

# Planning Committee Meeting

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

**Thursday, 31 March 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](http://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](http://www.colchester.gov.uk)

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### Access

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## Material Planning Considerations

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

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

## **Planning Obligations**

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

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

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

## **Human Rights, Community Safety and Equality and Diversity Implications**

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

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

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

## Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

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

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

### **Parking Standards**

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

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

For residential schemes:

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

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



## **Colchester Borough Council Environmental Control**

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

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

#### **Best Practice for Construction Sites**

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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



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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

## **Class A2. Financial and professional services**

Use for the provision of —

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

## **Class A3. Restaurants and cafes**

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

## **Class A4. Drinking establishments**

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

## **Class A5. Hot food takeaways**

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

**Class D2. Assembly and leisure**

Use as —

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

### **Sui Generis Uses**

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

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

### ***Interpretation of Class C3***

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

### ***Interpretation of Class C4***

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

## 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, 31 March 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 Philip Oxford  
Councillor Rosalind Scott

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, Nigel Chapman, Barrie Cook, Nick Cope, Robert Davidson, Beverly Davies, John Elliott, Annie Feltham, Bill Frame, Ray Gamble, Martin Goss, Dominic Graham, Annesley Hardy, Marcus Harrington, Dave Harris, Julia Havis, Peter Higgins, Theresa Higgins, Darius Laws, Cyril Liddy, Sue Lissimore, Ben Locker, Fiona Maclean, Kim Naish, Nigel Offen, Gerard Oxford, Chris Pearson, 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 Minutes

There are no minutes for confirmation at this meeting

## 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 160235 Part garden of 19 St Clare Road, Colchester 17 - 30

Erection of detached dwelling, garage and new access

### 7.2 160415 Town Hall, High Street, Colchester 31 - 36

Proposed removal of 1x plasterboard stud work, non-load bearing wall to reinstate original room size

## 8 Proposed Deed of Variation to existing Section 106 Agreement at the Maltings Student Accommodation 37 - 38

See report by the Head of Commercial Services

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

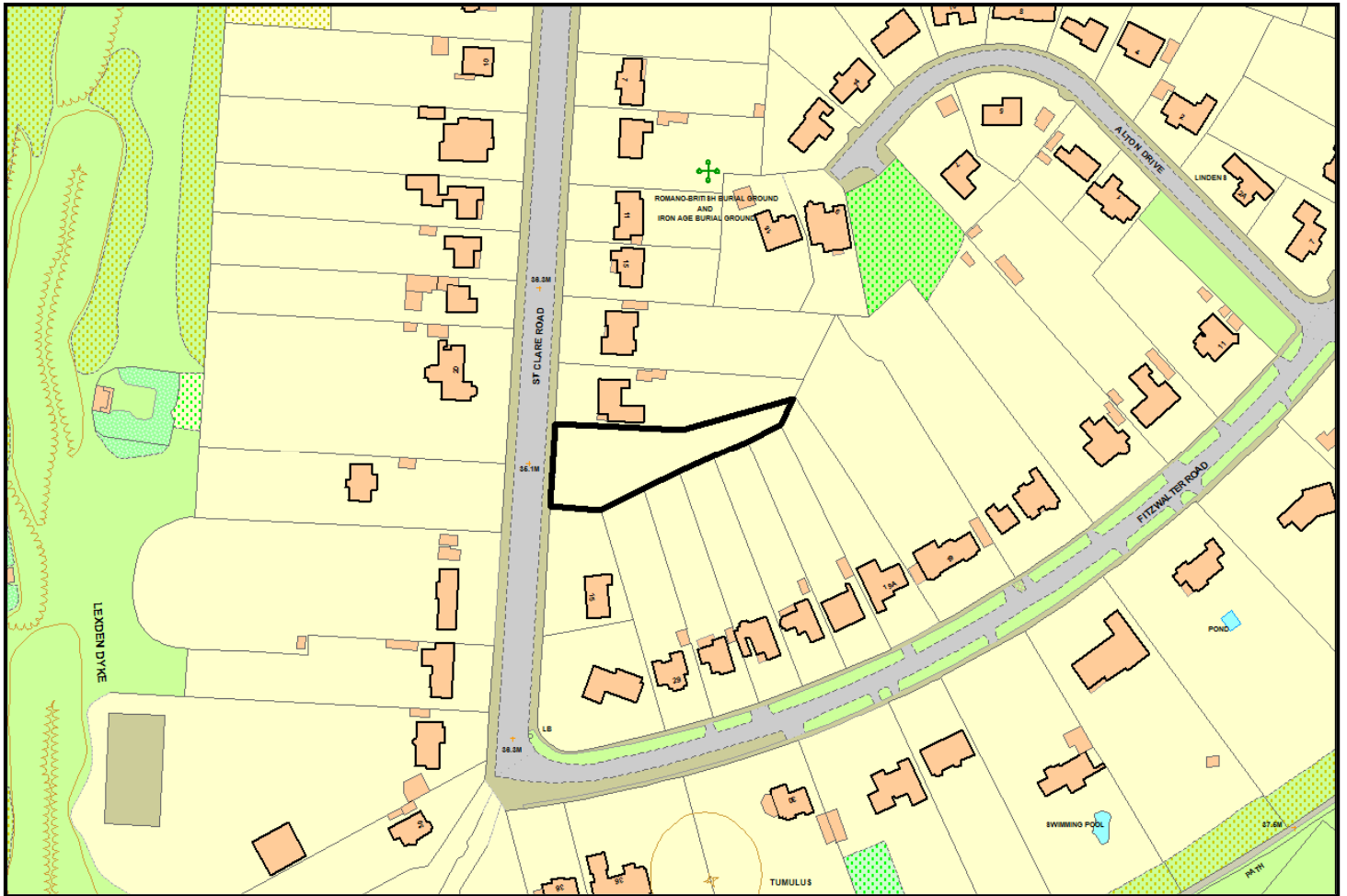
In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided.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

