping proposals etc). Furthermore, if burials have occurred within the last 50 years (which is not thought to be the case in respect of this part of the site) relatives have the right to object to the proposal. Given that any potential disturbance to burials is covered by separate legislation it is considered appropriate that this the potential for disturbance to burials is resolved under the specific relevant legislation rather than planning seeking to impose controls. With regard to the 'retained' churchyard land, care has been taken to ensure that all boundary enclosures to the proposed garden are both sensitive to their setting in terms of their design and provide an appropriate screen between the two uses.

14.54 Related to the above considerations, the Diocese of Chelmsford has advised that, even if planning permission were granted for this proposal, the scheme would need to go through the Mission and Pastoral Measure process which would include proposals for the disposal of the churchyard as well as the building. This scheme will consider future access requirements and the acceptability (in terms of impact) that the proposed dwelling will have on future operation of the 'retained' churchyard. As a part of this process, the Diocese has stated the proposals will be subject to further public consultation and that this will include the potential for a committee hearing at which any representations that may arise will be considered before making a decision as to whether to allow the scheme to proceed or not. This process will consider the acceptability of the process from an ecclesiastical perspective (including necessary operational requirements).

Conditions and Development Obligations

- 14.55 The conditions are set out at the end of the report. Officers have considered the need for all of the conditions in the context of the six tests contained in paragraph 55 of the Framework and the advice contained in the NPPG. The conditions are considered necessary to ensure that the development is of a high standard, is safe and sustainable, minimises the impact on the environment (both historic and natural) and complies with the relevant development policies. Additionally, the conditions comply with the requirements of paragraphs 54 and 55 of the Framework and are considered to meet the other statutory tests.
- 14.56 As a procedural matter under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the applicant has been consulted on the proposed condition. At the time of writing the report the applicant is still to confirm if they have no objection to the suggested conditions.

15.0 The Planning Balance

- 15.1 In considering the planning balance, the Framework makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. The Framework identifies three dimensions to sustainable development – economic, social and environmental. National policy requires planning to be genuinely plan-led. The proposal does represent a departure from the adopted Local Plan in terms of its location outside of a settlement boundary, but it would involve the development of previously developed land and would not constitute an isolated dwelling. The current proposal would provide economic benefits, for example in respect of employment during the construction phase and in future residents supporting local facilities and services in accordance with paragraph 78 of the Framework. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure the long-term future of a listed building and serve to enhance the character and appearance of the conservation area. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network. Overall, it is considered the positive economic, social, and environmental effects of the proposal would weigh in favour of this scheme.
- 15.2 Special regard must be had to the desirability of preserving this Grade II listed building, its setting and any features of special architectural or historic interest which it possesses. Whilst the removal of the features of interest would be harmful, the proposed residential scheme presents a long-term solution for the Church which would safeguard its special architectural and historic interest, as far as possible and help to preserve and enhance the conservation area. In weighing-up the public benefits against the harm, the repair of the Church, the provision of a long term viable use that would not

require further alterations in the future, the preservation of the relationship between the church and the churchyard, the enhancement of the conservation area and creation an additional residential dwelling for the Borough are all considered to constitute public benefits. It is considered that the sum of the public benefits including securing the viable use is sufficient to outweigh the less than substantial harm that is caused by the proposed alteration works to the listed building.

- 15.3 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts identified and, as such, Members are recommended to resolve to grant planning permission and listed building consent subject to the conditions set out below.

16.0 Recommendation to the Committee

- 16.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission Ref: 181908 subject to the following conditions:

Planning Permission

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

Drawing No.237464 200 Rev A	Elevation / plan
Drawing No.237464 201 -	Section
Drawing No.237464 202 -	Roof
Drawing No.237464 203 rev B	Site plan
Drawing No.237464 300 -	South Façade
Drawing No.237464 301 -	Window Detail
Drawing No. 001 A	External Masonry Repairs North Elevation
Drawing No. 002 A	External Masonry Repairs South Elevation
Drawing No. 003 A	External Masonry Repairs East Elevation
Drawing No. 004 A	External Masonry Repairs West Elevation

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

3 Construction Method Statement

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

- The parking of vehicles of site operatives and visitors;
- Hours of deliveries and hours of work;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Measures to control the emission of dust and dirt during construction;
- Measures to ensure that access to all existing homes in the vicinity of the site will be maintained and free from obstruction; and
- A scheme for recycling/disposing of waste resulting from demolition and construction works.

