

Planning Committee Meeting

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

Thursday, 07 January 2016 at 18:00

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, 21 Trinity Square, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

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

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www.colchester.gov.uk

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to 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 scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

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

Interpretation of Class C4

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 07 January 2016 at 18:00

Member:

Councillor Jon Manning
Councillor Jessica Scott-Boutell
Councillor Peter Chillingworth
Councillor Helen Chuah
Councillor Jo Hayes
Councillor Pauline Hazell
Councillor Brian Jarvis
Councillor Mike Lilley
Councillor Jackie Maclean
Councillor Patricia Moore
Councillor Rosalind Scott
Councillor Laura Sykes

Chairman
Deputy Chairman

Substitutes:

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

Councillors Christopher Arnold, Lyn Barton, Tina Bourne, Roger Buston, Kevin Bentley, Nigel Chapman, Barrie Cook, Robert Davidson, Beverly Davies, Andrew Ellis, Annie Feltham, Bill Frame, Ray Gamble, Dominic Graham, Annesley Hardy, Marcus Harrington, Dave Harris, Julia Havis, Peter Higgins, Theresa Higgins, Cyril Liddy, Sue Lissimore, Fiona Maclean, Kim Naish, Nigel Offen, Gerard Oxford, Philip Oxford, Will Quince, Peter Sheane, Paul Smith, Dennis Willetts, Julie Young and Tim Young.

AGENDA - Part A

(open to the public including the press)

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

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

1 Welcome and Announcements

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

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

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

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

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

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

6.1 **Minutes of 5 November 2015** 17 - 22

6.2 **Minutes of 19 November 2015** 23 - 26

6.3 **Minutes of 3 December 2015** 27 - 32

7 **Planning Applications**

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

7.1 **152268 Northfields (formally Turner Village), Turner Road, Colchester** 33 - 40

Variation of Condition 2 (approved plans) of planning permission 091169

7.2 **151286 Lakelands Phase 2 NR4, SR4 and SR5, Church Lane, Stanway** 41 - 50

Approval of reserved matters following outline approval, 121040 and 121041 for the development of plots NR4, SR4 and SR5 of the second phase of the Lakelands Development

8 **Lakelands, Stanway - Supplemental Agreement** 51 - 52

See report by the Head of Commercial Services

9 **Scheme of Delegation to Officers – Affordable Housing**

53 - 56

See report by the Head of Commercial Services

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).

Part B

(not open to the public including the press)

Planning Committee

Thursday, 05 November 2015

Attendees: Councillor Peter Chillingworth (Group Spokesperson), Councillor Jackie Maclean (Member), Councillor Jon Manning (Chairman), Councillor Laura Sykes (Group Spokesperson), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Member), Councillor Jessica Scott-Boutell (Deputy Chairman), Councillor Patricia Moore (Member), Councillor Rosalind Scott (Group Spokesperson), Councillor Jo Hayes (Member)

Substitutes: Councillor Ray Gamble (for Councillor Helen Chuah)

230 Site Visits

Councillors Chillingworth, Hayes, Hazell, Jarvis, Maclean, Manning Moore, Scott, Scott-Boutell and Sykes attended the site visit.

231 Minutes of 1 October 2015

The minutes of the meeting held on 1 October 2015 were confirmed as a correct record.

232 151825 Car park at Sheepen Place, Colchester

The Committee considered an application for the proposed phased development of two new office buildings and associated outbuildings, parking and landscaping at the car park at Sheepen Place, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and an amendment sheet in which all the information was set out.

Sue Jackson, Principal Planning Officer, presented the report and, assisted the Committee in its deliberations. She confirmed that Anglian water had no comment to make on the application.

David Neville addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the applications. He considered that the town was overloaded with office space and the traffic problems in the town centre had a detrimental on residents. He refuted the assertion that the development would have no significant impact on traffic volumes and he was also concerned about the loss of the Sheepen Road car park which was considered an asset for local residents. He also explained that only a small proportion of residents had been notified about the

application

Roger Gilles addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the applications. He considered the development to be a bold move on behalf of the Council, in terms of the encouragement of good quality office design which would also provide a continuing revenue stream for the Borough. The intention was to provide a well serviced work space for which a long lease had already been negotiated with Birkett Long who had specified particular requirements although the development was sufficiently flexible to accommodate other options. The Highway Authority had confirmed that it was supportive of the loss of a number of car parking spaces in order to accommodate the development. The design was intended to achieve a high BREEAM score which was an added benefit for the town.

The Principal Planning Officer explained that a tenant had been identified for the first building but the tenancy of the second building had yet to be finalised. The traffic movements generated by the development were considered to be fewer than the existing car park use and, as such, the congestion problem would not be made any worse. In addition the travel plan for the development encouraged the use of alternative travel modes. She confirmed that there had been a delay in notifying all residents about the application but this had been rectified within a few days in addition to the usual public notices in a local newspaper and on site. She also confirmed that the proposed cycle parking facilities were positioned closest to the most convenient access point to the site and that the future parking strategy was seeking a reduction in the long stay parking facilities in order to encourage park and ride take up.

One member of the Committee was concerned about the cycling facilities and considered these did not meet Essex Guideline Standards and accordingly sought the addition of a condition to provide for the cycling provision to be subject to the approval of the Planning Authority.

Generally members of the Committee acknowledged that the proposal would not cause existing traffic problems to be exacerbated, whilst the loss of car parking for residents was considered to be unfortunate. Members of the Committee were also reassured that the parking facilities for coaches and lorries to the north of the site would be unaffected by the development and the provision for disabled vehicle parking on the site accorded with necessary standards.

RESOLVED (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report with an additional condition providing for the cycling provision to be subject to the approval of the Planning Authority.

233 151826 Car park at Sheepen Place, Colchester

The Committee considered an application for one totem sign board to the front of the

building at the car park at Sheepen Place, Colchester. The application had been referred to the Committee because the applicant was the Council. The Committee had before it a report and in which all the information was set out.

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

234 152042 Land adjacent to 39 Harvey Crescent, Stanway

Councillor Sykes (in respect of her acquaintance with the applicant) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the erection of a detached three bedroom dwelling and parking at land adjacent to 39 Harvey Crescent, Stanway, Colchester. The application had been referred to the Committee because it had been called in by Councillor Sykes and she had stated that she had not formed an opinion on the application. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Eleanor Moss, Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the applications. He considered that the application fully complied with standards in relation to parking, gardens and amenity and, as such, was not clear as to why it had not been supported by Planning Officers. He referred to the character of the area and the general plot sizes as well as height, width and materials which were generally similar in the locality. Some houses had been extended successfully and there was evidence of different boundary treatments in the area. As such, he was unsure as to why the proposal was considered to be so harmful to the area. He was aware that a number of residents supported the proposal as well as the Parish Council. He acknowledged the application may not be perfect but it did not conflict with planning policies and was therefore a matter for the Committee to consider, balancing various issues. He was of the view that the application was not sufficiently harmful to outweigh its merits.

The Planning Officer confirmed that, in the opinion of the Council's planning team, the site was not capable of this development. The benefit to be gained through a tidying up of the site could also be achieved through enforcement measures if that were deemed necessary. She confirmed that the site had been sold by the Council to the applicant with covenants effectively providing for the site to be retained as a garden with the provision and maintenance of a boundary fence.

One member of the Committee was concerned about the apparent inconsistency in

approach with the application and was of the view that indications had been provided which suggested the site may be able to be developed successfully. Reference was also made to the mixed appearance of dwellings in the area, some of two storey, some of three, the addition of porches and other examples of rendered finish.