## Part B

(not open to the public including the press)







**Application No:** 160235

**Location:** Part Garden Of, 19 St Clare Road, Colchester, Essex, CO3 3SZ

**Scale (approx):** 1:1250

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## Committee Report

Agenda item

7

To the meeting of **Planning Committee**  
on: **31st March 2016**  
Report of: **Head of Professional/Commercial Services**  
Title: **Planning Applications**

**7.1 Case Officer: James Ryan Due Date: 01/04/2016**

**MINOR**

**Site:** Part garden of 19 St Clare Road, Colchester, Essex, CO3 3SZ

**Application No:** 160235

**Date Received:** 2 February 2016

**Agent:** Mr Robert Pomery

**Applicant:** Mr & Mrs C Tripp

**Development:** Erection of detached dwelling, garage and new access.

**Ward:** Lexden

**Summary of Recommendation:** Conditional Approval

### **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Roger Buston for the following reasons:

*I have been requisitioned to submit call in of the above application by residents in adjoining property, who indicate:*

- 1. Overbearing. The size of the proposed dwelling is Overbearing.*
- 2. Prominence : The proposed dwelling would be overly prominent within the street scene Overbearing*
- 3. Character and Appearance of the Surrounding area : Given its size and prominence within the street scene (and that it would occupy some more of such precious green space in St Clare Road as there is), the proposal would alter and harm the character and appearance of the surrounding area rather than deliver an improvement.*

*4. Policy Inconsistencies : Given the above application is inconsistent with NPPF Paragraph 58, DP 1(i), DP 1 (v), DP 14, DP 15 and Colchester Parks and Green Spaces Strategy, and Core Strategy H2.*

## **2.0 Synopsis**

- 2.1 The key issues explored below are the principle of development on this site, the design of the proposal and the impact it has on the character of the area and on neighboring amenity.

## **3.0 Site Description and Context**

- 3.1 The site forms part of the garden to 19 St Clare Road. Number 19 is located to the north. To the south are number 25 St Clare Road and the long gardens of the dwellings which front on Fitzwalter road. It is noted that number 25 has a far shallower plot than is the character of the area. This very attractive area is made up of large detached dwellings on large plots. A new dwelling has been built south of number 20 directly opposite the site.

## **4.0 Description of the Proposal**

- 4.1 A detached dwelling is proposed.

## **5.0 Land Use Allocation**

- 5.1 The site sits within the settlement limits. To the rear of the site is a group of TPO'd trees.

## **6.0 Relevant Planning History**

- 6.1 The most relevant planning history is a refusal for a detached dwelling on this site in 2005 (Ref: F/COL/05/1212). This was refused on design and character grounds in line with the 'Area of Special Character' Policy that was adopted at the time. This policy no longer makes up part of the Development Plan.