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

4. Programme of Archaeological Work

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets

5. Unknown Evidence

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority.

Reason: To secure the proper recording of the listed building.

6. Grave Markers

Prior to the commencement of any works with the churchyard, a survey shall be undertaken to identify all existing grave markers within the application site boundary and a scheme shall be submitted to and approved in writing by the Local Planning Authority for the recording and relocation of the all identified grave markers to an agreed location. The development shall be implemented in accordance with the details as subsequently approved.

Reason: To ensure that an appropriate record is made of all grave marker and that the markers are re-site to an appropriate location within the churchyard.

7. Materials

Full details of the new external walling and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before works commence above ground floor slab level. The development shall be implemented in accordance with agreed details.

Reason: To ensure that the approved works are carried out without detriment to the listed building or that of the conservation area.

8. Rainwater Goods

All external rainwater goods and other pipes shall be of a similar design to the existing and shall be formed in cast aluminium and shall be finished in black oil based paint

Reason: To ensure that the approved works are carried out without detriment to the listed building or that of the conservation area.

9. Architectural details

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include new windows and curtain wall glazing, rooflights, guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: To ensure that the proposed works are of high quality design for the rural location.

10.ZFT - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant

DC0901MWeV9.3

to monitor and periodically report to the Local Planning Authority, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

11.ZFS - Tree and Hedgerow Protection: General

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

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

12.ZFB - *Full Landscape Proposals TBA*

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

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

- **IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.**

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

13. Access Route

Prior to the enclosure of the land proposed as the domestic garden, a scheme for the provision of access by third parties to the retained open area of churchyard shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details that are subsequently approved.

Reason: To ensure appropriate access is provided for the purposes of maintenance and for visitors to the retained area of the open churchyard

14. RAMS

A scheme to mitigate the impact of the development on designated Habitat sites, which shall previously have been submitted to and approved in writing by the Local Planning Authority, shall be implemented prior to the occupation of the building.

Reason: To ensure that the development does not have a significant effect upon the interest features of Habitat site through increased recreational pressure, when considered either alone or in-combination with other plans and projects.

15. Ecological Mitigation

Prior to the commencement of development an up to date ecological survey report (for birds, bats, and reptiles) shall be carried out by a suitably qualified independent ecologist which shall be submitted to and approved in writing by the Local Planning Authority. The report shall also identify presence or otherwise of birds, bats, and/or reptiles and shall include ecological mitigation, compensation and enhancement measures, together with details of scheme for the monitoring of protected species for a minimum period of five years and details of further works required to mitigate undue adverse effects that may be found. The development shall be undertaken in accordance with the approved ecological report.

Reason: To ensure the scheme provides appropriate ecological mitigation, compensation and enhancement

16. 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 (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity).

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

17.ZCE - Refuse and Recycling Facilities

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

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

18.Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development or by visitors to the church as shown on the drawings as subsequently approved.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

19.Cycle Parking

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

Listed Building Application Ref: 181909

1. ZAB - Time Limit for LBCs

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

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

2. Historic Building Survey

Prior to the commencement of any work, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works

3. Archaeological works

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

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

4. Safeguarding historic features

Prior to the commencement of any works, details of measures to be taken to secure and protect features identified as of historic or architectural interest as a part of the Historic Building Survey for the duration of the works shall be submitted to and approved, in writing, by the Local Planning Authority. No such features shall be disturbed or removed temporarily or permanently except as may be required by the measures approved in pursuance of this condition without the prior written approval of the Local Planning Authority. In particular provision shall be made for the security and protection of the windows and stained glass, the nave arcade, piscina, memorials, the reredos, floor tiles, mouldings and doors. The works shall be implemented in accordance with the agreed details.

