



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 09 March 2023 at 18:00**

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

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

Audio Recording, Streaming, Mobile phones and other devices

The Council audio records and streams public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

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

Facilities

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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www.colchester.gov.uk

COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 09 March 2023 at 18:00

The Planning Committee Members are:

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

Chair
Deputy Chair

The Planning Committee Substitute Members are:

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

Councillors:

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

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

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

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

Live Broadcast

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

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

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

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

6 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 2 February 2023 and 16 February 2023 are a correct record.

2023-02-02 CBC Planning Committee Minutes 7 - 16

2023-02-16 CBC Planning Committee Minutes 17 - 18

7 Planning Applications

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

7.1 213273 5 Queens Road, Colchester, CO3 3PD 19 - 30

Application for Two storey rear extension, refurbishment and alterations to roof, fenestration and external materials of the host dwelling.

7.2 222817 Eustace King, 14-15 Osborne Street, Colchester, CO2 7DP 31 - 36

Application for Change of use of the upper parts of 14-15 Osborne Street only from C3 to storage/ office space which is to be ancillary to ground floor retail use currently also now let to a Funeral Directors.

7.3 223010 Lexden Manor, 8 Colvin Close, Colchester, CO3 4BS 37 - 44

Application for proposed side extension.

8 Proposed Deed of Variation to the Legal Agreement of previously approved planning application 191830 for the erection of 46 dwellings. Application number 19183. - Land at School Road Langham 45 - 52

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)

PLANNING COMMITTEE

2 February 2023

<i>Present:-</i>	Councillors Lilley (Chair), Chapman, Chuah, Davidson ,Hogg J. MacLean, Mannion, McCarthy, Pearson, and Warnes
<i>Substitute Member:-</i>	Councillor Davidson substituted for Councillor Mannion Councillor Hogg substituted for Councillor Barton
<i>Also in Attendance:-</i>	Cllr Willetts Cllr Sunnucks

959. Site Visits

Councillors Lilley, Chapman, Davidson and McLean (as an observer) attended site visits on the 31 January 2023 for the following applications:

- 213086 Land South of Copford Village Hall, School Road, Copford, Colchester
- 222261 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP
- 222262 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP
- 222971 Land Adjacent to, 3 Highfield Drive, Colchester, CO3 3QA

960. Minutes

The Minutes of the meeting held on the 8 December 2022 were confirmed as a true record.

961. 213086 Land South of Copford Village Hall, School Road, Colchester

Councillor MacLean declared that she had a disclosable pecuniary interest in application 213086 and would not take part in the application or be in the room. It was noted that Councillor MacLean left the room prior to the commencement of the item.

The Committee considered an application for a proposed rural exceptions site of seven homes (resubmission of 201984). The application was referred to the Planning Committee as it was considered expedient for the purposes of transparency, for this application to be considered in a public forum.

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

Eleanor Moss, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee heard that the proposal north of the village hall was part of the ribbon development in Copford with access being taken off School Road. The Committee were shown that the site included a large amount of parking space and affordable homes on site. Members were asked to note that the proposal had a mix of affordable housing and open market housing and that the development would back onto open fields

where a public right of way was located. The Principal Planning Officer outlined that the Copford Neighbourhood Plan had not yet been adopted and was currently in its draft stage so little weight could be given when reviewing the policies within the document however it was noted that the plan included provision for rural exception sites that were adjacent to the village's settlement boundary. This was noted alongside Colchester City Council's Local Plan and its associated policies on rural exception sites. Further evidence was provided through a Housing Needs Survey that had been carried out in 2020 which had informed the Copford Neighbourhood Plan. The Principal Planning Officer concluded that the benefits of the proposal outweighed the harm and that the officer recommendation was for approval as set out in the report and the amendment sheet.

Matt Free addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the Copford Neighbourhood Plan had yet to be adopted and that the application before the Committee did not benefit from the support of local residents. The proposal was noted as being outside the settlement boundary of the village and there were far more suitable sites for development. The speaker concluded by detailing that the housing needs survey was out of date and that the proposal failed to meet the rural exception site criteria.

Jeremy Harrall (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the proposal before Members was on a rural exception site which included a mixed tenure of dwellings. It was noted that the Housing Needs Survey had been conducted by the Rural Community Council of Essex and showed that there was a need for 8 affordable homes 5 of which would be accommodated by this proposal. The speaker concluded by confirming that the proposal delivered generous garden space, was on a bus route and if approved could be delivered within the next 18 months.

At the request of the Chair the Principal Planning Officer responded to the points that were raised by the Have Your Say speakers. The Committee heard that the Neighbourhood Plan had not been subject to a referendum and that the application would be determined prior to the adoption but noted that it would be unreasonable for the Council to delay determination until the Neighbourhood Plan was adopted. It was noted that the Draft Neighbourhood Plan policies of SE1 and SE4B would not effect adopted Local Plan policy DM8, that the previously mentioned Housing Needs Survey which had been undertaken by the Rural Community Council of Essex and that 5 of the proposed dwellings would be for local residents as detailed in the Section 106 Agreement.

The Principal Planning Officer responded to questions from the Committee on issues that including: that the Section 106 Agreement would require a local connection for the identified dwellings which could include living or working in the parish for a considerable time and that there would be trigger points for uptake to include neighbouring parishes as well. It was explained that the additional parking that was located on the site had been offered by the applicant through wider discussions with the Village Hall who would be able to utilise the excess spaces for parking for busy events. The Principal Planning Officer confirmed that the Housing Needs Survey did not have a timeline of when it needed to be repeated or when the evidence in it became out of date but it was noted that this was being used as part of the evidence base for the Neighbourhood Plan.

Members debated the application noting the boundary on the site and its relationship with the settlement boundary and confirmed with the Principal Planning Officer that if approved then a condition could be added to secure a footpath through the site to the one existing on the field behind the proposal.

Members continued to debate the application and noted the proposals design and the cascading of availability through the Section 106 Agreement and whether Stanway should be excluded and instead preference is given to other local villages in the immediate vicinity. The Committee concluded the debate by discussing the significance of Paragraph 78 of the National Planning Policy Framework (NPPF) and the need for homes in the authorities area.

It was proposed and seconded that the application be approved as detailed in the officer recommendation and amendment sheet with the additional conditions and amendments as follows:

- Additional Condition that requires the submission of a Scheme of PROW along the eastern side of the site to link with adjoining existing PROW.
- That a clause be inserted into the Section 106 Agreement concerning the application of a local lettings policy to cascade to adjoining local villages but not Stanway in the first instance.

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

- Additional Condition that requires the submission of a Scheme of PROW along the eastern side of the site to link with adjoining existing PROW.
- That a clause be inserted into the Section 106 Agreement concerning the application of a local lettings policy to cascade to adjoining local villages but not Stanway in the first instance.

962. 222261 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP

It was noted that Councillor MacLean re-joined the meeting after the completion of application 213086 but before the commencement of 222261.

The Committee considered an application for a new dwelling. The application was referred to the Planning Committee as it had been called in by Councillor Sunnucks on the basis that “this has been called in at the request of the Parish Council and the owners of a neighbouring property. Although the expansion of a rural business should be supported there have to be serious questions about adding a dwelling to the site. The neighbours are complaining about noise, surface water run-off, human and animal liquid waste.”