## **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

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

UR2 - Built Design and Character

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

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP15 Open Space

DP16 Private Amenity Space and Open Space Provision for New Residential Development

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:

- Backland and Infill
- Vehicle Parking Standards
- Open Space, Sport and Recreation
- Extending Your House?
- The Essex Design Guide
- External Materials in New Developments

## **8.0 Consultations**

8.1 Natural England – No comment.

8.2 ECC Highways – No objection. Conditions suggested.

8.3 Arboricultural Planning Officer – No objection to the scheme. Conditions suggested.

8.4 Archaeology – No objection. Condition requested.

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 Non-parished.

## **10.0 Representations**

10.1 Six representations were received. Two were from neighbours on Fitzwalter Road who state they were not directly affected by the proposal but considered the scheme harmful to the character of the area. One was from a neighbour remote from the site (De Vere Road) who also considered the scheme harmful to the character of the area.

The other representations objected along the following lines:

- It is irrelevant that the area is no longer an 'Area of Special Character'.
- The scheme is materially harmful to the character of the area which is spacious, Arcadian and distinctive.
- The principle of development on this site is unacceptable.
- Fails to comply with the NPPF and LDF Policies H2, H3, SD2, DP1, DP14 and DP15.
- Loss of Private Open Space.
- Loss of Greenfield Land.
- Loss of space would be irreversible.
- Dwelling is too large.
- Larger than refused scheme and more visually prominent.
- A modest bungalow would be better.
- It is not affordable housing.
- Scheme is cramped.
- Creates dense development.
- Frontage widths are inconsistent – there are more wide frontages than the planning statement sets out.
- The new dwelling opposite is harmful to the area, but at least it is set back from road frontage.
- The new dwelling opposite should be the last piece of infill in this area.
- More development would further impact on the setting of the locally listed Number 20 St Clare Road.
- Harmful to amenity of 19 (the donor dwelling) in terms of loss of light/overshadowing.
- Harmful to amenity of 25 in terms of overlooking.

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

## **11.0 Parking Provision**

11.1 Off street parking in excess of the standards will be possible at both the proposed dwelling and the existing.

## **12.0 Open Space Provisions**

12.1 This scheme raises no open space requirements.

## **13.0 Air Quality**

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

#### **14.0 Development Team and Planning Obligations**

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

#### **15.0 Report**

##### Principle of Development

- 15.1 The redevelopment of this side garden area of number 19 St Clare Road is acceptable in principle. This area is currently very attractive, well planted and well maintained by the existing owners but this does not mean it cannot be developed sensitively.
- 15.2 As noted in the planning history section above a dwelling on this site was refused over 10 years ago. It is important to note that it was assessed against different policy criteria – in particular the ‘Area of Special Character’ policy. This policy no longer forms part of the Development Plan. Furthermore, the site is not located in the Conservation Area. It is therefore an area of no particular policy designation. It is not designated as ‘private open space’ as set out in DP15. There is no policy reason for the new dwelling opposite to have been the last infill dwelling in the area. It is not proposed to be ‘affordable’ housing nor is there a policy requirement for it to be so.
- 15.3 The NPPF and Development Plan policies do require high quality design and also require development to respect and enhance the character of the area. It is held that this scheme allows one dwelling in a manner that reflects the character of the area. It is not considered that the garden area to the side of number 19 is so important to the character of the area that the Council should attempt to preserve it as such.

##### Design and Layout:

- 15.4 As set out in the Planning Statement, the application scheme involves the erection of a single dwelling house and garage within the garden of the existing property, No. 19 St Clare Road. The new dwelling would be part 2.5 storey with a 1.5 storey side wing, which has an over sailing roof to form a small veranda to both front and rear. The house would have four bedrooms on its upper floors and the usual living/dining/kitchen facilities on the ground floor. The garage is detached and on the north side of the plot, served by a new vehicular access driveway, which connects with St Clare Road.

- 15.5 The design proposed goes significantly beyond the run of the mill. Whilst unashamedly a pastiche Arts and Crafts design, it is done very well with a level of detail befitting the area. The design incorporates a number of interesting architectural details, which are proposed on a functional and decorative basis. These include intricate white painted joinery details, finials, verge boards, double height bay window, narrow dormers, verandas and a stair tower on the rear with a long glazed section to light the hall, landing and stairs. These details are suggested to be secured by condition along with the proposed materials to further ensure a high quality finish.
- 15.6 The plans demonstrate the widths of the plots on this side of the road. Number 11 has a plot width of 18 metres as does number 15. Number 17 has a plot width of 21 metres. Following the subdivision number 19 the donor dwelling would have a plot width of 20 metres and the proposed dwelling would have a plot width of 26 metres which cannot be described as narrow. Number 25 is significantly wider at 41 metre but it is noted that this has a very shallow rear garden in comparison to the character of the area.