Other members of the Committee acknowledged the poor quality of the proposed design of the dwelling but supported the need to improve the appearance of the area to benefit the appearance of the general street scene. Reference was also made to the potential loss of greenery, that the site had not been maintained adequately, the potential for enforcement measures to be sought to improve the site's appearance as well as the attractive development which had been provided in the opposite corner of the cul de sac.

The Planning Manager confirmed that a section 215 'untidy site' notice could be served on the owners of the land to improve the appearance if it was considered necessary. He also acknowledged that meetings had taken place with one of the ward councillors and time had been spent in order to find a suitable solution for the site. Notwithstanding, he was clear that the view expressed by planning officers was that the site was not suitable for development and a scheme had not yet been submitted which met all the requirements necessary for officers to recommend approval. There was a clear audit trail to this effect which had been communicated to the applicant and the agent and therefore he could not agree with the comments made by one of the committee members regarding indications of suitability for development.

After considerable deliberation, a number of Committee members were of the view that, although they couldn't support the current proposal, there would be merit in allowing further time for the applicant, in consultation with planning officers, to formulate an amended proposal which could be a suitable solution for development.

RESOLVED (EIGHT voted FOR and FOUR voted AGAINST) that the planning application be deferred for further negotiation to provide for the redesign of the proposals to make them more acceptable with Council's policies, bearing in mind the problems of the street scene, the roof line of the new dwelling and the need for the new dwelling to be set back in order to accommodate parking to the front.

235 151831 48a William Harris Way, Colchester

Councillor Scott-Boutell (in respect of her acquaintance with the objector making representations to the meeting) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the use of premises as restaurant and takeaway (A3/A5), installation of associated kitchen extract system and external ducting with brick effect cladding on the rear elevation of the building at 48a William Harris Way, Colchester. The application had been referred to the Committee because it had been called in by Councillor Harris. The Committee had before it a report in which all the

information was set out.

Eleanor Moss, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations.

Edwina Taylor addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the applications. She explained that, after being vacant for ten years, she was not opposed to the building being occupied. However she had considerable concerns about the flue which was proposed to be positioned directly above the entry door to her property and parallel to her kitchen and bathroom windows. She considered the proposed appearance to be unsightly. She did not object to A3/A5 use in principle but she did not wish to see the introduction of a catering business which required such a high degree of extraction. She was aware of interest in the premises from an alternative source for use as a coffee shop and she welcomed the opportunity for this type of use to be tested.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He thanked the Planning Officers for their work in compiling the report but he was making representations in order to support the local residents. He explained that the provision of the flue as proposed would significantly impact on what was effectively the front aspect of the residents' premises. He was concerned about the very close proximity of the flue to the windows of the dwellings in the building and he did not consider this to be acceptable in any form. He explained that the residents were not opposed to the introduction of businesses to the building but he was not supportive of this style of take away, particularly if it involved the provision of an extraction flue.

The Planning Officer explained that the recent appeal decision had established that A3/A5 use was permissible. The Committee needed to consider whether the flue could blend in harmoniously with the building, particularly given it was much less stark in appearance than that previously proposed. She was of the view that adequate maintenance would ensure that odours would be kept within controllable limits. The Planning Officer also confirmed that a commercial bin for waste disposal would be provided to the rear of the building's parking area which was the same as that proposed in the previous application.

Members of the Committee referred to the recent appeal decision whereby the inspector had determined that the principle of this type of take away use was acceptable. Nevertheless, concern was expressed regarding the siting of the flue so close to the residents' windows, the likelihood of odours being discharged in such close proximity to dwellings, the inadequate height of the top of the flue in relation to the roof line and the design faults associated with the horizontal section above the entrance to the dwellings and the general appearance of the proposed cladding. There was also considerable concern regarding the inadequate waste disposal and storage and recycling proposals, given this type of take away establishment would require the use of oil drums for the collection of grease.

As the discussion suggested that the Committee may be minded to refuse the application contrary to the officer's recommendation in the report, in accordance with the Committee's procedures in these circumstances, the Chairman invited the Committee to consider invoking the Deferral and Recommendation Overturn Procedure (DROP), bearing in mind the implications of such decisions as set out in the reports and further explained by Planning Officers.

The Planning Manager confirmed that there was no significant risk should the Committee determine that the application be refused on the grounds of the poor design of the flue.

The Committee agreed not to invoke the DROP and, accordingly, the Chairman then invited the Committee to determine the application.

RESOLVED (UNANIMOUSLY) that the planning application be refused on grounds of the poor design of the flue, particularly in relation to its appearance, height, the horizontal element and the close proximity to residential dwellings.

236 152062 42 Anthony Close, Colchester

The Committee considered an application for the infill front extension and rear extension at 42 Anthony Close, Colchester. The application had been referred to the Committee because the agent worked for the Council on a consultancy basis. The Committee had before it a report in which all the information was set out.

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

Planning Committee

Thursday, 19 November 2015

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

Substitutes: Councillor Barrie Cook (for Councillor Jo Hayes)

Also in attendance: Councillor Buston

237 Victims of Paris Shootings

The Committee observed a minute's silence in acknowledgement of those killed and injured in the shooting incidents in Paris on Friday, 13th November 2015.

238 151755 St Nicholas House, High Street, Colchester

The Committee considered an application for the formation of a new High Street entrance lobby, conversion and change of use of vacant first and second floor ancillary retail accommodation creating 15 residential apartments, construction of new third storey to provide 4 residential apartments and associated external works to the existing rear parking area at St Nicholas House, High Street, Colchester. The application had been referred to the Planning Committee because it is a major application, in response to which, objections had been received and a Section 106 legal agreement was required. The Committee had before it a report and amendment sheet in which all the information was set out.

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

239 151993 3 Highfield Drive, Colchester

The Committee considered an application for a two storey side extension at 3 Highfield Drive, Colchester. The application had been referred to the Planning Committee as a result of a call in by Councillor Buston. The Committee had before it a report in which all the information was set out.

James Ryan, Planning Officer, presented the report and assisted the Committee in its

deliberations.

Louise Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that residents of Highfield Drive were against the application on the grounds of planning history, previous planning decisions, overdevelopment likely to be discordant with its environment and failure to enhance the quality of the area. She was concerned that given the previous applications the aim to create a separate dwelling would remain, especially given an additional external door on the extension. She suggested that the application should have additional conditions including a reduction in the size and bulk of the extension as per previous application 111460 to prevent it from being used as a separate dwelling, and that the doorway on the side of the property be completely removed.

Councillor Buston attended and, with the consent of the Chairman, addressed the Committee. He echoed the comments from Louise Smith and acknowledged that the site had had a long and chequered planning history, to the extent to which local residents do not share the confidence that the application will remain as stated. He noted the removal of the porch, but stated that the main concern for the residents was removing the external door.

The Planning Officer confirmed that the history of the application is not a material consideration, and a new dwelling is not what is being applied for; any changes to make it a separate dwelling would be a breach of condition. The Planning Officer confirmed that the removal of the external door was requested, but was declined by the applicant; a request to remove the porch was accepted. In response to the size of the development, this was deemed to be an acceptable size; to make the development smaller would be unreasonable to implement by condition, and had been approved previously by Committee members. The application is also deemed not to have a detrimental impact on the street scene.

Members of the committee sympathised with the views expressed by the objector, particularly given the history of the planning applications and attempts to create a separate dwelling.