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

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee heard that the proposal was not dominant in the environment and was a 3-bedroom dwelling of a traditional scale with a mixture of fenestration. It was noted that the application had initially been made for a 5-bedroom dwelling but this had been reduced to the 3 bedroom proposal before the Committee. The Senior Planning Officer outlined that the access to the site had been reviewed by Essex Highways and noted that along Mount Bures Road there were a number of formal and informal passing places for vehicles to manoeuvre into and asked Members to note from the photographs on show the location of the Hay Barn. The Committee were informed that the principal of the proposal was acceptable in terms of the countryside location due to the essential needs of the business and as outlined in paragraph 80 of the NPPF and Local Plan

Policy DM18. It was outlined that the essential need was for security of the premises and the number of high value horses on the site as well as to ensure the welfare of the horses on site. The Senior Planning Officer detailed that the long-standing business on site which had moved from the down the road and noted that the financial details which had been provided showed that the business was sustainable. The Case Officer asked the Committee to note that the size and scale of the proposal was modest but that additional landscaping would be conditioned to soften the development on the landscape. The Senior Planning Officer concluded by noting that construction times would be conditioned and that a unilateral undertaking and RAM's payment would be required prior to the permission being given.

Stephen Barr addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that as an arable field the use of land and scale was enormous and was a major development if you were living next to it. The speaker outlined that there had been a number of visits from the planning department on issues including the manege which was twice the size of what was applied for and was in the wrong place. The Committee heard that if approved the proposal would creep from the approved plans. It was noted that there were four other equestrian businesses in the area and that based on the decision of this application further proposals would come forward under the justification of DM14. The speaker concluded by asking the Council to address the issue of the caravans as well as the issue of waste and surface water drainage on site that had caused issues at Hammonds Farm and that this proposal would only make things worse.

Lisa Spence (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the business had been started ten years prior with the financial records provided to the Council, with the site now employing 5 full time staff. The speaker summarised that the proposal was sited far enough away from existing neighbours to provide privacy and asked the Committee to note that the business benefitted from a five-star professional rating within the equestrian training standards and meant that competitive and expensive horses were kept on site. It was noted that the size of the dwelling had been reduced and that additional measures of rainwater harvesting would be installed to reduce flooding issues. The Applicant concluded by explaining that they had cleared their ditches maintained them.

At the request of the Chair the Senior Planning Officer responded to the points raised by the Have Your Say speakers. The Committee heard that the application was not major in the location and it was known that sites for equestrian use required a large amount of land. It was noted that any enforcement action was outside the remit of the Committee but it was not anticipated that the proposal would set a precedent as each application would be looked at on its own merits. It was noted that times had changed in terms of living on site as it would previously only be for foaling and that the caravans would only used when the owners were on holiday, a condition had been added to improve the appearance of the caravans. The Senior Officer concluded by confirming that there were conditions on the surface water drainage and foul water arrangements which would be controlled by a modern treatment plant but noted that these would be tightly controlled via condition.

Members debated the application on the issues including: the use of the site under policy DM14 which allowed rural housing and conditions associated with this and whether it could be changed to any rural based business and not just equine to allow any change of circumstances in the future possibly for farming. Members noted the need for rural employment and workers on the site and whether the proposal needed to be a site of exceptional design quality.

Simon Cairns, Development Manager, informed the Committee that the dwelling and its association with the equestrian business would be sufficient to satisfy policy DM14 and would not need to be of exceptional design quality but did confirm that the condition could be amended to allow agricultural workers to inhabit the dwelling as equestrian workers.

Officers responded to questions raised by the Committee on issues including: the number of staff that would be working on the site in future if this and the following application were approved and that the proposal did not include the removal of the caravans as that would be looked at in the following application.

It was proposed and seconded that the application be approved as detailed in the officer recommendation with the amended condition as follows:

- Condition 3 is amended to include agricultural workers in addition to equestrian.

RESOLVED (NINE votes FOR, ZERO AGAINST, with ONE ABSTENTION) that the application be approved subject to the conditions and informatives set out in the report and amendment sheet with the amended condition as follows:

Condition 3 is amended to include agricultural workers in addition to Equestrian.

963.222262 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP

The Committee considered an application for a change of use for an Education Centre and Welfare facility building and Two Client and Student accommodation pods. The application was referred to the Planning Committee as it had been called in by Councillor Sunnucks on the basis that “this has been called in at the request of the Parish Council and the owners of a neighbouring property. Although the expansion of a rural business should be supported there have to be serious questions about adding a dwelling to the site. The neighbours are complaining about noise, surface water run-off, human and animal liquid waste.”

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

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee were shown where the proposed building and pods would be located on the site and asked the Committee to note the response from the Highway Authority which detailed the further evidence provided by the applicant on how the business had move from down the road so would not constitute an intensification that would negatively impact the road network. Furthermore, photos were shown how the access including visibility splays, and that the provision for parking and manoeuvring was adequate. The Committee heard that the Education and Welfare facility would be located near to the bund and was screened by an existing hay barn if viewed from the dwelling approved on the previous application. It was noted that the student pods were close to the boundary of the land but it was judged that they did not detract from the countryside and would not have a detrimental impact on the closest neighbour. The Senior Planning Officer continued by detailing that there had been no objection from the Council's Environmental Health Services and that if there were statutory nuisances then these would be dealt with as they arose. The presentation was concluded by confirming that the caravans would not be used for permanent accommodation and that a condition had been included regarding foul and surface water.

Stephen Barr addressed the Committee pursuant to the provisions of Planning Committee

Procedure Rule 8 in opposition to the application. The Committee heard that the issues around the caravans needed to be cleared up and that they should be allowed to have continued use on the site. The speaker outlined that the thought of glamping pods on the site being approved was unfair and there had been no consideration of noise. The speaker concluded by drawing attention to the issues around drainage associated with the previous application and that the proposal would have a detrimental impact on their house and garden.

Lisa Spence (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the education centre would allow for lectures to clients and staff to take place as the current facilities on site were insufficient. It was noted that concerns had been raised regarding the competitions and liveries yard and confirmed that this had provided additional profit for the business of £17,000. This part of the business provided experiences on site and services to pick up and drop off attendees from the Marks Tey Railway Station. The speaker outlined that the business had been using radio headsets to communicate and provide private tuition so that less noise was created on site and that they would be trialling equipment that was used by tri-athletes. The speaker confirmed that the original permission had been granted at appeal and that glamping pods on the site would provide on site accommodation.

At the request of the Chair the Senior Planning Officer responded to the points raised by the Have Your Say speakers. The Committee heard that the surface water drainage for the dwelling were a long way from the boundary and noted that the accommodation pods would be positioned behind the bund and would not be adjacent to the existing buildings. The Senior Planning Officer outlined that if there were any issues regarding noise then this could be referred to the Councils Environmental Health Services. Furthermore it was confirmed that the site had been granted at appeal and the use of the site was limited by the number of daylight hours as there were no floodlights on the site. The Officer concluded by confirming that the application had authorised them to allow the removal of the caravans should the committee require it.

The Committee debated the application on the issues including the caravans being removed and whether introducing the glamping pods would allow a holiday lettings business to start up as there was concern that there needed to be safeguards on the residential amenity of the neighbours. The Committee debated the role of the caravans and their temporary status and questioned how many people could occupy the glamping pods.

The Senior Planning Officer responded to Members questions confirming that they could only accommodate 2 people at maximum and drew the Committee's attention to condition 6 in the recommendation that detailed how the pods could only be occupied for equestrian use and not for holiday / letting purposes.

The Committee continued to debate the application on the issues including: that it was welcomed that students to the venue would be travelling via public transport where possible, and that there was concern over the response raised by Mount Bures Parish Council. The Committee discussed their response and suggested that as soon as the permanent building had been built that the caravans should be removed. Members debated the possible removal of the caravans further and what conditions could be used as well as what the siting of the pods and their necessity for the business to flourish. A concern was raised by the Committee on whether a fencing business was operating on the site. Officers noted this but detailed that this was not within the remit of the Committee and if there were concerns regarding use of the land that it would be a matter for the Council's Planning Enforcement services.

It was proposed and seconded that the application be approved as detailed in the officer

recommendation with the additional condition as follows:

- That prior to the first occupation of the Educational centre, the two mobile homes on site shall be removed.

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

- That prior to the first occupation of the Educational Centre, the two mobile homes on site shall be removed.