Reason: In order to ensure that feature identified of interest are afforded appropriate protection to these features where there is insufficient information within the submitted application.

5. Relocation of Features

Following the approval of the historic building survey, a scheme for the safeguarding and re-location of features identified as being of architectural or

historic interest that would otherwise be affected by the alteration works hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Any identified features shall be re-sited within the retained church building unless otherwise agreed in writing by the Local Planning Authority. The works for the conversion of the church shall be undertaken in accordance with the scheme as subsequently approved.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building

6. Unknown Evidence

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority.

Reason: To secure the proper recording of the listed building.

7. Schedule of Repair

No works shall start on site until a Schedule of Repair Works, specification and a Phasing Programme has been submitted to and approved in writing by the Local Planning Authority. The Schedule of Repair Works shall be supported as appropriate by drawings and photographs and the works shall be implemented in strict accordance with the approved details and completed prior to the occupation of the building.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

8. Stonework Repairs

All repairs to existing stonework shall be undertaken, using natural stone chosen to match the existing in all respects (including colour, texture, geology, proportions and tooling), the existing stonework. All ashlar shall be laid to its natural bed except sills which may be vertically end bedded. Prior to undertaking any stonework repairs, a sample panel of facing ashlar stonework and flintwork shall be provided on site and approved in writing by the local planning authority. All new stonework shall match the approved sample panel and the sample panels shall be retained on site until the work is completed.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

9. Scheme for the making good of element exposed by demolition

Notwithstanding the information submitted, further details of the retained elements of the south aisle, porch and east gable (including the proposed boiler room) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works. The additional information shall include drawings in elevation and section of the height of the retained structures together with detail of the treatment of new elements or existing fabric exposed by the demolition works hereby permitted. The alteration works shall be implemented in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

10. Additional Drawings

Notwithstanding the details submitted, additional drawings in section and elevation of all new architectural features including doors, windows, curtain wall glazing, mezzanine floors (including details of its relationship to the floor and existing windows), stairs, roof lights shall be submitted to and approved in writing by the Local Planning Authority. The alteration works shall be carried out in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

11. Rainwater Goods

All external rainwater goods and other pipes shall be of a similar design to the existing and shall be formed in cast aluminium and shall be finished in black oil based paint

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

12. Floor Levels

Following the submission of the archaeological elevation, full details shall be submitted to and approved in writing in respect of the floor construction and these details shall include drawings that show the extent of the new flooring together with its relationship to buried archaeology and the existing upstanding historic fabric. The subbase / foundation of the new flooring shall be designed so that it sits above any archaeological remains that are of significance. The new flooring shall be implemented in accordance with the details that are subsequently agreed.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

13. Window Repair and Detailing

Notwithstanding the details submitted a scheme for the conservation and design of the church windows and their leaded lights and any secondary glazing or new windows shall be submitted to and approved in writing by the Local Planning Authority. The alteration works shall be implemented in accordance with the agreed details

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

14. Insulation

Notwithstanding the details submitted, full details of the proposed insulation (to walls and ceiling) and any extraction and flue vent terminals shall be submitted to and approved in writing by the Local Planning Authority. The alteration works shall be carried out in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3. ZTB - Informative on Any Application With a Site Notice

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

4. Informative on Highway

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

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

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

Date 22 October 2020

Report of	Assistant Director for Place and Client Services	Author	Alistair Day ☎ 01206 282479
Title	Land at Queen Street, Colchester (Appeal ref: 3231964 and Planning ref: 182120)		
Wards affected	Castle		

This report concerns the proposal for the southern pedestrian access that is required to be delivered as a part of the approved Alumno development

1. Decision(s) Required

- 1.1 Members are asked to endorse the suggested approach to the creation of a new pedestrian access from Priory Street as set out in the report, namely that of Option 2, which provides an acceptable access solution with an equitable balance struck between a fully compliant ramped access (Option 3) and the contingent harm associated with widening the opening through the Town Wall (former C19 theatre wall not Roman in origin). Option 2 requires the creation of a new opening of less than half that required by Option 3 (1900mm versus 4474mm)