#### Scale, Height and Massing:

- 15.7 Notwithstanding the sentiments of the neighbours, it is considered that the scale of the proposal is entirely in keeping with the character of the area. This is demonstrated by the street scene drawing 6327-1305. The dwelling is of a similar height to the neighbour at number 19 and also number 25 to the south. The low main eaves keep the appearance of the mass of the building to within acceptable levels.

#### Impact on the Surrounding Area:

- 15.8 This is one of the key issues as set out above. Whilst it is appreciated that some of the neighbours would rather see the plot left as garden land Officers do not consider that this is an option that would be reasonably sustainable at appeal. A 'modest bungalow', suggested by neighbours in a back land position would not be able to deliver the visual richness of this proposal and would not be officers recommended approach for this site. Therefore on balance it is held that due to the quality of the dwelling that is proposed the scheme will not cause material harm to the surrounding area nor to the setting of the locally listed number 20 St Clare Road opposite number 19. It is therefore acceptable.

#### Impacts on Neighbouring Properties:

- 15.9 This scheme has been carefully design to ensure the impact on the neighbours would be reduced to the bare minimum. Representations have noted the impact to 19 and the impact to 25 in particular.
- 15.10 Number 19 is located to the north of the proposal so would be the most affected by this proposal. It must be noted however that number 19 own the plot in question, have made the application and have had much input into the final design. Notwithstanding this due to the generous side isolation between the proposed dwelling and 19, it is not held to be materially harmful to the amenity of the residents of number 19 in term of overlooking, overshadowing or oppressiveness.

- 15.11 Number 25 (which sometimes appears as number 15 on the OS base) is located to the south of the proposal. This means that the proposed scheme would have no material impact in terms of loss of light to the dwelling or the garden.
- 15.12 The scheme would change the outlook somewhat from the side facing windows of number 25 and from the garden which is located to the north (which is to the side). This change is not held to be one that is materially oppressive to the residents of the dwelling from their side facing windows or from their garden.
- 15.13 In terms of overlooking the majority of windows proposed face down the garden. There are two small flank windows that face the garden of number 25 but these are marked on the plans as obscure glazed and serve a bathroom. The side facing conservation roof lights and the narrow window directly below the rearmost roof light are also not considered to provide an angle of overlooking that would be materially harmful to the garden of number 25. Along with the feature staircase they would provide views down the gardens of the dwellings that are located on Fitzwalter Road however these gardens are relatively long with over 50m between the windows the rear elevations in question.
- 15.14 The representation from 25 has raised concerns regarding overlooking from the front bay window that serves as a first floor study. This would sit on the first floor in the projecting gable element nearer to the donor dwelling than the neighbour of 25. For the residents of the new dwelling to overlook they would have to be standing hard up into the bay. Within the room the views would generally be of the street and dwellings opposite. It would therefore be unreasonable to condition part of the bay window (i.e. the facet that is closest to the neighbour at 25) to be obscure glazed and fixed shut.
- 15.15 Therefore the scheme is not held be materially harmful to these neighbours in terms of overlooking.

#### Amenity Provisions:

- 15.16 A garden well in excess of the adopted minimum standards is proposed for the new dwelling and is retained for the existing. The garden of the new dwelling would be approximately 300 sqm and the remaining garden for No. 19 would be slightly bigger at approximately 350 sqm.

#### Highway Issues:

- 15.17 The Highway Authority has no objection to the scheme subject to conditions. They are all suggested to be imposed apart from the sustainable transportation mitigation 'travel packs' condition and the garage size condition neither of which are held to meet the 'six tests' as set out in the Planning Policy Guidance. The travel pack condition is not reasonable or necessary as the site is already sustainably located. The garage size condition is not reasonable or necessary as the garage is shown on the plans and does not make up part of the overall parking provision as there would be ample frontage parking off street.