964. 222971 Land Adjacent to, 3 Highfield Drive, Colchester, CO3 3QA

The Committee considered an application for the creation of a three-bedroom detached house. The application was referred to the Planning Committee as it had been called in by Councillors Barton and Willetts.

Councillor Barton requested the application be referred to the Planning Committee in the event of a recommendation of refusal for the following reasons:

- The site has been controversial so in the interests of openness and fairness, it is appropriate for this application to be referred to the Planning Committee.
- The new application has taken on board the comments from the Planning Committee and the recently adopted Local Plan does indicate it meets all policy requirements.

Councillor Willetts requested that the application be referred to the Planning Committee in the event of a recommendation for approval, the reasons being as follows:

- The private drive is narrow and has no sight splay at its junction with the A1124 Lexden Road, and no remedial action is proposed as part of this application. The existing access is already a hazard for pedestrians passing by on Lexden Road, and further development at this unsuitable location will further exacerbate the dangers. This matter is neither addressed by ECC Highways policy nor by the City Council Planning Policy. Therefore in making a decision, the Planning Committee needs to take the safety issues pertaining to the access to the decision.
- The proposed site is very small and tightly constrained and the designated parking appears to extend beyond the curtilage of the development site so as to impede the safe flow of traffic to other houses in what is already a cramped geometry. Again, this is not directly covered by Colchester City Council (CCC) Planning Policy and needs determination by the Planning Committee.
- While each application must be determined solely on its merits, there is a history of refusal of applications and appeals on this site for broadly similar developments, and previous Planning Inspectors conclusions need to be carefully weighed for relevance by the Planning Committee in regard to this application.

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

Nadine Calder, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee heard that the proposal was for a single detached

dwelling located on a grass area which was shown as an area of white land on the Local Plan meaning that it did not have a purpose. The Committee were shown street scene images of what the proposal would look like and the site in its current form where a metal fence had been erected around the site. It was noted by the officer that the erection of this fence was disputed and that it is likely to require planning permission. The Principal Planning Officer detailed that the parking proposal would subdivide an existing garage and asked Members to consider the planning history of the site which included a range of proposals on the site, all of which had been refused permission by the Council and, where appealed, were dismissed by the Planning Inspectorate. As part of all the recent applications the land in its current form was considered to make a positive contribution to the local area and since there has been no significant change in local or national policy to warrant a different conclusion. The Principal Planning Officer concluded by detailing that the main difference between this application and the last was the introduction of a feature wall and that if the Committee were minded to refuse the application they requested that consideration be given to a further reason for refusal due to the absence of a signed unilateral undertaking to secure developer contributions.

Richard Flower addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that over the past 12 years all applications put on the site had been refused and that development on the site would cause detrimental harm to the street scene creating a cramped development with a very small garden. The speaker outlined that this was a private road which was currently getting more traffic than had been planned for and noted that the applicant had not contributed to the upkeep of the road. The speaker concluded by outlining that there were many soothing words in the proposal but asked the Committee to refuse the proposal and consider what the implications of the principle of development would be if approved.

Michael Smith (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the site had been reassessed against the Council's policies and that the proposal had provided a clear set of matters that should address previous issues whilst taking into account the context of the site. The Committee were asked to consider policy DM12 and noted that the front of the building would face onto the road and adjacent to the existing dwelling and would cause no loss of light. It was noted that there would be a smaller garden but that there would be controlled parking for the proposal in a highly sustainable location which was served by a multitude of busses in the area. The speaker concluded by detailing that the proposal had a high level of architectural quality and that the negative aspects had been addressed asking that the application be approved.

The Democratic Services Officer read out a statement from Councillor Lyn Barton as follows:

The applicant is a resident of Shrub End Ward and I am speaking in my capacity as her ward councillor.

This application has a chequered history but the last time it came to planning several members were inclined to approve it but gave a few recommendations. These suggestions have now been incorporated by the applicant and in the light of the newly approved local plan which favours such applications I see no reason not to approve.

We visited the site and the piece of land in question is an overgrown unattractive site which does nothing to enhance the area. The proposed dwelling does, in my opinion, complete the line of houses currently in situ. It blends in nicely.

This is a private road and Highways have raised no objections to the entrance/ exit to Highfield Drive.

I would ask the committee to approve this application as from what I can see others of a similar nature in Lexden have been approved. We have to be fair and consistent in our approach.

Councillor Willetts addressed the Committee and detailed his concerns regarding the access road being of a single track nature and how it joined onto Lexden Road. It was noted that a previous policy had detailed that where there was a single track road then no more than 5 dwellings could be served by it. The Ward Member drew attention to the fact that there would be a similar application coming forward in the future in the area which was causing concern for residents. The Committee heard that the road was not the leafy lane that it was made out to be and that the safety implications of lack of visibility splays and cars reversing onto Lexden Road had raised concerns. The Committee heard that the decisions from the Planning Inspectorate had relevance to the proposal before them and asked the Committee to take these material considerations into account. Councillor Willetts concluded by noting the Council's previous refusals on the site and that there should be no further intensification on site or development.

At the request of the Chair the Principal Planning Officer responded to the points raised by the Have Your Say speakers. The Committee heard that policy DM17 in the Local Plan adopted in 2022 and the previous policy of DP15 were very similar which was significant to the decision as the Planning Inspector had put significant weight on these policies when making their previous decision. It was noted that the proposal was in a sustainable location and that the design of the proposal was acceptable, but these did not overcome the harm that would be caused by the development. The Officer outlined that the Planning Inspector had made it clear that no landscaping could improve the proposal and that just because the site was untidy that did not mean that it should be developed on as that would set a precedent for future developments. The Committee were cautioned that should they wish to refuse the application on highways matters this could be an issue as none of the previous applications had been refused on this basis and no objection had been received from the Highway Authority.

Members debated the application noting that the proposal was contentious and that the long history of the site coupled with the number of planning appeals did give significant weight to refusal. In response to a question from the Committee the Development Manager advised that a condition could be added to control the slab level that the dwelling should be built at however if this was agreed then it would need to be demonstrated that a material change had taken place to overcome the reasons cited by previous Planning Inspectorate decisions. It was further noted by the Principal Planning Officer that neglect of the site would not be a reasonable cause for approval.

The Committee continued to debate the application on the issues including: the NPPF and the relevant paragraphs that were detailed under its previous iterations when decisions were made, that the Council had approved other applications without adequate parking in the city centre, that the proposal was finely balanced, and that there would need to be significant clear cut reasons to overturn the previous decisions of the Council and Planning Inspectorate.

The Principal Planning Officer advised the Committee that material weight did need to be applied to the Planning Inspectorate's previous decisions and that the NPPF had been updated since the previous application, but the relevant paragraph had been included in the

new iteration just under a different number. The Development Manager advised the Committee that the NPPF had to be looked at as a whole and specific paragraphs could not be cherry picked or looked at in isolation. They detailed that it was always possible to find places to justify developments and commented that the Principal Planning Officer has detailed how the proposal related to the Local Plan Policies and that there was no material change in policies since the previous iteration of the application had been before the Committee.

Members concluded the debate by discussing the weight of the Local Plan and the Planning Inspectorate's previous decisions.

RESOLVED (EIGHT votes FOR, ONE vote AGAINST, with ONE ABSTENTION) that the application be refused for the reasons as set out in the report and with the additional reason for refusal as follows:

- That there was a lack of mechanism to secure developer contributions (Community, Parks and Recreation and RAMS).

965. 222779 71 Byron Avenue, Colchester, Essex, CO3 4HQ

The Committee considered an application for a lawful development certificate for proposed 4 metre single storey rear extension. The application was referred to the Planning Committee as the applicant is a current Colchester City Councillor, representing Stanway Ward.

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

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

966. 222736 Nero Court, Napier Road, Colchester, CO2 7NR

The Committee considered an application for an interpretation panel on a post (1m squared maximum size). The application was referred to the Planning Committee as the applicant is the Colchester and Ipswich Museums Service of Colchester City Council.