2. Reasons for Decision(s)

- 2.1 The Planning Committee, when determining planning application 182120, cited two main reasons for refusal: first, the southern access did not provide adequate disabled access; and secondly, that the proposed development constituted poor design and, by virtue of this, would have an adverse impact on the townscape of the area, including that of the town centre conservation area. The applicant appealed the decision to refuse the planning application and the application was subsequently allowed at appeal.
- 2.2 The applicant is now drawing-up detailed design proposals for the scheme, which include finding a design solution for the southern access ramp pursuant to the relevant planning condition.
- 2.3 The access ramp needs to cross the Roman Wall at some point and an approximate alignment that crosses the wall, where it is buried under the bus garage floor and subsequently under an area of proposed open space (referred to as John Ball Square in the application) has been selected. At the present time, there is a height change of at least 1.5 metres between the car park and the bus garage floor above. The enclosure to the car park at this point is currently expressed through the former theatre wall on top of which sits the bus garage wall. Whilst only dating from the early nineteenth century, the theatre wall, which is located to the south of the buried Roman Wall, gives the impression of a historic wall continuing all the way across the site. As the Planning Inspector noted, this wall “undoubtedly improves the setting and interpretation of the exposed Town Wall to its east”.

- 2.4 The applicant has advised that the creation of a access design that complies with all aspect the BS recommendations (Option 3) will result in the creation of an opening within former theatre wall (about 4500mm). The creation of such a wide opening will result in the erosion of the enclosure provided by the wall, which in turn will cause harm to the character and appearance of the conservation area and the setting of the Town Wall. An alternative proposal has been developed (Option 2) that complies with the substantive guidance of the BS. This option requires the creation of an opening of approx. 1900mm in the former theatre wall. The significantly smaller opening proposed by Option 2 will minimise the loss of enclosure and, as such, will be less harmful to the character of the conservation area and the setting of the Town Wall. Given the conflict that arises between a scheme that is in complete compliance with the BS guidance (Option 3) and the duty to protect the character of the conservation area (which includes the setting of the Town Wall), Members are asked confirm that Option 2 provides the optimal equitable balance between the need to provide an acceptable level of access for all users and the need to safeguard the town's heritage.

3. Alternative Options

- 3.1 Members can decide that the alternative scheme (Option 3) that fully complies with the BS guidance is preferable and the contingent harm caused by the larger opening in the former theatre wall (4474mm compared to 1900mm) is justified in the wider public interest is implemented.

4. Supporting Information

- 4.1 As noted above, the Planning Committee resolved that planning application 182120 should be refused on the grounds that the southern access did not provide adequate disabled access and that the proposed development constituted poor design and would have an adverse impact on the townscape of the area, including that of the town centre conservation area.
- 4.2 The scheme's overall design and the southern access was discussed at length at the appeal (Public Inquiry). The appeal was subsequently allowed by the Inspector, subject to planning conditions and a legal agreement.
- 4.3 In his decision letter (paragraphs 93 to 104), the Planning Inspector set out his views on the southern access. The relevant section of the appeal is set out in Appendix 1 for Members convenience.
- 4.4 The Inspector acknowledged that an amended proposals for the southern access (tabled at the Inquiry) with four ramps set a gradient of 1:15, even with intermediate landings, may be too much for some manual wheelchair users, but that a ramp with a noticeably shallower gradient is unlikely to be achievable due to the levels, available space and potential archaeological constraints. The Inspector also stated that the tabled ramped solution complied with the requirements of the Equalities Act 2010. The Inspector concluded that, in the light of the guidance in the NPPG, it is preferable to impose a Grampian condition rather than to refuse the application. The relevant planning condition (condition 15) is set out below:

Prior to the commencement of development, a scheme to provide an inclusive access between Priory Street and John Ball Square (including any necessary alterations to the Theatre Wall) shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include:

- Detailed drawings (including specifications where relevant);
- An installation programme and accompanying method statement;
- The depth of any excavations and foundation details;
- Full details (including samples) of materials and finishes;
- Arrangement for the maintenance and management of the access scheme;
- In the event that the access scheme incorporates a lift, the scheme shall include health and safety measures for the lift, details as to operational controls, hours of operation, and service, maintenance and repair arrangements (including a protocol for dealing with defects, repairs, damage and breakdowns);
- In the event that the access scheme incorporates a ramp, the scheme shall be designed in accordance with the recommendations set out in BS8300 1:2018 Design of an accessible and inclusive built environment and include a protocol for dealing with defects, repair, damage and maintenance.

The access arrangements and associated works shall be implemented in accordance with the approved details and made available for use by the general public prior to occupation of any part of the development and shall thereafter be maintained and managed in accordance with the approved details.

4.6 The applicant has prepared two options for the south access. The applicant has advised that the two options have been developed under the guidance and scrutiny of their access and inclusivity consultant Martin McConaghy of IDACs and as such they have been through a rigorous audit process which has led the detailed design evolution. The Council has also engaged the services of a specialist access consultant (Chris Hawkins of Savills) to advise on the suitability of the access ramp design.

4.7 The most noticeable difference between the two options relates to the width opening in the former theatre wall; under Option 2 the opening is 1900mm, whilst Option 3 requires an opening of 4474mm. The larger opening allows for a wider ramp and complete guarding to the turning area at the landing of the middle ramp / steps. A summary of the difference between the two options together with the relevant section of the BS is set out below:

- The BS8300-1:2018 states that “for disabled people who need a generous amount of space when moving about, the provision of narrow approaches creates difficulties. “(section 8.1). It goes on to state that “People with sight loss, as well as visitors who might be unfamiliar with the location, can be assisted if street layouts are designed to provide a strong, legible framework with unobstructed sight lines supported by orientation features... “ (section 8.1).
 - ❖ The wider opening in the wall provided by Option 3 will allow for greater sight lines (when compared to Option 2) which will further help to reduce the risk of potential conflict and accident.
- Section 8.2.2.3 titled “protection from falling” states: “where there is a change in level between the access route and the surrounding area, the risk of falling should be assessed and appropriate measures should be taken to address this”.
 - ❖ Option 2 shows no complete guarding to the turning area at the landing due to the flight of the steps to the lower level.

❖ Option 3 shows a planter as providing guarding to the turning area at the landing and therefore meets the recommendation in the standard.

- Section 8.1.2 states: “To be accessible, the minimum surface width of an access route (i.e. between walls, kerbs or path edgings) should be at least 1800 mm for general routes, although a width of 2000 mm is preferable to accommodate larger electric mobility scooters.” With regard to landings, the standard states: “landings should be provided at the foot and head of a ramp. They should be at least the width of the ramp and not less than 1500 mm long, clear of any door swing or other obstruction.....If an intermediate landing is a quarter-turn or half-internal landing, the width of the ramp should be maintained throughout the turn or turns. Intermediate landings at least 1800 mm wide x 1800 mm long should be provided as passing places where there is no clear line of sight from one end of the ramp to the other, or where there are three or more flights. (Section 9.2.4).

❖ Option 2 gives the width of the opening within the wall as 1900mm which meets the standard, but a width of 2000mm is preferable. The width of the landing is shown to equal the width of the ramp at 1800mm meeting the standard.

❖ Option 3 gives the width of the opening within the wall as 4474mm which meets the standard. The width of the landing on the same drawing also meets the standard.

4.8 The Council’s Access Consultant has advised that Option 3 is preferable from a pure accessibility perspective, as it meets the standard. Option 2 fails to meet the standard with regard to the risk of falling as it does not have complete guarding to the turning area at the landing of the steps to the lower level.