### Trees:

- 15.18 A group of protected trees is located towards the bottom of the garden of the proposed dwelling. The Arboricultural Planning Officer has assessed the scheme and the submitted Tree Survey and is happy that the scheme can be built without causing material harm to the trees subject to tree protection measures being conditioned. As they are located to the east of the scheme they are not in a position that would cause harmful levels of shading to the rear elevation of the proposed dwelling, nor the area of amenity space directly to the rear. Therefore it is not held that this scheme would put the trees under significant future pressure to lop, fell or prune.

### Ecology:

- 15.19 The application has come with an ecology report that has assessed the site and has concluded that this scheme would not cause harm to protected species. It recommended that clearance or reduction of shrubs and trees should be undertaken outside of the main bird breeding season (March – August) and if that is not possible it must be undertaken under the supervision of a qualified Ecologist. This will be conditioned.

## **16.0 Conclusion**

- 16.1 This development is proposed in a very attractive part of Colchester that does not benefit from any particular designation. The scheme proposes an attractive and well detailed dwelling befitting of the area. It is not held to cause material harm to the character of the area nor to neighbouring amenity. It would also provide a modest contribution to the Council's housing stock. The scheme is, therefore, held to comply with the NPPF, the PPG and the Development Plan and therefore an approval is warranted.

## **17.0 Recommendation**

- 17.1 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 (All 6327-) 1305, 1105, 1201, 1202, 1311, 1103, 1303A and 1304.

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

#### **3 - \*Removal of PD - Obscure Glazing But Opening**

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the windows serving the first floor ensuite bathroom in the flank facing south towards number 25 shall be glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

#### 4 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

#### 5 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

#### 6 - Tree and Natural Feature Protection: Protected Areas

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

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

#### 7 - Tree and Hedgerow Protection: General

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

specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

#### 8 - Non-Standard Condition/Reason

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition 6] has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

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

#### 9 - Non-Standard Condition/Reason

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

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

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

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

#### 10 - Turning Areas

Prior to the first occupation of the development, a vehicular turning facility of a design previously agreed, in writing, by the Local Planning Authority shall have been constructed, surfaced and thereafter maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

#### 11 - No Unbound Surface Materials

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

#### 12 - Vehicle Parking

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

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

#### 13 - Non-Standard Condition/Reason

Prior to occupation of the development a scheme showing the existing access point being blocked up and made good including the frontage wall/boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall be implemented in full prior to the occupation of the dwelling as retained as such thereafter.

Reason: In the interests of the character of the area.

#### 14 - Non-Standard Condition/Reason

No site clearance may take place unless wholly in accordance with Paragraph 5.1.1, 5.1.2 and 5.2.2 of the submitted Phase 1 Habitat Survey January 2016.

Reason: In the interests of Ecology.

#### 15 - Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance and in the interests of protecting nearby trees.

## 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 The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk/article/13595/Archaeology-andtheplanningprocess>