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

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

PLANNING COMMITTEE

16 February 2023

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

967. Minutes

No minutes were presented for confirmation at the meeting.

968. 220324 East Mersea Youth Camp, Rewsalls Lane, East Mersea, Colchester, CO5 8SX

The Committee considered an application for planning permission to move some of the car parking at the Mersea Boating Lake to higher ground to the North presently used for agriculture. The application was referred to the Planning Committee as a director of the applicant company is an elected Member of the Council.

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

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

969. 222088 Holy Trinity Church, Trinity Street, Colchester, CO1 1JN

The Committee considered an application for the Re-roofing of south aisle and south chapel (reusing existing clay plain tiles where possible). Associated repairs to existing timber trusses, timber rafters and adjacent lead valley. Installation of remedial ties at eaves level within south chapel. Repairs to stone gable end wall and maintenance repairs to rainwater goods and drainage. The application was referred to the Planning Committee as the applicant was Colchester Borough Homes on behalf of the City Council.

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

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



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Item No: 7.1

Application: 213273

Applicant: Mr And Mrs Barnes

Agent: Kevin Hall

Proposal: Two storey rear extension, refurbishment and alterations to roof, fenestration and external materials of the host dwelling.

Location: 5 Queens Road, Colchester, CO3 3PD

Ward: New Town & Christ Church

Officer: Hayleigh Parker Haines

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as this was called in by the late Councillor Cope on 22nd December 2021 due to the scale and character of proposal not being in keeping, was considered out of place in a classic 1930's cul-de-sac of detached dwellings.

2.0 Synopsis

- 2.1 The key issues for consideration are the design of the proposal and associated impact on the character and appearance of the site, surrounding area and adjacent conservation area.
- 2.2 The application is subsequently recommended for approval, since the original submission a number of revised documents/plans have been received, addressing Officer concerns in relation to the scale and design of the proposal, these amendments are considered to overcome the previous concerns raised.

3.0 Site Description and Context

- 3.1 The application site sits on the corner and to the northern side of Queens Road, adjacent to a footpath and contains a single detached, chalet style bungalow. Queens Road is characterized by a variety of dwellings ranging from chalet style bungalows to two storey dwellings, predominately constructed from red brick but with some elements of render and timber features, with gable projections or bay windows adding architectural interest to the front elevation.
- 3.2 It should be noted that the application site sits directly adjacent to Colchester Conservation Area 2, which is protected by an article 4 direction because many of the features that characterise it are vulnerable to unsympathetic alterations that would damage its character.

4.0 Description of the Proposal

- 4.1 Planning permission is sought for the external refurbishment to the host dwelling including alterations to the roof form. Currently the dwelling is a chalet style bungalow with a pitched roof. The proposal is to alter the roof to provide a two storey dwelling (approximately 1.5 metre increase in height). Also proposed is the removal of the front bay windows and replacement with two storey projections with a height to match the eaves of the resultant dwelling. The proposed works also include the change in facing materials from red brick to a coloured cementitious render to the host dwelling with metal clad dormer windows, natural slate roof finish with recon stone coping to the parapet walls.
- 4.2 Planning permission is also sought for a single storey flat roofed rear extension. This would be finished in black larch cladding.
- 4.3 The proposed developments would facilitate the internal reconfiguration of the dwelling providing a tv room, study, shower room, dining room, utility and open plan kitchen/sitting area at ground floor, four bedrooms with en-suites at first floor

with the master bedroom with dressing room, bathroom and recessed balcony within the loft space.

5.0 Land Use Allocation

- 5.1 The site is within an established residential use

6.0 Relevant Planning History

- 6.1 There is no site history that is particularly relevant to the decision regarding this proposed development.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

- ENV1 Environment
- DM12 Housing Standards
- DM13 Domestic Development
- DM15 Design and Amenity
- DM16 Historic Environment
- DM19 Private Amenity Space
- DM22 Parking

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

The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Historic Buildings and Areas Officer originally raised concerns in relation to the design of the resultant dwelling and its impact on the neighbouring conservation area. The Officer has worked with the Agent and amended plans have been received, the revised drawings are now considered acceptable and there are no objections in terms of the proposals impact on the adjacent conservation area.
- 8.3 The Archaeological Officer has raised no concerns in relation to the proposal, subject to a pre-commencement condition.
- 8.4 Essex County Council Highways originally raised concerns in relation to the proposal due to excessively wide access. However, amended plans have been received which have overcome this objection, subject to the inclusion of two conditions to ensure that the access to the site and materials used are sufficient and policy compliant.
- 8.5 Colchester Civic Society originally raised concerns in relation to the design of the resultant dwelling. The Officer has worked with the Agent and amended plans have been received.

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations from Notified Parties

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

Objection Comments

- Design – out of place – radically different to c1930s houses
- Complete contrast to, clashed with, the style, period and design of the road
- Streetscene not enhanced
- Scale unreflective of plot size – predominately the rear extension
- Fenestration and elevation materials controversial and provide little architectural merit
- Car parking and access arrangement unsatisfactory
- Impact on Conservation Area and Non-designated Heritage Assets

- Loss of privacy to No.7 Queens Road due to additional side windows on rear extension
- Sits forward of building line
- Cuboid design, unimaginative
- Visually prominent dwelling given corner plot location – exacerbates design issues
- The mature tree to the right corner of the plot is not shown in any sketches
- The revised application is no improvements and remains a carbuncle.
- The revised plans has not addressed the objections, the overall design and extent of the proposal is out of keeping with the area and size of the plot
- Remains a distinct and inappropriate change to the architecture along the road

Supporting Comments/General Comments

- Rather than attempting to imitate an old style – should embrace a modern design and the variety it will bring.
- Care must be taken to ensure the continued use of footpath 200 (Colchester)
- If the proposal is meant to be an example of a modern sustainable building – greater detail on ‘green’ items should be made.

11.0 Parking Provision

- 11.1 It is considered that sufficient on-site parking provision would be provided in line with policy DM22, this is discussed further in the below report.

12.0 Accessibility

- 12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of potential direct or indirect discrimination.

13.0 Open Space Provisions

- 13.1 The proposed development includes appropriate provision of private amenity space and there is no need for any public open space to be provided

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in this case are:

- Design, Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Highway Safety and Parking Provisions (including Cycling)

16.2 Principle of Development

16.2.1 The application site sits within a predominantly residential area where development such as that proposed is considered to be acceptable in principle in accordance with policies SP1 and DM13

16.3 Design and Impact on the Character and Appearance of the Site and Surrounding Area

16.3.1 The recently amended National Planning Policy Framework (2021) sets out government's planning policies for England and how these are expected to be applied. The requirement for good design has become stronger as has the requirement to refuse development that is not of good design. The amended Framework requires beauty. The Framework is supported by a collection of planning practice guidance which includes a National Design Guide. This document seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice.

16.3.2 Local Plan Section 1 Policy SP7 requires all development to meet high standards of urban and architectural design, respond positively to local character and enhance the quality of existing places. Section 2 Adopted Local Plan Policies DM13 and DM15 echoes these sentiments, requiring all development to be designed to a high standard and positively respond to its context, specifying that wherever possible development should enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features.