4.9 Consultation has also taken place with the Council’s internal heritage specialists and with Historic England. Historic England have advised:

We are fully committed to the inclusion of equal access for all in any proposals for new development.... Having considered the set of drawings for the ramps and steps, in our view the most contextually appropriate option is Option 2, which retains a greater degree of enclosure than Option 3, as a result of the smaller scale of opening through the theatre yard wall. We always strive to achieve minimum intervention in relation to proposals for alterations/removal of historic fabric. In relation to proposals for achieving equal access for all in particular, we seek a proportionate response that will enable everyone to adequately access the site, thereby fulfilling the requirements of the specific condition attached to the planning permission.

The Council’s Archaeological Officer has echoed a similar view to Historic England.

4.10 From a heritage perspective, Option 2 with the smaller opening is the preferred solution. It is fully accepted that when designing a scheme, it is an important principle that everyone should have dignified access to and within it. The Equalities Act requires a reasonable response to be made to the provision of disabled access. In this instance, as the Inspector noted, there are alternative routes by which disabled users can access the development which would not result in the need for damaging alterations to the historic environment. In the opinion of the Inspector, the ramped scheme tabled at the Inquiry provided an acceptable access solution and would meet the requirements of the Equalities Act 2010. The Option 2 scheme provides improvements on the scheme tabled at the enquiry and is more closely aligned with detailed recommendations set out in the BS. Whilst officer’s accept that Option 2 does not comply with one aspect of the BS,

DC0902

officers are cognisant of the fact that the BS is a guidance document only and the BS itself states that the extent to which the recommendations apply to scheduled monuments, registered parks and gardens, registered battlefields and conservation areas should be determined on a case-by-case basis – i.e. there is flexibility when it comes to works that affect the historic environment). Option 2, for the same reasons rehearsed by the Inspector at the appeal, is not considered to conflict with the requirement of the Equalities Act 2010 – a primary concern expressed by Members when considering the application at the time of the planning committee.

- 4.11 For the reasons given above, and when considering the relevant material planning considerations, including the statutory requirement to preserve and enhance designated conservation areas and to protect the setting of the Town Wall (dual designated - a Scheduled Ancient Monument and Grade I listed), Option 2 is considered, on balance, to be the preferred solution.

5. Strategic Plan References 2018-2021

- 5.1 Theme - Responsibility: "Create new routes for walking or cycling and work with partners to make the borough more pedestrian-friendly"

6. Consultation

- 6.1 Historic England: comments set out in the report

7. Publicity Considerations

- 7.1 None directly arising from this report

8. Financial Implications

- 8.1 None directly arising from this report

9. Equality, Diversity and Human Rights Implications

- 9.1 For the reasons set out in the report, option 2 is considered to comply with requirements of the Equalities Act 2010.

10. Community Safety Implications

- 10.1 None directly arising from this report

11. Health and Safety Implications

- 11.1 None directly arising from this report

12. Risk Management Implications

- 12.1 None directly arising from this report

Background Papers

Planning application 182120

Appendix 1

Section from Appeal decision relating to the South Access Proposals

93. The MP [Master Plan] proposes a new north-south link between Queen Street, to the north of Roman House, and Priory Street opposite St Botolph's Priory. A footpath through the Priory grounds connects to the large Britannia surface car park, Colchester Town Station and beyond.

94. This route needs to cross the Roman Wall at some point and an approximate alignment that crosses the wall, where it is buried under the bus garage floor and subsequently under JBS [John Ball Square], has been selected. The route would also need to change height between the level of Priory Street car park and that at the site of the future JBS. At the present time there is a height change of at least 1.5 metres between the car park and the bus garage floor above.

95. This is currently expressed through the former Theatre Wall, atop which a part of the bus garage wall also sits. Whilst only dating from the early nineteenth century, this wall, which is located to the south of the buried Roman Wall, gives the impression of a historic wall continuing all the way across the site and to the rear of the buildings fronting Queen Street. It undoubtedly improves the setting and interpretation of the exposed Town Wall to its east. The restoration and retention of the older part of the Theatre Wall, once the bus garage wall has been removed, was an integral part of the scheme as originally designed. The public would be able to stand behind this wall and look directly at the Priory ruins to its south.