Some members of the Committee were concerned about the possibility that the application could be turned into a separate dwelling and questioned whether a condition could be made to remove the side door or restrict the type of door used. Other Committee members questioned whether the Planning team would be able to monitor the development for breaches in the conditions set.

In response to specific questions the Planning Officer confirmed that officers believe that retaining a side door, with the condition that the application does not become a separate dwelling, is reasonable. With regard to the type of door installed the Planning Officer stated that a condition to restrict the type of door could be appealed and difficult to

justify.

RESOLVED (TEN voted FOR, ONE voted AGAINST and ONE ABSTAINED) that the planning application be approved subject to the conditions set out in the report.

240 151946 44 Blue Road, Tiptree

The Committee considered an application for a proposed rear single storey extension to existing dwelling at Blue Road, Tiptree. The application had been referred to the Planning Committee because the applicant is an employee of Colchester Borough Council. The Committee had before it a report and amendment sheet in which all the information was set out.

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

241 152075 Bear House, 40 Chitts Hill, Colchester

The Committee considered an application for a proposed two storey rear extension at Bear House, 40 Chitts Hill, Colchester. The application had been referred to the Planning Committee because the agent works for the Council on a consultancy basis. The Committee had before it a report in which all the information was set out.

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

Planning Committee

Thursday, 03 December 2015

Attendees: Councillor Jackie Maclean (Member), Councillor Helen Chuah (Member), Councillor Jon Manning (Chairman), Councillor Laura Sykes (Group Spokesperson), Councillor Pauline Hazell (Member), Councillor Michael Lilley (Member), Councillor Jessica Scott-Boutell (Deputy Chairman), Councillor Jo Hayes (Member)

Substitutes: Councillor Marcus Harrington (for Councillor Peter Chillingworth), Councillor Roger Buston (for Councillor Brian Jarvis), Councillor Beverly Davies (for Councillor Patricia Moore), Councillor Dave Harris (for Councillor Rosalind Scott)

242 Site Visits

Councillors Harrington, Hayes, Hazell, Manning Moore, Scott-Boutell and Sykes attended the site visit.

243 151898 Bypass Nurseries, Dobbies Lane, Marks Tey

The Committee considered an application for the change of use of polytunnel and area of hardstanding to B8 storage at Bypass Nurseries, Dobbies Lane, Marks Tey. The application had been referred to the Committee because it was a major application and objections had been received. The Committee had before it a report and an amendment sheet in which all the information was set out.

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

244 152311 6 St Monance Way, Colchester

Councillor Lilley (in respect of his acquaintance with the agent for the application) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for a two storey front extension at 6 St Monance Way, Colchester. The application had been referred to the Committee because it had been called in by Councillor Gamble. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the

site.

Chris Harden, Planning Officer, presented the report and, assisted the Committee in its deliberations. He explained that conditions had been proposed to provide for a building works management plan to address concerns expressed by local residents and for the removal of permitted development rights in relation to any further extensions which would secure the current size of the amenity area to the rear of the property.

Ann Johnson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the applications. She explained that she was speaking on behalf of ten local residents who had objected to the application and she considered that the concerns expressed in the objections had not been listened to. She was of the view that the application was an overdevelopment of the site and referred to the amenity area size requirement included in policy DP16 and the requirements of the Extending Your House? document. She was also concerned about the loss of light which would negatively impact on Nos 4, 8 and 11 St Monance Way as well as the impact on the street scene due to the fact that the design of the extension was not in keeping with the area. She further considered that the parking provision was inadequate and made reference to the current occupier's practice of parking vehicles on the highway, causing congestion close to a blind corner in the road.

Steve Norman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the applications. He explained the personal circumstances of the applicant which was prompting the need for a larger number of bedrooms at the property and made reference to discussions with planning officers on site which had revealed that a front extension may provide a satisfactory means to create the additional space required for the applicant and his extended family. He did not consider that the application would negatively affect neighbouring residents, particularly in relation to the size of the rear garden and also in relation to the parking provision which was in accordance with parking space standards. He also referred to the variable building line in the area generally and cited a property in a nearby street which had a building line closer to the footway than the application site. He explained that current permitted development rights would allow the applicant to provide a two storey three metre extension at the rear of the property without the need to seek permission.

Councillor Gamble attended and, with the consent of the Chairman, addressed the Committee. He explained that a number of residents had objected to the proposal and that they considered that their concerns were of relevance and should be given consideration by the Committee. In terms of the design of the extension, he considered that this would be the only two storey front extension in the area and, as such, was not in keeping with the existing street scene. He acknowledged that the parking proposals accorded with the Council's standards and that the Highway Authority had not objected but considered that the applicant's practice of parking vehicles on the highway contributed negatively to the existing parking problems in the area. He was concerned that the existing amenity area on the site did not accord with the guidance set out in the

Council's policy DP16 and was of the view that this guidance needed to be complied with given the size of the house which would be created as a result of the proposal.

The Planning Officer explained that a full explanation of the objector's concerns had been contained within the report together with reasons as to why, in his view, these concerns did not constitute appropriate reasons to recommend refusal of the application. He emphasised that the standards for amenity land were by way of guidance only for existing dwellings and that the approval of the application would also provide a benefit in terms of securing the existing amount of amenity space on the site. He was of the view that the design was in keeping with the street scene whilst other properties in the area had variable building lines in relation to proximity to the highway. He considered that existing on street parking issues were not matters which could be considered in determining that application.

Members of the Committee acknowledged the various concerns expressed by residents, and, in particular, in relation to parking issues but accepted that these were matters which needed to be brought to the attention of the Highway Authority separately to the consideration of the planning application. The design was considered to be acceptable whilst the proposal accorded with the Council's requirements in terms of outlook and light.

Nevertheless some members of the Committee expressed concern regarding the negative impact of the design on the street scene and in relation to the impermeable material to the front of the property in relation to its negative environmental impact and whether relevant permissions had been sought prior to its provision as well as the position of the existing dropped kerb on the right side of the property which would be required to be extended in order to adequately access the parking area to the front of the property. Further guidance was sought in respect of the addition of a landscape condition to provide for a more appealing front aspect to the property.

The Planning Officer confirmed that it would be possible to include a further landscaping condition to address concerns regarding the existing hardstanding material and general appearance of the front aspect of the property, together with an informative to the applicant in relation to the Highway Authority requirements for appropriate vehicular access to the parking spaces to the front of the property.

RESOLVED (EIGHT voted FOR, THREE voted AGAINST and ONE ABSTAINED) that the planning application be approved subject to the conditions set out in the report, together with a further landscaping condition to address concerns regarding the existing hardstanding material and general appearance of the front aspect of the property and an informative in relation to the Highway Authority requirements for appropriate vehicular access to the parking spaces to the front of the property.

The Committee considered an application for a window enlargement to the rear elevation at 1A Beverley Road, Colchester. The application had been referred to the Committee because the agent worked as a consultant for Colchester Borough Council. The Committee had before it a report in which all the information was set out.

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

246 152376 50 Chapel Road Stanway

Councillor Sykes (as she had received contact from the applicant) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for a rear extension and alterations to the roof at 50 Chapel Road, Stanway, Colchester. The application had been referred to the Committee because the agent worked as a consultant for Colchester Borough Council. The Committee had before it a report in which all the information was set out.

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

247 152249 246 Straight Road, Colchester

The Committee considered an application for a first floor extension at 246 Straight Road, Colchester. The application had been referred to the Committee because the agent occasionally worked as a consultant for Colchester Borough Council. The Committee had before it a report in which all the information was set out.