16.3.3 Policy DM15 Design and Amenity provides that all development, including extensions must be designed to a high standard, positively respond to its context, achieve good standards of amenity, and demonstrate social, economic and environmental sustainability. In addition, it states that development proposals must respect and, wherever possible, enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features. Wherever possible development should positively integrate the existing built environment and other landscape, heritage, biodiversity and Arboricultural assets and remove problems as part of the overall development proposal

- 16.3.4 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the setting of the Conservation Area. Similarly, development policy DM16 of the Local Development Plan seeks to enhance and protect the historic environment and its setting. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 16.3.5 The proposed developments to alter the roof and front elevation are considered to significantly alter the appearance of the dwelling and would be highly visible from within the public realm. The existing bungalow sits quietly in its mature garden, creating a smooth transition between the conservation area and Queens Road. The current design and scale of the bungalow is very in keeping with its surrounding and provides to the aesthetic cohesiveness of the street, as described above.
- 16.3.6 The proposed works would have a notable impact and would materially alter the character to the dwelling and the surrounding area. However, it is considered that in terms of scale and height the resultant dwelling would be comparable to a number of neighbouring properties, and therefore, this alone is not considered to be uncharacteristic of the surrounding area. Furthermore, the finishing materials proposed to the dwelling are largely in keeping with those found within the streetscene and are not objectionable. Whilst the metal cladding proposed to the dormer roof alterations is not a material commonly found within the surrounding area, this is considered to integrate with the roof material proposed and assist in breaking up the visual bulk of built form at the site and therefore, this is, considered acceptable.
- 16.3.7 The design of the resultant dwelling has changed significantly compared to the original plans received; to overcome Officer concerns in regards to the impact on the surrounding area, whilst the proposed roof form and flat roof aspects of the proposal are no overly characteristic of Queens Street, whereby there is a relatively strong character, the proposed scheme is considered to delicately reflect a more modern approach whilst maintaining key aspects of the street character, and therefore, whilst this would not fully integrate with the streetscene, this would in its own right reflects the change in architecture and approach to design, this is not considered to be unduly harmful to the character and appearance of the streetscene and wider area.
- 16.3.8 The proposed single storey rear extension is considered to be an acceptable addition to the site and would be a subservient addition to the resultant dwelling, the level of glazing proposed is not overly reflective of the current site, however, given this is to the rear of the dwelling and would not be highly visible or prominent within the public realm, this is not considered to result in significant harm as to warrant the refusal of the application.

16.4 Impact on Neighbouring Amenity

- 16.4.1 Adopted Development Policy DM15 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.
- 16.4.2 The application site is bordered by five neighbouring properties, to the north are No.17 and No.19 Roddam Close to the east is No.25 The Avenue (Flats) , to the south is No.16 Queens Road and to the west is No.7 Queens Road
- 16.4.3 Due to the degree of separation from the neighbouring properties to the north east and south, it is not considered that the proposed development would result in an unneighbourly form of development in terms of overbearing or loss of light to these neighbouring occupiers. The proposal includes a number of additional first floor windows are proposed alongside dormer roof alterations and a recessed balcony. Due to the sufficient degree of separation, it is not considered that these would offer an unsatisfactory level of overlooking in terms of the neighbouring properties to the north. Similarly, due to the orientation of the dwelling, it is not considered that these windows would result in any concerns in terms of loss of privacy to the neighbouring properties to the east or south.
- 16.4.4 The resultant dwelling would sit approximately 4 metres from No. 7 Queens Road, it should be noted that this neighbouring property is at a slightly higher ground level than the application site. The two storey aspect would not project beyond the rear elevation of this neighbouring property. There is a ground floor door to the eastern side of this neighbouring property serving a utility room, and large glazed openings to the rear of this neighbouring property. The single storey rear extension would project beyond the neighbouring properties rear extension by approximately 2.6 metres, however, given the single storey nature of this extension, the relationship between the properties and that No.7 benefits from a larger glazed opening along the entirety of the rear elevation it is not considered that the proposal would result in a material loss of light to habitable rooms.
- 16.4.5 It is noted that a number of additional first floor windows are proposed alongside dormer roof alterations and a recessed balcony. These would offer some views of No.7 amenity space however this would be the north-eastern corner of the site and therefore, it is not considered that this would result in a material loss of privacy to the detriment of this neighbouring occupiers amenity.
- 16.4.6 It is noted that some views of the proposed dining area would be available from the neighbouring properties eastern side door due to the level of glazing proposed to this elevation. However, given the degree of separation, that this opening is not a habitable room and does not benefit from glazing, it is not considered that this would result in an unacceptable level of overlooking to the detriment of the occupiers of the resultant dwelling.

16.4.7 Taking into account the above assessment, it is considered that the proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement. Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide.

16.5 Amenity Space and Landscaping

16.5.1 Development Policy DM19 requires all residential development to provide private amenity space to a high standard, where the siting, orientation, size and layout make for a secure and usable space. For houses of four bedrooms as proposed a minimum of 100m² of useable amenity space is required.

16.5.2 The site benefits from a spacious garden that would remain in excess of 100m² and therefore, there are no concerns in relation to this.

16.6 Parking, Access and Highway Safety

16.6.1 Policy DM22 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of two parking spaces should be provided for each dwelling of two or more bedrooms

16.6.2 The proposal would result in an additional three bedrooms at the application site resulting in a five bedroom dwelling with the minimum parking provision required being two spaces. The existing garage on site would remain unaltered (besides the roof form) with the hardstanding to the front of the site measuring approximately 4 metres by 8 metres which would provide sufficient parking for one vehicle. The garage measures at 2.6 metres by 9.3 metres (2.3 at its narrowest point) internally and whilst this does not comply with the minimum internal standards of 3 metres it is considered that this would provide parking provision for a reasonable sized vehicle and therefore, on balance, there are no concerns in relation to parking.

16.6.3 The proposal includes alterations to the existing access in that the wall to the eastern side would be reinstated. Highways originally raise concerns as the proposed access was too wide and would not be compliant with the required standards. However, this has been reduced and the wall reinstated and therefore, these objections have been overcome.

17.0 Planning Balance and Conclusion

17.1 Taking into account the above assessment, it is considered that the proposed development is acceptable and is therefore, recommended for approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM - Development to Accord with Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 2487/01 Rev F, 2487/11 Rev C, 2487/12 Rev C, 2487/13 Rev C, 2487/14 Rev D and 2487/15 Rev D

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

3. Z00 - Archaeology

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

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

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DM16 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

4. ZBC - Materials to be Agreed

Prior to their inclusion in the works hereby approved, precise details of the manufacturer, types and colours of the materials to be used in the construction of the development hereby permitted shall be 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. ZMM - Additional detail on windows, doors, eaves etc...

Prior to their inclusion in the works hereby approved, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6. ZKH – Vehicular Access Completed Prior to Occupation

Prior to first occupation of the proposed development, the proposed vehicular access shall be reconstructed at right angles to the highway boundary and to a width of 4.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that there is a satisfactory access available at the time when the site becomes occupied in the interests of highway safety.