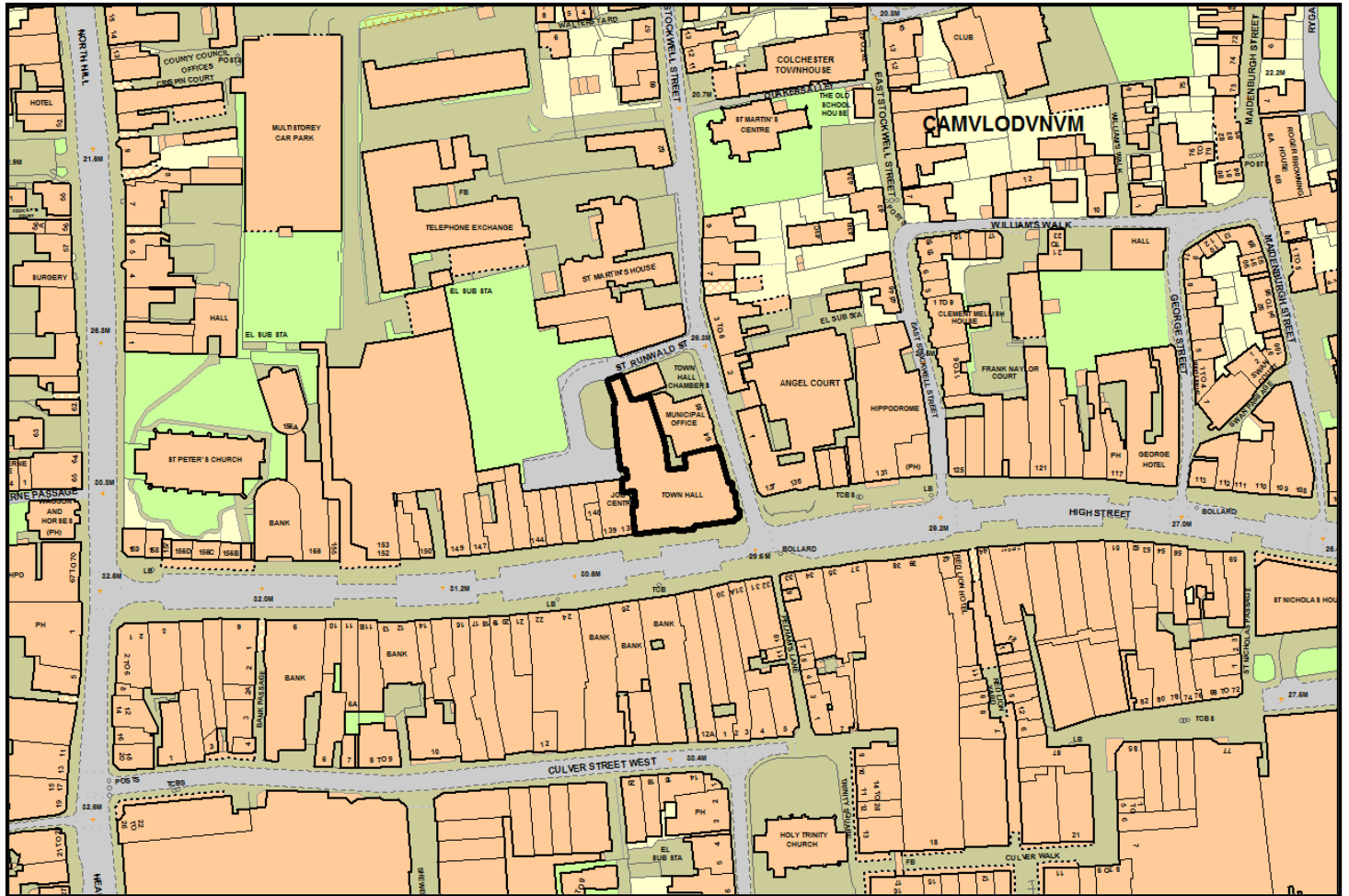
(5) INF01 Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

INF02 Cost of Works - The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

## **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.





**Application No:** 160415

**Location:** Town Hall, High Street, Colchester, CO1 1PJ

**Scale (approx):** 1:1250

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**7.2 Case Officer: James Ryan Due Date: 20/04/2016**

**MINOR**

**Site:** Town Hall, High Street, Colchester, CO1 1PJ

**Application No:** 160415

**Date Received:** 24 February 2016

**Applicant:** Mr Rob Hill

**Development:** Proposed removal of 1x plasterboard stud work, non-load bearing wall to reinstate original room size.

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval

## **1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because the Council is the applicant.

## **2.0 Synopsis**

2.1 The key issues explored below are the impact on the fabric and setting of the listed building.

## **3.0 Site Description and Context**

3.1 The Town Hall is a Grade I Neo-Baroque town hall with lively elevations and high quality detailing both internally and externally. The building is a focal point to High Street and a key skyline feature. The room in question is located on the second floor towards the front of the building.

## **4.0 Description of the Proposal**

4.1 Removal of later C20 plasterboard/stud partition from one of the Town Hall service rooms is proposed. This would allow the room to be reinstated to its original proportions.

## **5.0 Land Use Allocation**

5.1 The Town Hall is located in the Town Centre and in the Conservation Area.

## **6.0 Relevant Planning History**

6.1 None relevant to this application.



## **7.0 Principal Policies**

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

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

UR2 - Built Design and Character

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

DP1 Design and Amenity  
DP14 Historic Environment Assets

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:

N/A

7.6 As an application for Listed Building Consent the relevant statutory duty is Section 16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990.

## **8.0 Consultations**

8.1 Historic England – No objection, please determine in line with your own in-house advice.

8.2 In-house Heritage Officer – Supports the scheme.

8.3 Environmental Protection – No objection.

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 Non-parished.