96. There is an entrance to the bus garage up steps through this wall. The original scheme widened the entrance through the wall and rebuilt the steps to modern standards, providing stepped access between Priory Street and JBS. Following representations from disability groups a ramped access was added to the proposal but at a gradient of 1:12.

97. The Council considered this to be unsatisfactory and reason for refusal No. 3 refers to the design of the proposed access ramp to the south of the Town Wall not being accessible to all users with disabilities. Before the Inquiry, the Appellant prepared a further scheme that involved steps and a lift. However, at the Inquiry there was criticism about the operation of a similar lift at Vineyard Street car park. Representors pointed out that that lift was often out of order and no regime for the long-term operation and maintenance of such a lift at the appeal site was put before the Inquiry.

98. The Council and the Rule 6 Party argued that a fully accessible access between the site and Priory Street was a necessary pre-requisite of the proposal. In the absence of one, it is their view that the appeal decision should be dismissed. The Appellant contrarily argued that such an access was not essential for the proper functioning of the scheme, there being adequate pedestrian accesses from Queen Street and from Lewis Gardens. Additionally, if I did consider a pedestrian access to be necessary at this point, then it could be made the subject of a condition. Furthermore, the access did not have to be fully accessible if the site circumstances dictated otherwise.

99. The appeal site is to be a largely vehicle free environment and the tenancy agreement for the accommodation would prevent occupants from parking a vehicle within a defined area within central Colchester or applying to the Council for a residential parking permit. The proposal includes arrangements for occupants to drop off luggage, particularly at the start and end of each term, in the Priory Street car park. That car park would also be used by hotel guests. That being the case, I consider it essential that there is an easy access into the site and to the hotel and student accommodation, that does not involve the carrying of heavy luggage up steps, from that car park. The route via Queen Street, given the restricted pavement widths and

busy traffic, is not an appropriate route for students or hotel guests carrying luggage in its present form.

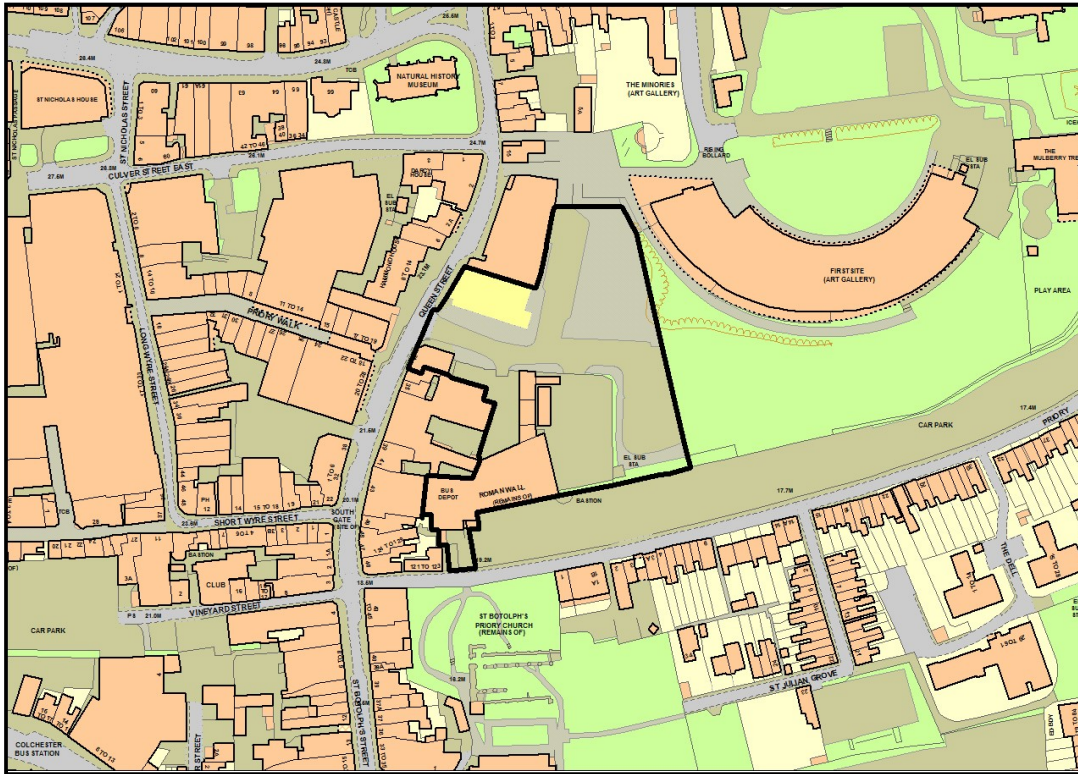
100. During the course of the Inquiry, the Appellant submitted other solutions to the problems posed by this access, culminating in a ramped access with a gradient of 1:15 and 5.0 metre ramps. The scheme meets the requirements contained in the latest published guidance. Given the uncertainties attached to a lift solution, a ramp may be the most appropriate option. It would not be the only pedestrian access into the site and those from the north that already exist have noticeably shallower gradients. This route, if achieved as described above, would undoubtedly be more suitable and preferable to the use of the parallel route along Queen Street, even after the implementation of the lower part of the street.