7. ZIF – 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.

19.1 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

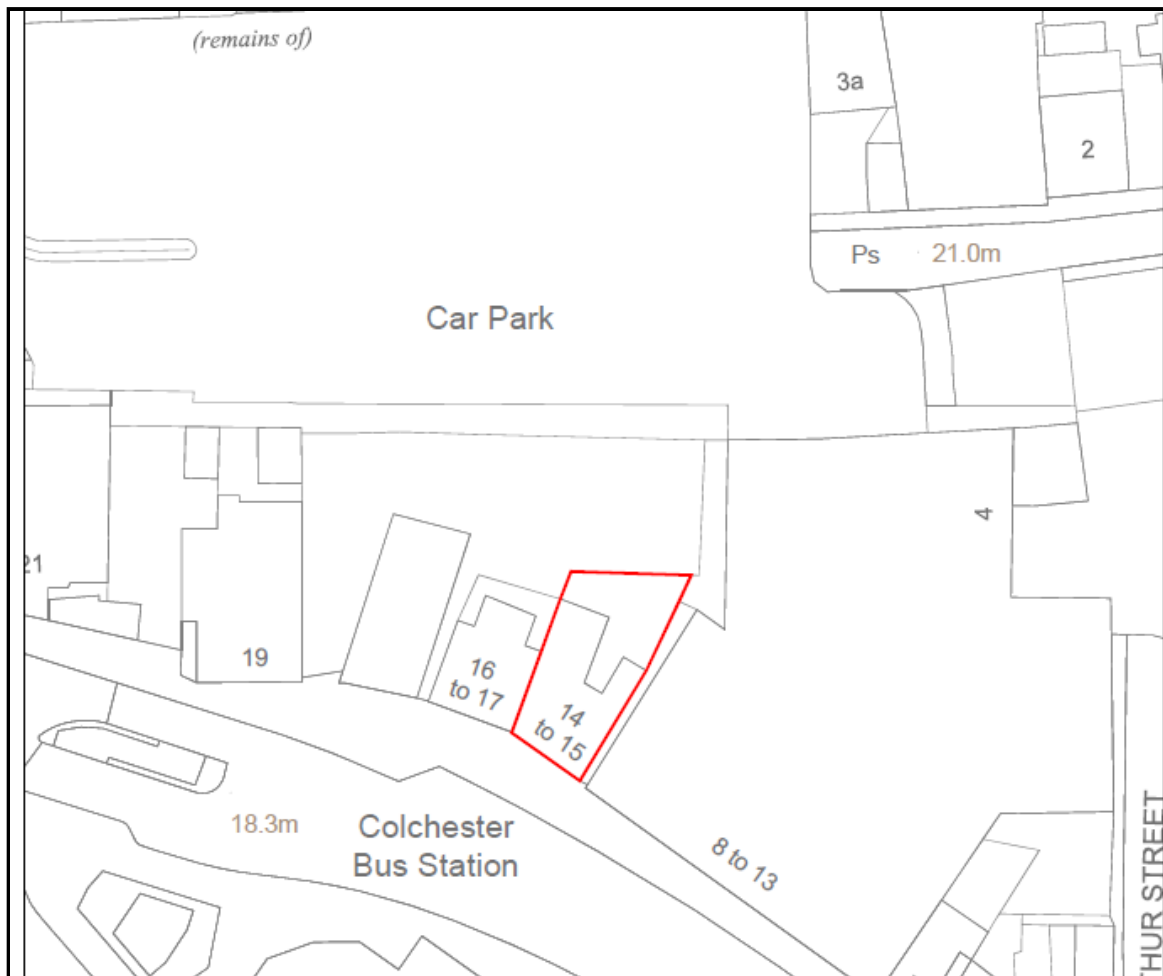
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

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

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

3. INS – Archaeology Informative

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: www.colchester.gov.uk



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Item No: 7.2

Application: 222817

Applicant: Colchester Borough Council

Agent: Mr Grant Polkinghorne

Proposal: Change of use of the upper parts of 14-15 Osborne Street only from C3 to storage / office space which is to be ancillary to ground floor retail use currently also now let to a Funeral Directors.

Location: Eustace King, 14-15 Osborne Street, Colchester, CO2 7DP

Ward: Castle

Officer: Hayleigh Parker Haines

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as the Applicant is Amphora Homes which is part of the City Council

2.0 Synopsis

- 2.1 The key issue for consideration is whether the principle of converting the first floor of the building from residential to commercial (storage and office) is acceptable
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site sits to the northern side of Osborne Street, adjacent to Colchester Bus Station within the Colchester Area 1 Conservation Area and the Roman Wall (scheduled monument) lies to the north beyond a public car park.

4.0 Description of the Proposal

- 4.1 Planning permission is sought for the change of use of the first floor accommodation (currently a two bedroom flat) to a storage area/office (Use Class E – Commercial, Business and Service) used in association with the ground floor ‘retail’ use (currently funeral directors which falls within old use class A1 and new Class E)

5.0 Land Use Allocation

- 5.1 The application site falls within the Town Centre with the ground floor benefitting from an established lawful use as Class E (Commercial, Business and Service) which was previously use Class A1.

6.0 Relevant Planning History

- 6.1 Planning Application 93/0137 granted permission for the Demolition of rear section and erection of two storey rear extension and internal alterations - to be used as a funeral reception office.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP5 Employment
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

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

SG1 Colchester's Spatial Strategy
SG6 Town Centre Uses
ENV1 Environment
TC1 Town Centre Policy and Hierarchy
DM15 Design and Amenity
DM16 Historic Environment
DM20 Promoting Sustainable Transport and Changing Travel Behaviour
DM21 Sustainable Access to development
DM22 Parking

7.4 Some "allocated sites" also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process – None relevant

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

The Essex Design Guide
EPOA Vehicle Parking Standards
Town Centre Public Realm Strategy

8.0 Consultations

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

8.2 The Historic Buildings and Areas Officer has raised no objection to the proposal.

8.3 The Contaminated Land Officer has raised no objections

8.4 Environmental Protection have raised no objections.

8.5 Essex County Council Highways has raised no objection.

9.0 Parish Council Response

9.1 Non-Parished

10.0 Representations from Notified Parties

10.1 The application has not received any interest from notified parties.

11.0 Parking Provision

11.1 The proposal does not provide staff or customer parking however, given the highly sustainable location, the proximity of public car parks and that the proposed use is to be ancillary to the existing use at ground floor, this is considered acceptable in this instance

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of potential direct or indirect discrimination.

13.0 Open Space Provisions

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

14.0 Air Quality

14.1 The site is within an Air Quality Management Area and will not generate significant adverse impacts upon the zones.

15.0 Planning Obligations

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

16.0 Report

Principle of Development

16.1 The application site falls within the Town Centre policy area (now City Centre), Policy TC1 advises that this area is the priority focus for new Town Centre Uses and the Local Planning Authority will encourage development which is focused on retail and supporting leisure, culture and restaurant/café uses to enhance the

City's role as a sub-regional shopping and leisure destination and important tourist destination.

16.2 It is noted that the proposal would result in the loss of a residential two bedroom property. The Council's latest published Housing Land Supply Annual Position Statement (July 2023) demonstrates a housing supply of 5,074 dwellings which equates to 5.25 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2022/2023 through to 2025/2026. Colchester City as a whole is currently benefitting from a number of large schemes providing a number of affordable and market dwellings and therefore, it is not considered that the loss of this dwelling would have a significant impact on the City's supply of homes. The surrounding area comprises of a mixture of uses. Given that the proposal is not considered to have a significant impact on the supply of homes within the area and that the proposed use would be ancillary to the existing use at ground floor it is considered the principle of development is acceptable in this instance. Other material considerations are discussed below

Other Matters

16.3 There are no residential uses within overly close proximity to the site and the proposed use is not considered to generate excessive noise. On this basis, the proposal raises no concerns relating to residential amenity.

16.4 The proposed change of use under this application would not result in any external alterations and therefore, there are no objections in respect of design and impact on character and appearance of the site and surrounding area. Furthermore, given that the ground floor is to remain commercial alongside the lack of external alterations proposed under this application, it is considered that the proposal would have a negligible impact on the significance of the Conservation Area and nearby non-designated heritage assets.

16.5 Due to the nature of the application and its assessment against the information submitted, it is considered necessary to include a condition ensuring that the proposed building is to be used solely as an office associated with the professional service to which it is to serve, in this instance this would fall within use class E g) i), to ensure that the development remains acceptable in perpetuity in relation to the above material considerations.

17.0 Planning Balance and Conclusion

17.1 Taking into account, the above assessment it is considered that the proposed change of use would be acceptable in this location.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 1415OSP and Plan 1 Site Plan (Location Plan)

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

3. Clarifying the Use

The change of use hereby approved shall be used solely for office based, administrative duties and storage (Class E, subsection g) i) and for no other purpose including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended through the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.

Informatives

The following informative is also recommended:

ZTB - Informative on Any Application With a Site Notice

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



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Item No: 7.3

Application: 223010

Applicant: Mr Sahota

Agent: Andrew Feasey

Proposal: Proposed side extension

Location: Lexden Manor, 8 Colvin Close, Colchester, CO3 4BS

Ward: Prettygate

Officer: Simon Grady

Recommendation: 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 Tate on the basis that the proposed development: -
- represents over-development of the site (including the loss of outdoor space),
 - has a harmful impact on the appearance of a historic building
 - is rather small and cramped
 - fills a space for the sake of it
 - represents overdevelopment of the area
- 1.2 Concerns have also been expressed by Councillor Tate about the disruption being caused by the implementation of an approved scheme on an adjacent site. This is not considered to be a material consideration for this particular application.