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

248 Affordable Housing Delivery

The Committee considered a report by the Head of Commercial Services setting out the current level of Affordable Housing delivery within the Borough.

Daniel Cameron, Planning Contributions Officer presented the report and, together with Eddie Bacon, Affordable Housing Development Officer, assisted the Committee in its deliberations. The Committee had indicated it would welcome information giving a clearer understanding of the level of Affordable Housing currently being delivered against adopted Local Plan policy and, accordingly, the report set out this information together with details of historic delivery and future projections. The report demonstrated that at the end of Quarter 1 in 2015 over half of the homes expected had been delivered. Since 1997 a total of 2380 Affordable Homes had been provided within the Borough

which equated to an average of 132 units per year.

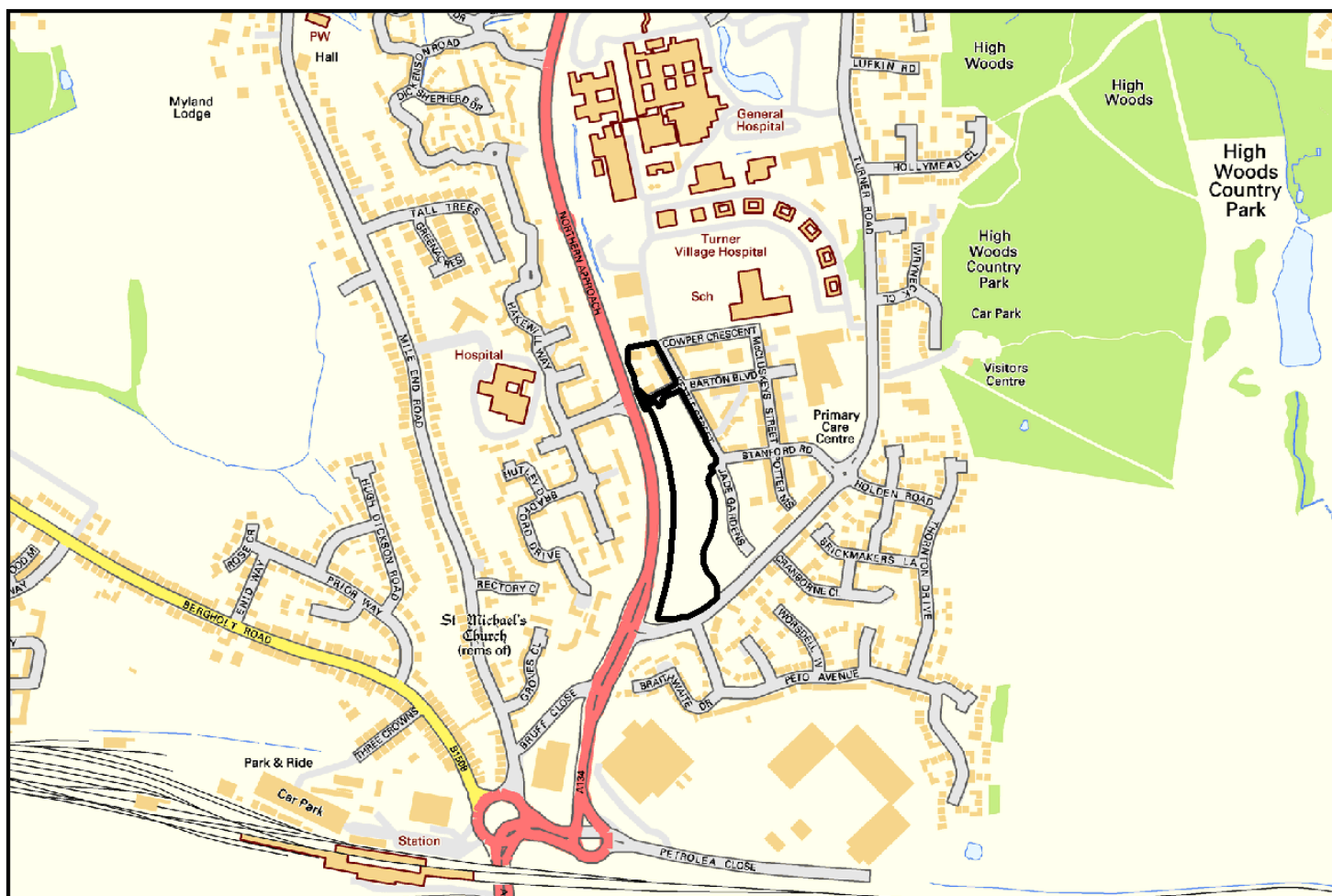
The Committee members generally welcomed the information contained in the report and questions were raised in relation to:

- The percentage of Affordable Housing being delivered in relation to the Council's target and whether anything further could be done to improve upon this
- The site at Park Road where commuted sums in lieu of delivery on site had been made and whether it was possible to do any more to encourage housing contributions on site rather than by means of commuted sums.

In response to specific questions it was explained that the Council's current policy provided for an overall target of 20% Affordable Housing to be provided on-site by developers of sites over a certain size (over 10 units in urban parts of the borough and larger villages and over 5 units elsewhere). In addition, the housing should be scattered (called 'pepper potting') across sites in a tenure-blind manner and the mix of properties to be delivered should be reflective of the overall mix of properties being built. Current policy also provided for the making of commuted sums by developers where they were unable to deliver Affordable Housing on site which did at least enable the delivery of Affordable Housing elsewhere in the Borough.

Fluctuations in delivery from year to year were inevitable due to a number of factors such as poor weather and provision of servicing to sites. In addition it was explained that the forthcoming Housing and Planning Bill 2015 and Welfare and Work Bill 2015/16 had created uncertainty in relation to the ability of Registered Providers of social housing to take on the delivery or management of Affordable Housing.

RESOLVED that the contents of the report be noted.



Application No: 152268

Location: Northfields (Formerly Turner Village), Turner Road, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **7th January 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: James Ryan Due Date: 18/01/2016

MAJOR

Site: **Northfields (Formally Turner Village), Turner Road, Colchester**

Application No: **152268**

Date Received: 19 October 2015

Agent: Mr James Iles, Terence O'Rourke Ltd

Applicant: Galliford Try Partnerships/Linden Homes Easternr

Development: Variation of condition 2 (Approved Plans) of planning permission 091169.

Ward: Mile End

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a Major application with a linking Section 106 agreement to the main Section 106 agreement for the Northfields Site.

2.0 Synopsis

2.1 The key issues explored below are the impact of the reallocation of the parking spaces, the reduction in cycle parking and the other minor changes to the built form on site.

2.2 It is concluded that these minor alterations are acceptable and approval is recommended.

3.0 Site Description and Context

- 3.1 The site comprises the wedge of land south of the hospital between the Northern Approach road and Turner Rise. The previously approved scheme is virtually built out.

4.0 Description of the Proposal

- 4.1 This application seeks to make a number of minor variations to the approved scheme. This involves reallocating some parking spaces and providing a net increase in spaces, reducing the internal cycle parking provision from 75 to 50 spaces, some minor elevational changes to one of the apartment blocks, the removal of balconies to allow extra internal space and the removal of a small retaining wall which was not needed.

5.0 Land Use Allocation

- 5.1 The site is allocated for residential development.

6.0 Relevant Planning History

- 6.1 The key piece of planning history of the site is the approval 091169 which granted consent for the wider scheme that can be seen reaching completion on site today.