101. Whilst four ramps at a gradient of 1:15, even with intermediate landings, may be too much for some manual wheelchair users, the levels, available space and potential archaeological constraints suggest that a solution with a noticeably shallower gradient is likely to be unachievable. The Appellant can do no more than provide the shallowest gradient feasible within the constraints. In the circumstances, which include other more disability friendly accesses into this site, I consider that the above ramped outcome would provide an acceptable access for able bodied persons accessing the student accommodation and hotel from Priory Street car park and would meet the requirements of the Equalities Act 2010.

102. The proposal would breach the wall for a distance of about 3.7 metres. This may not be the preferred solution of heritage interests. However, this design achieves two flights of stairs as well as a ramped access and a solution with only one stair access to JBS would be workable and would only require the wall to be breached for about 2.0 metres.

103. There would be a requirement for excavation between the buried Roman Wall and the Theatre Wall. Providing due regard is given to the need to excavate in an archaeologically sustainable way, then I can see no reason why this could not be satisfactorily achieved.

104. It seems to me that there is every prospect of an acceptable southern access scheme being implemented. The guidance in the NPPG suggests that in such circumstances it is preferable to impose a Grampian condition, rather than to refuse the application. As suggested by the Appellant, I consider a variation to s proposed condition to be preferable. With the imposition of this condition the proposal would be in accordance with CS UR2 and DP1 and DP12.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Agenda Item 8

Application: 182120
Location: Land At, Queen Street, Colchester
Ward: Castle
Officer: Alistair Day

22 October 2020

Report of	Assistant Director of Place and Client	Author	Karen Syrett
Title	Applications Determined in Accordance with Officer Scheme of Delegation		
Wards affected	All		

1. Executive Summary

- 1.1 This report gives details of the applications which have been made up to 1 October in accordance with the revised scheme of delegation agreed at the Committee's meeting on 18 June 2020 to provide for the determination of planning applications for the duration of the operation of virtual meetings. This arrangement will be subject to a review by the Committee in December 2020.

2. Recommended Decision

- 2.1 To note the applications listed in the attached Appendix which have been determined under the revised scheme of delegation.

Appendix 1

Details of Applications determined in accordance with the Scheme of Delegation to the Assistant Director of Place and Client

App. Ref.	Site	Ward	Recommendation	Decision
201223	Parsons Heath Medical Centre	St Annes & St Johns	Approval	Approval
201277	3 Oxford Road	New Town & Christchurch	Refusal	Refusal
201159	18 Millers Lane, Stanway	Stanway	Approval	Approval
200238	51 Meyrick Crescent	Berechurch	Approval	Approval
190699	AGM House, London Road, Copford	Marks Tey & Layer	Approval	Approval
201368	New House, Wellesley Road	New Town & Christchurch	Approval	Approval
201099	Northern Gateway	Rural North	Approval	Approval

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 withstand 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 scrapyards 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.