2.0 Synopsis

- 2.1 This Householder application seeks planning permission for a proposed single-storey side extension. The key issues for consideration are the creation of an annexe, the design of the proposed development, its impact on neighbour amenity, and impacts on the mature tree adjacent to the application site. All relevant issues are assessed in the report below.
- 2.2 Having assessed the application against local and national legislation, policy and guidelines it is considered that the proposed development would not cause harm to neighbour amenity and the principle of creating an annexe in this location is acceptable.
- 2.3 The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The application site contains a detached dwelling lying inside of the Central Colchester settlement boundary in Prettygate Ward. The site is not in a Conservation Area. There are no protected trees on or adjacent to the site and the site is in flood zone 1. There are no Listed Buildings or structures on the Local List whose setting could be affected by this proposed development. The site is located within a predominantly residential area where development such as that proposed in this application is considered to be acceptable in principle

4.0 Description of the Proposal

- 4.1 The proposed side extension would have a footprint of approximately 35m² and would be a minimum of 1m from the shared boundary to the east. A small area of the existing dwelling needs to be demolished. The development would provide living accommodation for an elderly parent of the applicants, including the provision of a bedroom, ensuite and kitchen.

5.0 Land Use Allocation

- 5.1 Residential, within Colchester settlement limits.

6.0 Relevant Planning History

- 6.1 A new 5 bedroom house with 3 bay cart lodge situated within the curtilage of the application site was granted planning permission under 210331 and has subsequently been implemented. The property lies to the west of the application site.
- 6.2 A householder application for the demolition of an existing outbuilding and conservatory and construction of new garage block with room above & single-storey rear extension on footprint of former conservatory was granted planning permission under 211890.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 Local Plan 2017-2033 Section 1
The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021. The following policies are considered to be relevant in this case:
- SP1 Presumption in Favour of Sustainable Development
 - SP7 Place Shaping Principles
- 7.3 Local Plan 2017-2033 Section 2
Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:
- DM12 Housing Standards
 - DM13 Domestic Development
 - DM15 Design and Amenity
 - DM19 Private Amenity Space
- 7.4 The site is not within a Neighbourhood Plan area.
- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide

- External Materials in New Developments
- Managing Archaeology in Development.

8.0 Consultations

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

Archaeological Advisor

- 8.2 “Recent past archaeological work at this location (including monitoring the footings for the detached garage) has not revealed any archaeological remains. There are therefore no archaeological requirements in relation to this new application.”

9.0 Parish Council Response

- 9.1 The site is not within a Parish Council area.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council’s website. However, a summary of the material planning considerations is given below.
- Overdevelopment of the site
 - The new development of will be overcrowded in the local community.
 - Harmful overlooking into Marlowe Way
 - Substantial tree
 - potential of becoming a separate dwelling, generating more vehicle movements,
 - Loss of garden space

11.0 Parking Provision

- 11.1 Parking provision on site would be unaffected by this proposal.

12.0 Accessibility

- 12.1 In considering the application, due regard has been given to the Local Planning Authority’s duties under the Equality Act 2010, which legally protects people from discrimination in the workplace and in wider society. Representations received have not identified any specific equality implications potentially arising from the proposed development and requiring additional consideration.

13.0 Open Space Provisions

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

14.0 Air Quality

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

15.0 Planning Obligations

15.1 There was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

16.1 The main issues in this case are:

- The Principle of Development
- Design
- Impact on the Surrounding Area and Neighbouring Properties
- Tree protection
- Overdevelopment of the site
- Private Amenity Space Provision

Principle of Development

16.2 The application site is located in a sustainable, residential area where single storey extensions are acceptable in principle. The principle of creating residential annexes is covered in Local Plan Policy DM13: Domestic Development. This policy says that residential annexes will be supported if they are physically attached or closely related to the main dwelling, retains some dependence on the main dwelling, respects the character of the area and does not harm neighbouring amenity. These matters are considered in the remainder of this report.

Design

16.3 The design of the proposed development is considered satisfactory on its own merits. The development is visually acceptable with all external facing materials to match the existing host dwelling and would not detract from the appearance of the original building.

Impact on Surrounding Area

16.4 The proposed extension would not be readily visible from the public domain so it is therefore considered that there would be no harmful impact on the character of the surrounding area or the street scene.

Impact on Neighbouring Properties

- 16.5 The proposed development would be approximately 12 metres away from the nearest neighbouring dwellings (in Marlowe Way to the east) and given that it is single storey it is considered that it would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.6 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.7 Whilst the proposed development does not include any new windows at first floor level, there are ground floor windows and a door proposed on the side elevation of the extension that would face the neighbouring dwellings to the east that would offer an unsatisfactory angle of overlooking that may be harmful to the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. This is because the boundary fence between the application site and the neighbouring properties is lower than 1.8m and the proposed development is less than 1m from the boundary in places. To mitigate these concerns it is recommended that all glass above 1.5m above the floor level in windows and the door on this elevation is glazed in obscure glass and non-openable. This is to be controlled by a condition.

Tree Protection

- 16.8 There is a tall Silver Birch tree in a neighbouring garden that is close to the development site. It is not protected with a Tree Preservation Order and is not eligible for protection. An Arboricultural Impact Assessment has been submitted and is being considered by the Council's Tree Officer. Suitable Conditions should be added to the Decision Notice, if the application is approved, to ensure that the necessary precautions are put in place during construction works to protect the tree from harm.

Private Amenity Space Provision

- 16.9 Local Plan policy DM19 states that new dwellings with 4 or more bedrooms must provide a minimum of 100m² of private amenity space. It has been calculated that the amount of private amenity space being retained after the proposed development is implemented would be in excess of this figure and the proposal is therefore acceptable in this respect.

Heritage

- 16.10 There are no heritage assets in the vicinity of the application site and consequently there are no concerns that the proposed development would have a harmful impact on the setting of any listed buildings. In addition, the Council's Archaeology Advisor has confirmed that no archaeology conditions are required.

Overdevelopment of the Site

- 16.11 It is not considered that this proposed extension represents a cramped form of development that would constitute overdevelopment of the site. The annexe meets the relevant criteria set out in policy DM13 and an adequate amount of private amenity space would be retained to meet policy DM19. The proposed development would not reduce the amount of parking or turning facilities on the site and would not give the appearance of being cramped, viewed from anywhere in the public domain. The extension would be located approximately 12 metres from the nearest dwelling so it would not have a harmful impact on the neighbouring dwelling and the size of the application site is large enough to accommodate the extension. It is therefore considered that the proposal is not overdevelopment of the site.

17.0 Planning Balance and Conclusion

- 17.1 The proposed extension complies with the relevant policies in the Council's adopted local plan and there are no material planning considerations that indicate it should be refused.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

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 Site Location Plan, Site Block Plan, Drawing Numbers 22_1759_100 and 22_1759_102_102 and the Arboricultural Impact Assessment and Preliminary Method Statements (including appendices) for the site, reference No. TPSarb8150123 dated 26 January 2023.

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

3. Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

4. 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) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), all parts of the windows in the side elevation (facing east) of the extension hereby approved that are over 1.5m above ground level shall be non-openable and 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.

19.1 Informatives

19.1 The following informatives are also recommended:

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.

Planning Committee

Item

8

Date 9th March 2023

Report of	Place and Client Services	Author	Chris Harden
Title	Deed of Variation to the Legal Agreement for Planning Application 191830 Land at School Road, Langham.		
Wards affected	Langham		

This report relates to a proposed Deed of Variation to the legal agreement of previously approved planning application 191830 for the erection of 46 dwellings.