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
TA2 - Walking and Cycling
TA5 - Parking

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP19 Parking Standards

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

N/A

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

- Community Facilities
- Vehicle Parking Standards
- Cycling Delivery Strategy

- 7.6 Village Design Statements

Myland Community Council has a Village Design Statement and therefore that is also relevant to this scheme.

8.0 Consultations

- 8.1 Essex County Council Highways – No objection.

- 8.2 Essex County Council SuDS – No objection.

- 8.3 Environmental Protection – No comment.

- 8.4 Landscape Officer – No objection - The landscape content/aspect of the varied concept proposals lodged on 21.10.15 would appear broadly satisfactory. This assumes that any detailed landscape proposals for these variations will be secured under a change to any agreed landscape deposit for this phase and submitted under conditions 13 & 16 of O/COL/02/0563.

- 8.5 Tree Officer – No objection.

- 8.6 Colchester Cycling Campaign – No comments.

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

9.0 Parish Council Response

- 9.1 The Parish Council have stated they have no objection to the scheme.

10.0 Representations

- 10.1 No representations were received. It is noted that at validation stage a number of dwellings within the red line were not consulted as is normal practice. However as some of the minor changes may affect the residents of the dwellings within the site, this has been rectified at the time of the publication of this report. Any comments received will be reported on the update sheet. It is noted that these residents had notice served on them from the applicant via the correct method prior to the application being made (on the 13/10/15) and were also written to by the applicant on the 15/10/15 to let them know the application had been made.

11.0 Parking Provision

- 11.1 One of the changes proposed relates to the on-site parking. The scheme proposes to re-allocate some parking from residents to visitors as this is in a position that is more useful to them and relatively remote from the dwellings the pots were allocated to.
- 11.2 What were visitors' spaces will become allocated spaces. This is a sensible arrangement as the new allocated spaces have been intentionally positioned near to the relevant dwelling. Four new parking spaces are also proposed. This results in a minor increase in overall parking provision. The spaces are of sizes that do not all accord with the adopted standards: One of the parallel spaces is 6 metres by 2.9 metres which is acceptable; one of the splayed 'nose-in' spaces is 5.5 metres by 3 metres which is also fine. The other two 'nose in' spaces are 4.9 metres by 2.4 metres which is slightly undersized. As these are entirely workable and are additional to those already approved the scheme is held to be acceptable in parking terms.
- 11.3 Another change is to the on-site cycle parking. Whereas there were to be 75 cycle parking spaces in a dedicated ground floor section of apartment block J; due to additional space for the plant room there is only the opportunity to provide 50. This is still a useful secure and covered cycle parking provision which means that there are 46 residential units having access to 50 secure cycle parking spaces.

12.0 Open Space Provisions

- 12.1 None change from approved scheme.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be: A linking agreement to the existing section 106. This has been agreed and is in the process of being signed.

15.0 Report

Design and Layout

- 15.1 Elevational Changes – The proposed elevational changes relate to apartment block 'J' which is located inside the apex to the southernmost point of the site. The changes involve the shifting of external walls out by 500mm on one area where there was a recess (on the west elevation) and pulling the whole north elevation out by 500mm. These changes are required to provide internal space standards as required by the Housing Association. In architectural terms this will have very limited impact on the way the building appears as the west elevation has elements that are recessed and

also elements that are flush with the outermost section of the walls – therefore the application will simply change the proportion of flush to recess. Pulling out the northern elevation will barely be visually perceptible. A minor change is also proposed to an eaves detail. These changes are all considered to be acceptable in design terms.

- 15.2 Retaining Wall – A small section of retaining wall as originally proposed was not needed on site due to a lack of level change. This is acceptable.
- 15.3 Rear Door Position – A change to the position of the rear door serving the cycle store and plant room is very minor and is therefore acceptable in design terms.
- 15.4 The changes in parking allocation and the additional spaces have been dealt with in the relevant section above.

Scale, Height and Massing

- 15.5 The scheme raises no issues in this regard.

Impact on the Surrounding Area

- 15.6 The scheme will have no material impact on the surrounding area.

Impacts on Neighbouring Properties

- 15.7 The scheme will have no material impact on neighbouring properties.

Amenity Provisions

- 15.8 The scheme will have a material impact on the on-site amenity provision. The removal of part of the recess in the west wall of apartment block 'J' to provide extra internal space will result in the loss of four balconies. These will be replaced with Juliet Balconies. This will result in four flats which, whilst they will have full height doors that will open to balustrading, will not have external amenity provision in the shape of a balcony. The agents have stated the following:

'We write on behalf of our Client, Icen Homes Limited to confirm that during August 2013, we were aware of and in agreement to the apartment size revisions.'

- 15.9 Whilst it is unfortunate that four flats will not have external space and therefore fail to comply with adopted policy DP16, the requirements of the housing association are important and are offset by the increase in size of internal flat floorspace. The agent has stated:

'It was necessary for the apartment sizes to be increased to ensure that the Homes and Communities Agency's minimum space standards were achieved.'

- 15.10 In this location close to the leisure amenities afforded by Highwoods Country Park which is a short walk away, it is not considered to warrant a refusal of the scheme. It is noted that as approved the ground floor flats did not have private amenity space and therefore this situation is not unique on this block.

Highway Issues

- 15.11 The Highway Authority has raised no issues with the reallocating of the parking spaces and the reduction of cycle parking. On that basis the scheme is held to be acceptable in highway terms.

16.0 Conclusion

- 16.1 The changes proposed are material but are minor and therefore an approval is warranted.

17.0 Recommendation

- 17.1 APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- *A linking agreement to the main legal agreement for the site.*

- 17.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

APPROVE subject to the following conditions

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 188202

P2001 Rev H

P2003 Rev G

P2004 Rev G

P2005 Rev F

P2006 Rev F

P2030 Rev F

P2031 Rev F

P2032 Rev F

P2130 Rev D

P2131 Rev D

P2132 Rev D

P2133 Rev C

P2134 Rev E

P2135 Rev E

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

3 - Non-Standard Condition/Reason

Apart from condition 2 which is hereby varied, all other conditions attached to planning approval 091169 shall remain in force and must be complied with.

Reason: As a Section 73 application to vary the plans condition of application 091169 that is the basis on which this application has been assessed and therefore this condition is needed for the sake of clarity.

4 - Non-Standard Condition/Reason

No changes are hereby approved apart from those set out in the supporting document submitted with the application titled "Design Note" Ref: 188202/5.2.

Reason: As the application has been made and therefore assessed on this basis this condition is needed in the interests of clarity.

19.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition**

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

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

(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

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

20.0 Positivity Statement

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

7.2 Case Officer: Sue Jackson

Due Date: 06/10/2015

Site: Lakelands Phase 2 NR4. SR4 & SR5, Church Lane, Stanway

Application No: 151286

Date Received: 7 July 2015

Agent: Mr Daniel Allen, PRP Planning

Applicant: Mr Phillip Wright, CALA Homes (North Counties) Ltd

Development: Approval of reserved matters following outline approval 121040 & 121041 for the developments of plots NR4, SR4 & SR5 of the second phase of the lakelands development.

Ward: Stanway

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application and objections have been received.