## **10.0 Representations**

10.1 None received.

## **11.0 Parking Provision**

11.1 As an application for Listed Building Consent parking provision is not relevant.

## **12.0 Open Space Provisions**

12.1 As an application for Listed Building Consent there are no open space provisions.

## **13.0 Air Quality**

13.1 As an application for Listed Building Consent air quality is not a relevant consideration.

## **14.0 Development Team and Planning Obligations**

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

## **15.0 Report**

15.1 As an application for Listed Building Consent the only considerations are the impact on the fabric and setting of the listed building. This application proposes the removal of a modern section of wall in order to open a room up to its former size. The room would be used by the Council’s Hall Keepers. The Council’s in-house heritage team considered that the removal of the later partition would have a minor beneficial impact on the significance of the listed building as it would serve to reveal the original floor plan. The works would serve to preserve the listed building and facilitate its continued beneficial use.

## **16.0 Conclusion**

16.1 The works as proposed are acceptable and comply with the relevant statutory duty.

## **17.0 Recommendation**

17.1 APPROVE subject to the following conditions

## **18.0 Conditions**

1 - Time Limit for LBCs

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

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

## 2 - Making Good

Within 2 MONTH(S) of the wall being removed, all adjoining surfaces which have been disturbed by the works (including brickwork, plaster and floor tiles) shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

Reason: In order to preserve the historic character of the listed building.

### 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.

### 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.



**Date:** 31<sup>st</sup> March 2016

<b>Report of</b>	<b>Head of Commercial Services</b>	<b>Author</b>	<b>Daniel Cameron</b> 01206 506025
<b>Title</b>	<b>Proposed Deed of Variation to existing Section 106 Agreement at The Maltings Student Accommodation.</b>		
<b>Wards affected</b>	<b>New Town</b>		

**This report concerns a proposed variation to an existing Section 106 Agreement to allow relevant contributions to be spent on making community space within the building fully accessible to all members of the community.**

## 1.0 Decision Required

- 1.1 That Members agree to the variation of the Section 106 Agreement as proposed within this report.

## 2.0 Reasons for Decision

- 2.1 The existing Section 106 Agreement secured against the site provided a community facility of 165 square metres floor space within the development and also a contribution towards community events and activities to be held within the associated public open space in the development for the benefit of the residents and wider community.
- 2.2 The community facility is currently being completed and is to be leased to Colchester Borough Council. Following discussions with the developer it is clear that the community space is only currently accessible via stairs. The developer is keen to install a lift so that the facility can be used by all members of the community and would be of benefit to Colchester Borough Council once the lease is in place.
- 2.3 To that end the developer would like to request that a proportion of the community events contribution be put towards the provision of this lift. It is estimated that the cost of a lift would be capped at £18,000. The remainder of the contribution would still be available for its original purpose.

## 3.0 Alternative Options

- 3.1 Should they be so minded Members could choose to refuse to agree the variation of the Section 106 Agreement as it is set out in this report; nothing already secured by the original agreement would be put at risk.

## **4.0 Supporting Information**

- 4.1 Planning permission was granted in November 2013 for the erection of a student accommodation unit containing 765 bed spaces at Haven Road, Colchester. The Section 106 Agreement attached to this planning permission secured:
- £85,000 for Community Development;
  - £180,00 for Open Space, Sports and Recreation Facilities;
  - £250,000 for the provision of a footway/cycleway bridge over the River Colne;
  - £300,000 towards a series of Student Travel Incentives to promote walking, cycling and public transport;
  - 165m<sup>2</sup> of Community facility space; and
  - An area of public open space within the development.

## **5.0 Strategic Plan References**

- 5.1 The Strategic Plan contains 4 headings – Vibrant, Prosperous, Thriving and Welcoming.
- 5.2 The Section 106 Agreement secured against this development contains contributions which would help towards achieving the wider aims of all four themes.

## **6.0 Consultation**

- 6.1 No public consultation is required as a result of this decision.

## **7.0 Publicity Considerations**

- 7.1 This report may generate some publicity for the Council.

## **8.0 Financial Implications**

- 8.1 There are no financial implications for Colchester Borough Council to explicitly note within this report.

## **9.0 Equality, Diversity and Human Rights Implications**

- 9.1 There are no adverse equality, diversity or human rights implications.

## **10.0 Community Safety Implications**

- 10.1 There are no community safety implications.

## **11.0 Health and Safety Implications**

- 11.1 There are no health and safety implications.

## **12.0 Risk Management Implications**

- 12.1 There are no risk management implications.