1. Decision(s) Required

1.1 Members are asked to endorse the proposed Deed of Variation to the Legal Agreement relating to approved application 191830. The report is put to members to ensure complete transparency of the decision process.

1.2 The application 191830 was previously approved on 17.12.20 following presentation at the Planning Committee in March 2020. The application was for: Erection of 46 dwellings, public open space and associated infrastructure at School Road, Langham.

1.3 At the Planning Committee the following recommendation was agreed: "APPROVAL of planning permission 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 to secure the contributions set out in the report."

1.4 The latest application is for the deed of variation of s106 agreement(191830):

Schedule 2 Affordable Housing Paragraph 1 - to be amended in accordance with the approved Affordable Housing Schedule of Accommodation as referred to in condition 19 of the permission dated 17.12.20. Paragraph 4 - please refer to annotated site layout.

[Condition 19: With the exception of plot 29, the affordable housing and associated degree of accessibility standards and building regulations compliance shall be provided in accordance with the Affordable Housing Schedule of Accommodation (dated 28/2/20), unless otherwise agreed in writing by the LPA. Reason: To ensure an appropriate level of accessible dwellings are provided within the site.]

Schedule 4 Community Facilities

Contribution Paragraph 1 - list of projects to be amended at request of Parish Council.

Schedule 5 Parks and Recreation Contribution Paragraph 1 - list of projects to be amended at request of Parish Council.

- 1.5 The abovementioned variations to the Legal Agreement are outlined in Appendix 1 of this report which contains a submitted Draft Deed of Variation.

2. Reasons for Decision(s)

- 2.1 With regard to amending the affordable housing trigger (see appendix 1) the applicant has put forward the following justification:

“As per the attached decision notice which partially discharges condition 21**, we currently have permission to commence and occupy 23 plots – 1-13 and 15-24. This includes 19 private and 4 affordable plots. The S106 does not permit the occupation of more than 50% of private dwellings (16 no) until all affordable dwellings (14 no) have been constructed and transferred to the Approved Body. This means that if we build and occupy all 19 private plots that currently have permission, we would trigger the requirement to deliver all affordable plots, 10 of which are currently not permitted to be commenced by the partial discharge of condition 21. Consequently, we are currently unable to commence and occupy 3 private plots that we have permission for.

Due to the location of the remaining 10 affordable plots (28-37), it is not feasible to construct and build the 3 remaining plots from this group, as they would have to be accessed through a working construction site which is not safe. We are therefore seeking to amend the affordable housing delivery trigger to permit occupation of 60% of private plots, to allow us to construct all 19 private plots that we currently have approval for and contribute to housing delivery. It's important to note that whether we build 16 or 19 private plots, the partial discharge of condition only allows the construction of 4 affordable plots at this time (21-24).

***Condition 21 - Prior to the commencement of the development the developer shall acquire and provide to the LPA, written confirmation from the Environment Agency and from the relevant statutory provider that adequate waste water and sewage treatment capacity is available to serve the development.*

- 2.2 Given the fact that the developer has only received permission to proceed to build 23 plots of the 46 units approved owing to a current lack of sewage treatment plant capacity (Condition 21), which causes the above detailed operational problems, it is considered acceptable to vary Para 4 of Schedule 2 of the legal agreement to permit not more **60%** occupation of market dwellings “*until such time as all of the Affordable Housing Dwellings*” as opposed to 50%. This will avoid having to access new dwellings through a current working construction site in order to build the remaining 3 plots as this is not considered to be safe.
- 2.3 The amendment relating to Building Regulation compliance concerning accessibility (as outlined in Appendix 1) Schedule 2 Affordable Housing Paragraph 1 - to be amended in accordance with the approved Affordable Housing Schedule of Accommodation as referred to in condition 19 of the permission dated 17.12.20. Paragraph 4 – is accordingly also acceptable as this would tie-in with the amended construction arrangements as detailed above in Paragraph 2.2 and will ensure an appropriate level of accessible dwellings are provided within the site in accordance with Condition 19.
- 2.4 The other variation requested relates to:
Schedule 4 Community Facilities

Contribution Paragraph 1 - list of projects to be amended at request of Parish Council.

Schedule 5 Parks and Recreation Contribution Paragraph 1 - list of projects to be amended at request of Parish Council.

2.5 The revised community projects are listed in Appendix 1 below. Given that these projects have been revised at the request of the Parish Council, it is considered the revisions can be supported. This would allow the agreed funding to be spent on projects most needed or desired by the Local Community and the projects represent legitimate facilities in accordance with Local Plan Policy and the CIL Regulations.

2.6 It is requested members grant authority for the Deed of Variation to amend the Legal Agreement as detailed above.

3. Alternative Options

3.1 If Members decide not to accept the suggested Deed of Variation, there could be operational safety problems on site, as explained above and also community funding may not be targeted to facilities most desirable for the Parish Council and Local Community.

4. Supporting Information

4.1 The full Committee report relating to the above application 191830 and Legal Agreement is available online on the City Council's website if more detail on the case is required. See also Appendix 1 below.

5. Strategic Plan References

5.1 The scheme remains compliant with the Strategic Plan as it would facilitate delivery of new homes and the requisite infrastructure to serve the community.

6. Consultation

6.1 Langham Parish Council were consulted - no comments were received at the time of drafting. Any received will be reported to members.

7. Publicity Considerations

7.1 None

8. Financial Implications

8.1 Potential financial implications for the developer and Local Community facilities.

9. Equality, Diversity and Human Rights Implications

9.1 None directly arising from this report.

10. Community Safety and Health and Safety Implications

10.1 On site safety implications if not agreed.

11. Risk Management Implications

11.1 None directly arising from this report.

Appendix 1

Draft:

Variations to the Original Agreement

The Parties agree that the Original Agreement shall be varied as follows:

1. In the definition of “Affordable Housing Dwellings” in Paragraph 1 of Schedule 2, the reference to “Building Regulations 2015 Part M4 Category 3 (2b)” shall be deleted and replaced with “Building Regulations 2015 Part M4 Category 3 (2a)”
2. In the definition of “Construction Certificate” in Paragraph 1 of Schedule 2, the references to “Building Regulations 2015 Part M4 Category 3 (2b)” shall be deleted and replaced with “Building Regulations 2015 Part M4 Category 3 (2a)”
3. The definition of “Community Facilities Purposes” in Paragraph 1 of Schedule 4 shall be deleted and replaced with the following:

“means the use of the Community Facilities Contribution towards:

a) the refurbishment of the disabled toilet at the Langham Community Centre; and/or

b) the provision and installation of acoustic panels in the main hall at Langham Community Centre; and/or

c) the installation of a disabled stair lift to the first floor committee room at the Langham Community Centre; and/or

d) the provision of an electrically operated veranda for the rear patio area of the Langham Community Centre.”
4. The definition of “Parks and Recreation Purposes” in Paragraph 1 of Schedule 5 shall be deleted and replaced with the following:

“means the use of the Parks and Recreation Contribution towards the provision of:

e) a Multi-Use Sports Court at Langham Recreation Ground; and

f) new equipment for the Children’s Play Area at Langham Recreation Ground; and

g) new Cricket Facilities at the Langham Recreation Ground.”

5. Paragraph 4 of Schedule 2 shall be deleted and replaced with:

5.1. *“Not to permit the Occupation of more than 60% of the Market Dwellings until such time as all of the Affordable Housing Dwellings to be provided have been constructed and are available for Occupation and have been transferred to an Approved Body and the Borough Council has received the Construction Certificate for the relevant units.”*

Paragraph 4 originally stated:

Not to permit the Occupation of more than fifty percent (50%) of the Market Dwellings until such time as all of the Affordable Housing Dwellings to be provided have been constructed and are available for Occupation and have been transferred to an Approved Body and the Borough Council has received the Construction Certificate for the relevant units



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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 withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