2.0 Synopsis

- 2.1 The key issues explored below are the outline application and approved masterplan for Lakelands. The objections will be set out and responded to. The conclusion is that the application is generally in accordance with the masterplan and the layout and design are acceptable and approval of the reserved matters is recommended

3.0 Site Description and Context

- 3.1 This application relates to three parcels of land forming part of phase 2 of Lakelands at Stanway. Lakelands is located to the west of Tollgate Road and Warren Lane. The Western Bypass which links Warren Lane to Tollgate and London Road forms the west boundary of the Lakelands site. The specific parcels of land are NR4, SR4 and SR5, two of these parcels abut phase 1. Parcel NR4 has a frontage to Plover Road, one of main avenues serving Lakelands, and Church Lane it also faces an area of open space which separates the site from houses under construction by Persimmon Homes. Parcel SR4 has a frontage to properties erected under phase 1 along Robin Crescent and Osprey Close; it also wraps around properties on the corner of these roads. It also has a frontage to Plover Road, the western bypass and has a boundary with the embankment to Church Lane. Parcel SR5 has a frontage to Plover Road, Church Lane and also Robin Crescent where it faces houses erected under phase 1.

4.0 Description of the Proposal

- 4.1 The application is for the approval of reserved matters and comprises a total of 75 dwellings, divided as follows area NR4- 25 units, area SR4- 32 units and area SR5 18 units. The dwellings are predominantly detached or semi-detached but include a flat over a garage (FOG) and four groups of 3 dwellings. The dwellings comprise 3, 4 and 5 bed units; the FOG has 2-bedrooms.

5.0 Land Use Allocation

- 5.1 Stanway Growth Area
Residential

6.0 Relevant Planning History

- 6.1 121040 - Application for a new planning permission to replace extant planning permission F/COL/01/0976 in order to extend the time limit for implementation
- 6.2 121041 - Application for a new planning permission to replace extant planning permission O/COL/02/0980 in order to extend the time limit for implementation

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
PR1 - Open Space
TA5 - Parking
ENV1 - Environment

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

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP12 Dwelling Standards
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

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA STA1 Appropriate Uses within the Stanway Growth Area
SA STA2 Phasing of Greenfield sites in Stanway Growth Area
SA STA3 Employment and Retail Uses in Stanway Growth Area
SA STA4 Transportation in Stanway Growth Area
SA STA5 Open Space in Stanway Growth Area

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

Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Stanway Parish Plan and Design Statement

8.0 Consultations

- 8.1 **Contaminated Land Officer** Assuming that the outline approval (121040/1) conditions in relation to contamination still apply, in particular with regard to the remediation strategy, i.e.: Development shall comply with the BWB Remediation Strategy, Ref OHP007/05/V3, dated February 2012 ("RMS") and CGL Gas Risk Assessment Report, Stanway, Colchester, dated February 2012 as agreed by Colchester Borough Council on 2nd May 2012 in discharge to condition 6 of F/COL/01/0976 or variation as agreed in writing with the Local Planning Authority I have no further comments.

Officer Comment: *the applicant has confirmed the outline conditions apply and remediation is in accordance with the approved documents*

- 8.2 **Environment Agency** Thank you for your consultation on the above application. We have no comment to make on the information submitted at this time. Essex County Council, in their role as Lead Local Flood Authority, should be consulted regarding the surface water management proposals for the site.
- 8.3 **Natural England** currently has no comment to make on these reserved matters. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us any further consultations regarding this development, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.
- 8.4 **EC SUDS** The Flood Risk Assessment relating to this area appears to have been approved under the Discharge of Condition applications made for application refs. 121040 and 121041. Therefore, we will not be providing further comments.
- 8.5 **Landscape Officer** are generally acceptable
- the landscape deposit needs to be cross checked against the Council's standard requirements
 - amendment to buffer planting to the western bypass
 - The parking bays, planting beds and tree positions here (dwg no. 1013) need to be revised as illustrated, this to allow a sufficiently wide/deep bed to each planting area to allow the trees to establish satisfactorily.
 - Amendments to surface materials
 - Areas to be adopted by the Highways Authority need to be identified
- 8.6 **Highway Authority** has no objection
- 8.7 **Urban Design Officer**
- In summary proposals are disappointing and do not adequately follow up on the promising recent dialogue meeting and informed by previous comments. Sadly, proposals still inadequately address the masterplan and the Essex Design Guide. I would therefore recommend refusal until suitable improvements are made. It is accepted that not all approved/policy standards might be reasonably met, though this needs to be supported by a clear rationale and mitigated by an overall sense of reasonably good design in response to the context. Current proposals have some good qualities though are generally let down by unconvincing house types, which too often might appear unattractively monolithic /bland. There are also a number of outstanding layout and other issues which although generally minor in nature, collectively represent another significant flaw which should be ironed out wherever possible.

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

9.0 Parish Council Response

- 9.1 Stanway Parish Council objects to this proposal as there is insufficient parking for the density of the development and the number of bedrooms. The landmark buildings are overbearing in their proposed positions and have a potential to become 4 storey. There are also serious concerns about the lack of amenity space and the inclusion and amount of shared space.

10.0 Representations

- 10.1 2 objections have been received, 1 from Robin Crescent and 1 from Osprey Close the following issues are raised

We are going to have a house dead opposite us which will give us less privacy my main issue will be parking, Robin Crescent is a narrow road and we park outside our house with a toddler and newborn baby on the way and we would still like to park outside our house as other people do as well. This situation could cause problems for access for a lot of residents on the Lakelands estate.

Disruption is going to occur down Osprey Close. Access to the new homes is through Osprey Close although parking is provided this end of the estate already has difficult parking with people not using car parking provided. If double parking occurs at the top of Osprey it will be even more difficult to get out of the road and onto the bypass. My house will be overlooked and I was not expecting this.

Officer Comment: The adopted Lakelands Masterplan indicates these parcels for residential development. The layout shows frontage buildings to Robin Crescent and Osprey Close which will continue existing frontage development erected under phase 1 and complete the street scene. Frontage development is the appropriate urban design response for this part of the site.. The Councils adopted parking standard are met the properties each have a minimum of 2 parking spaces with some units having 3 or 4 spaces.

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

11.0 Parking Provision

11. The parking provision complies with the Councils adopted standards. Each unit will have a minimum of 2 parking spaces some units will have 3 or 4 spaces and in addition 17 visitor spaces are indicated.

12.0 Open Space Provisions

- 12.1 The outline applications secure open space for Lakelands. The dwellings all have private amenity areas in accordance with adopted amenity space standards.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was agreed by the Development Team that this is an application for the approval of reserved matters and all Planning Obligations were secured under the outline application.

15.0 Report

Design and Layout Height

- 15.1 The outline planning permissions include a condition requiring the submission and approval of a master plan. The approved masterplan sets out the design principles for the reserved matters applications. The document as well as defining land uses also identifies character areas, building heights and locations for landmark buildings.
- 15.2 The development comprises a mix of 3 and 2.5 storey dwellings. The 3 storey buildings generally front the main avenue, the open space and Church Lane, with landmark buildings where roads intersect and corner locations to the open space. Whilst the proposal includes 2.5 storey buildings on frontages shown as 2 storey in the masterplan these units are considered acceptable and make use of the roof area lit by dormer windows and roof lights.
- 15.3 The adopted masterplan indicates continuous built form to the road frontages with parking provided in rear parking courts thereby minimising the number of access points and gaps in the street scene. The original plans indicated the majority of dwellings with individual access points. Some house types were unacceptable with wide spanning gables and generally lacking in architectural details. Members will note the Urban Design Officer recommends refusal. Since these comments were made a meeting has taken place and further amendments made. The most important revision is to the layout which now includes rear courtyard parking and a significant reduction in the number of access points. Different house types are also proposed which have acceptable proportions and detailing. Other amendments include changes to the roof alignment so they span the longest not the shortest dimension. The distribution of materials has been clarified and additional architectural details introduced.
- 15.4 Whilst the amendments do not overcome all the comments made by the Urban Design Officer it is considered the package of revisions to layout and design is acceptable subject to conditions.

Impacts on Neighbouring Properties

- 15.5 Area NR4 has no immediate residential neighbours; Area SR4 has a limited frontage to dwellings in phase 1. Area SR4 fronts and wraps around phase1 dwellings and the two objections relate to this area. All the parcels of land forming this application are shown for residential purposes in the Adopted Local Plan and benefit from outline planning permission. The development proposed on parcel SR4 will complete the street scene with houses facing existing houses erected under the phase 1 permission. The application meets the Councils adopted parking standards each dwelling will have a minimum of 2 parking spaces and provision is made for 17 visitor spaces.

- 15.6 Stanway PC has commented regarding the landmark buildings, they are located at key points within the development and are 3 storey high under a pitched roof. These buildings are considered acceptable and in general conformity with the masterplan.

Amenity Provisions

- 15.7 The dwellings all have acceptable private garden areas. In addition to the individual gardens the outline application and legal agreement secure areas of open space and a country park which are available for public use.

Highway Issues

- 15.8 The Highway Authority has no objection. The main access roads to serve these plots are already constructed under earlier permissions.

16.0 Conclusion

- 16.1 The amended plans are considered acceptable and the approval of the reserved matters is recommended.

17.0 Recommendation

- 17.1. APPROVE subject to the following conditions

18.0 Conditions

1 - Non-Standard Condition/Reason

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permissions references 121040 and 121041 relating to this site and the conditions attached thereto remain in force.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 2073AP0001C, 2E, 3C, 4C, 5C, 6D, 7D, 8B, 11D, 12D, 21D, 22D, 31D, 32D, 41D, 42D, 52D, 53D, 54D, 61D, 62D, 71D, 72D, 81D, 82D, 101D, 102D, 103D, 104D, 105D, 106D, 108D, 109B, 110B, 151D, 152D, 153B, 154B, 155B, 156B, 157B, 158B, 159B, 160B, 161D, 162D, 163B, 164A, 171B, 172B, 181B, 182B, 191B, 192B, 193B, 194B, 195B, 196B, 197A, 198A, 199A, 200A and 211D.

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

3 - Non-Standard Condition/Reason

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the external materials. No works shall take place until details of alternative materials have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out using these approved materials. Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

4 - Non-Standard Condition/Reason

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights, doors or any other form of openings shall be installed above ground floor level within any elevation walls or roof faces of the dwellings hereby permitted unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

5 - Non-Standard Condition/Reason

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

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

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users, also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity and as the details submitted are not acceptable in all respects.

6 - Non-Standard Condition/Reason

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

Reason: There is insufficient detail with regard to these features which are an integral part of the overall design.

7 -Non-Standard Condition/Reason

Prior to the first occupation of the development, the GARAGE(S) / CAR PORT(S), PARKING SPACE(S) and VISITOR SPACE(S) shown on the approved plans shall be made available for use for the parking of motor vehicles to be used solely for the benefit of the occupants of the dwelling of which it forms part, or their visitors, and for no other purposes whatsoever. The GARAGE(S) / CAR PORT(S), PARKING SPACE(S) and VISITOR SPACE(S) shall then be maintained free from obstruction and for this purpose at all times thereafter.

Reason: In order to ensure that the development retains adequate parking provision.

8 - Non-Standard Condition/Reason

Prior to the commencement of any works a drawing showing the areas to be adopted, to be the responsibility of a management company or to be in private ownership shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure these matters are agreed and there are no areas of land where ownership/responsibility is unknown.

9 - Non-Standard Condition/Reason

Notwithstanding the details shown on drawing no.2073AP0104_D the roof on plots SR5 02 and 03 shall span along the longest dimension as shown on the submitted house type drawing no 2073AP0002 _ E. Prior to the commencement of development amended plans shall be submitted to and approved in writing by the local planning authority showing this amendment. The development shall be implemented in accordance with the approved amended drawing.

Reason: To ensure a satisfactory visual appearance to these dwellings which are located on one of the principal avenues serving Lakelands

10 - Non-Standard Condition/Reason

Notwithstanding the details shown on drawings nos. 2073AP0172_B and 2073AP0182_B the external render as shown is not approved. Prior to the commencement of development amended plans shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved amended drawings.

Reason: To ensure a satisfactory visual appearance to these dwellings.

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

(3) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

(4) 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.

20.0 Positivity Statement

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

7th January 2016

Report of	Head of Commercial Services	Author	Vincent Pearce
Title	Lakelands Stanway		
Wards Affected	Stanway and Copford and West Stanway		

This report explains a Supplemental Agreement relating to the provision of affordable housing at Lakelands Stanway

1. Decision Required

- 1.1 Members are required to approve the principle of a Supplemental Agreement which will enable the Council to secure a financial contribution to be used for the provision of affordable housing should the "Affordable Housing Scheme" not secure the required affordable housing percentage.
- 1.2 In the event that Members agree 1.1 above then the Head of Commercial Services and the appropriate Legal officer be authorised to finalise, complete and issue the final document.
- 1.3 It should be noted that the clause requiring a financial contribution in substitution for on-site delivery may never be triggered and definitely will not be triggered if at the end of the reserved matters process approval for 19.2% affordable homes has been granted. Essential it is a very useful belt and braces device to ensure that the Council is not deprived of affordable housing units in the event of the remaining sites being incapable of accommodating the requisite number of affordable units from the long-standing 800 unit development. (much of which has already been built-out and occupied).

2. Reasons for Decisions

- 2.1 A deed of variation dated 9 September 2013 requires an "Affordable Housing Scheme" to be agreed by the Local Planning Authority. Whilst a Scheme has been submitted not all the parcels of land identified have planning permission. There is a small chance the parcels identified will not deliver the approved percentage of affordable housing as the relevant reserved matters are resolved and final layout and density are established. A Supplemental Agreement is therefore proposed which secures a financial contribution of £120,000 for each unit below the required 19.2% affordable housing delivery target.

3. Supporting Information

- 3.1 A legal agreement in 2006 amended and secured a number of matters including affordable housing at Lakelands Stanway. Only the Affordable Housing clauses are relevant to this report. The 2006 agreement secured Affordable Housing provision at 19.2% of the total number of units within phases 2 and 3. The Agreement also requires agreement to an Affordable Housing Scheme.

- 3.2 The “Affordable Housing Scheme” identifies areas SR1, SR2, NR1 and NR3 within phases 2 and 3 where Persimmon Homes have secured planning permission for 34 affordable units. Planning permission has recently been approved on area NR2 for 22 affordable units. Parcels NR10 and SR6 are also identified as part of the “Affordable Housing Scheme” but applications are yet to be submitted.

4. Alternative Options

- 4.1 Members could agree no financial contribution is required but this would mean no alternative provision could be secured in the event of an eventual shortfall once all the land had reserved matters approval and no further land was available within the original red line site. This is not considered an acceptable alternative as it could undermine delivery of affordable housing
- 4.2 Members could require a larger contribution but the £120,000 has been agreed with the Councils AH Enabling Officer as an appropriate amount after analysing the costs of delivery across the borough for different house types in different locations

5. Financial Implications

- 5.1 There are no direct financial implications for Colchester Borough Council but the securing of financial contributions as a last resort in lieu of on-site delivery could enable the Council to deliver units for itself by adding funding to such initiatives. This may be particularly useful where the Council already has suitable land..

6. Equality, Diversity and Human Rights Implications

- 6.1 The provision of affordable homes helps to promote equality regardless of economic status and therefore contributes towards promoting diversity through improved access to housing unrelated to the individual's ability to compete in the open market.

7. Consultation and Publicity Considerations

- 7.1 No public consultation is required.

8. Risk Consideration

- 8.1 There are no risks to the Council in agreeing this report

9. Strategic Plan References

- 9.1 The Strategic Plan has four headline themes. Under the ‘Prosperous’ theme, the plan seeks to:
- Provide opportunities to increase the number of homes available including those that are affordable for local people and to build and refurbish our own Council houses for people in significant need

10. Community Safety Implications

- 10.1 The proposed variation does not affect community safety.

11. Background Papers

- 11.1 The National Planning Policy Framework. Colchester Borough Council's Strategic Plan and Core Strategy. Deed of Variation dated 9 September 2013.

Planning Committee

Item
9

Date 7 January 2015

Report of	Head of Commercial Services	Author	Alistair Day 01206 282479
Title	Mortgagee In Possession Clauses for Affordable Housing Delivery		
Wards affected	All Wards		

This report concerns a request to provide the Head of Commercial Services with delegated powers to enter into Deed of Variation to amend s106 planning agreements in respect of affordable housing mortgagee exclusion covenants.

1.0 Decision Required

- 1.1 The Planning Committee is asked to endorse the recommendation to give the Head of Commercial Services delegated powers to enter into Deed of Variations to amend the affordable housing mortgagee exclusion clause(s) in s106 planning agreements

2.0 Reasons for Decision(s)

- 2.1 The current Scheme of Delegation necessitate that requests for an amendment to the affordable housing mortgagee exclusion clause(s) in existing s106 planning agreements are first approved by the Planning Committee. The Council is receiving number of enquiries from housing associations regarding the possibility of amending mortgagee exclusion covenant(s) to enable them to increase their borrowing potential for the building of new affordable housing. To improve the efficiency of dealing with formal requests, Members are asked to endorse the recommendation that the Head of Commercial Services is given delegated powers to enter into Deed of Variations to amend mortgagee in possession clauses in s106 agreements.

3.0 Alternative Options

- 3.1 Members can decide not to endorse the request to give the Head of Commercial Services delegated powers to enter into Deed of Variations to amend affordable housing mortgagee exclusions clauses. If Members select this option, all future requests for such amendments would need to be brought before the Planning Committee for approval.

4.0 Supporting Information

- 4.1 Under the Town and Country Planning Act 1990 (as amended) any person interested in land may enter into a s106 Deed to provide a planning obligation. The planning obligation may in cases ensure the delivery of affordable housing in a development in conjunction with the grant of planning permission. The Council is free to enter into a s106 Deed by agreement subject to the normal public law constraints of it acting reasonably and requirement of the Community Infrastructure Levy Regulations 2010. The planning obligation is enforceable by the Council against the person entering into the obligation and against any person deriving title from that person unless otherwise provided by the terms of the s106 Deed.
- 4.2 Historically, affordable housing covenants in s106 legal have contained clauses that place restrictions on the tenure of affordable housing and generally do not contain a mortgagee in possession clauses which adequately protects a mortgagee (i.e. a clause that enables the lender to recover their costs in the event of default by a housing association). Such clauses (or the absence of such clauses) reflected the housing environment at the time the agreements were signed and the fact that finance for the provision of affordable housing (particularly from public sources) was more freely available.
- 4.3 Following the financial crash in 2007, lenders have become increasingly risk adverse and, when providing funding to housing associations, they require comfort that they will be able to repossess homes built for affordable housing and sell these on, unfettered by restrictions on valuation / occupancy in order to recoup unpaid debt. The mortgagee exclusion clause(s) contained in many historic legal agreements are now considered defective by lenders to the housing associations.
- 4.4 To obtain the funding for the development of new affordable homes, housing associations have to charge their housing stock as security to the lender. This is done in a very similar way to an individual taking out a mortgage to fund a property purchase, with the value of the property a key consideration in the lending available and the cost of the borrowing. A property is charged by a housing association to a lender at either market value subject to tenancy (MVST) or existing use value social housing (EUV-SH). If a property is charged at MVST, a lender will usually be willing to offer about 2/3rds of the open market value of the property. Where there is a binding legal document which does not have an effective mortgagee exclusion clause then a lender will only provide finance at EUV-SH level which typically equates to 1/3rd of the open market value of the property. By way of example, assuming a property is worth £200,000, if there is an effective mortgagee exclusion clause, then the property can be charged at £132,000 (2/3rds of the value of the property) but if there is a defective mortgagee exclusion clause then the lender will only loan £66,000 (1/3rd of the value of the property). When this difference is multiplied across the number of affordable of units in a development site the difference becomes considerable.
- 4.5 With almost non-existent public grant levels, the ability of housing associations to maximise borrowing is becoming more critical. The Council has received a number of enquiries regarding the possibility of amending s106 mortgagee exclusion covenants and a formal request from Chelmer Housing Partnership in relation to the Garrison development has recently been considered (and agreed) by the Planning Committee. It is expected that the number of formal requests to amend s106 mortgagee exclusion covenants will increase in the coming months. To ensure that such requests are dealt with as efficiently as possible, Members are asked to extend the Head of Commercial Services delegated powers to the authorisation of Deed of Variation(s) in respect of mortgagee in possession clauses.

- 4.6 If delegated powers are extended to the Head of Commercial Services in respect of mortgagee in possession clauses, Members are advised that the circumstances of each case will be fully considered, in consultation with specialist officers, and that current best practise will be followed (as appropriate). In this sense there will be no difference in terms of the decision making process undertaken by officers in respect of such requests.

5 Strategic Plan References

- 5.1 A key aim of the Strategic Plan (2015-18) is to generate opportunities for growth and infrastructure. The inclusion of an appropriately worded mortgagee in possession clauses in all relevant s106 agreements will help maximise housing association borrowing and thereby support opportunities to increase the number of affordable homes for local people.

6. Consultations

- 6.1 The Council's Housing Development Strategy Team has made the following comments in respect of this proposal:

"We fully support the inclusion of such mortgagee exclusion clauses on homes owned Registered Providers in the Borough as this will enable the Registered Providers to increase their borrowing capacity that could result in additional funding towards more affordable homes being built. There are some risks associated with the inclusion of such clause but with the governance of the Homes & Communities Agency (HCA) ensuring the future of Registered Providers and no previous examples of Registered Providers defaulting on mortgages any instance of the homes being lost as an Affordable product is extremely low as if a Registered Provider was to default the homes would be transferred or merged to another provider".

7. Resource Implications

- 7.1 The extension of delegated powers to Head of Commercial Service to enter into a Deed of Variation to allow the inclusion of appropriately worded mortgagee in possession clauses will save officer and member time in terms preparing and considering committee reports. The Council's direct legal costs for undertaking a Deed of Variation in respect of mortgagee in possession are largely paid for by the developer or the housing association.

8 Risk Management Implications

- 8.1 Members should note that, in terms of the borrowing by a housing association, the mortgagee in possession clauses would only be invoked as a last resort when an organisation defaults on its loans and the lender seeks repossession. This has never happened to a housing association. The possibility of affordable housing being taken out of the sector by a lender is considered to be extremely remote.

9 Publicity Considerations, Equality, Diversity and Human Rights Implications, Community Safety Implications and Health & Safety Implications.

- 9.1 None directly arising from this report.

Background Papers: Strategic Plan

