

Planning Committee

Council Chamber, Town Hall
12 December 2013 at 6.00pm

This Committee deals with

planning applications, planning enforcement, public rights of way and certain highway matters.

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

Material Planning Considerations

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

The following approach should be taken:

- 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.

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 Colchester’s own Local Plan documents
- Government guidance, case law, appeal decisions, planning history, “fallback” positions
- Design, scale, bulk, mass, appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations such as archaeology, listed buildings or a conservation areas
- Environmental issues such as impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism
- Social issues such as affordable housing, accessibility, inclusion, education, recreation
- The ability to use planning conditions or obligations to overcome concerns

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 including 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
- unless they are “exceptional”, personal circumstances, including hardship

Strong opposition to a particular proposal is a common feature of the planning process. However, in the absence of substantial evidence of harm or support from the Development Plan is unlikely to carry much weight. The same principles apply in reverse where there is strong support for a proposal that is contrary to the Development Plan and there is harm (or lack of substantially evidenced benefit).

Inspectors and Courts (see *North Wiltshire DC V SoS & Clover, 1992*) have established that precedent can be a legitimate consideration, but it is not enough to have a “general anxiety” and there has to be evidence of a real likelihood that similar applications (in all respects) will be submitted.

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 and Considering Reasons for Refusing Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework reinforces this by 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. However, not all development is acceptable and almost every permission will require planning conditions in order to make them acceptable. Some will remain unacceptable and should therefore be refused. Circular 11/95 (The Use of Conditions in Planning Permissions) and Circular 03/2009 (Costs Awards In Appeals And Other Planning Proceedings) set out advice on the government’s policy regarding the appropriate use of planning conditions and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. They derive from an interpretation of court judgments over the years and, although not planning law, are important material considerations. A decision to set them aside would therefore need to be well-reasoned and justified.

In terms of the Planning Committee, Circular 03/2009 makes it clear that “*Planning authorities 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*”.

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that “*Whenever appropriate, planning authorities 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. *The Circular adds that “A planning authority refusing planning permission 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.”* Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, 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, Circular 03/2009 makes it clear that planning authorities must “*properly exercise their development control responsibilities, 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 public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
12 December 2013 at 6:00pm**

Members

Chairman : Councillor Theresa Higgins.
Deputy Chairman : Councillor Helen Chuah.
Councillors Peter Chillingworth, Stephen Ford, Sonia Lewis, Cyril Liddy, Jackie Maclean, Jon Manning, Philip Oxford and Laura Sykes.

Substitute Members

: All members of the Council who are not members of this Committee or the Local Plan Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-
Councillors Nick Barlow, Lyn Barton, Kevin Bentley, Mary Blandon, Mark Cable, Nigel Chapman, Barrie Cook, Nick Cope, Beverly Davies, John Elliott, Andrew Ellis, Annie Feltham, Bill Frame, Ray Gamble, Marcus Harrington, Dave Harris, Julia Havis, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Margaret Kimberley, Michael Lilley, Sue Lissimore, Colin Mudie, Nigel Offen, Gerard Oxford, Will Quince, Lesley Scott-Boutell, Peter Sheane, Paul Smith, Terry Sutton, Colin Sykes, Anne Turrell, Dennis Willetts and Julie Young.

Agenda - Part A

(open to the public including the media)

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

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

Pages

1. Welcome and Announcements

1

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

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

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

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

5. Declarations of Interest

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

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

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

6. Minutes

2 - 15

To confirm as a correct record the Minutes of the meetings held on 31 October 2013 and 14 November 2013.

7. Planning Applications

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

1. 131977 The Gilbert School, Brinkley Lane, Colchester (Highwoods) **16 - 30**

Proposed new Sports Hall and ancillary accommodation including changing and storage.
2. 131728 St Helens, Ferry Road, Fingringhoe (Pyefleet) **31 - 40**

Retention of existing covered storage lean to, replacement staircase to existing first floor office balcony guard rails and balustrade together with the installation of privacy screens with the change of use of the former hay loft to a home office.
3. 131863 Asda Supermarket, 25 Church Road, Tiptree (Tiptree) **41 - 48**

Application for the variation of condition 2 of planning permission 121668 to amend the hours of opening. The proposed variation in the hours of use is amended to 06:00 to 24:00 (midnight) Mondays to Saturday. Sunday trading remains unaltered.
4. 132157 30-32 Berechurch Road, Colchester **49 - 53**

(Berechurch)

Change of use from shop store to form an additional House in Multiple Occupation bedsit.

5. 132144 1 Hawthorns, The Retreat, Glebe Lane, Abberton (Pyefleet)

54 - 58

Single storey garden room extension.

8. Amendment Sheet

59 - 60

Please see the Amendment Sheet (attached).

9. Exclusion of the Public

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).

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

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

Audio Recording, Filming, Mobile phones and other devices

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops and other such devices is permitted at all meetings of the Council, with the exception of Committee members at all meetings of the Planning Committee, Licensing Committee, Licensing Sub-Committee and Governance Committee. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Where permitted, Councillors' use of devices is limited to receiving messages and accessing papers and information via the internet. Viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting 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 use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground 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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Colchester, CO1 1JB
telephone (01206) 282222 or textphone 18001 followed by the full number you wish
to call
e-mail: democratic.services@colchester.gov.uk
www.colchester.gov.uk

PLANNING COMMITTEE

31 October 2013

Present:- Councillor T. Higgins* (Chairman)

Councillors Chillingworth*, Chuah*, Ford, Lewis*, Liddy*,
MacLean*, Manning* and L. Sykes*

Substitute Members:- Councillor Gerard Oxford for Councillor Philip Oxford

(*Committee members who attended the formal site visit.
Councillor Lewis was present for the site visit at minute
No. 84 only.)

78. Minutes

The Minutes of the meetings held on 26 September 2013 and 3 October 2013 were confirmed as a correct record.

79. 131807 – Tymperleys, Trinity Street, Colchester

The Committee considered an application for the change of use of Tymperleys, Trinity Street from a garden to an outdoor seated area in connection with tea room and restaurant use, plus use of the garden in connection with weddings, corporate private events and outdoor performances. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

The Committee requested that condition 4 be amended to require seven days prior notification to residents of any events to be held.

RESOLVED (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report and amendment sheet with condition 4 to be amended to ensure residents are given 7 days prior notice of the 10 events finishing no later than 10.30pm.

80. 130239 – 99 & 105 London, Road, Copford

The Committee considered an application for the erection of 7 residential units at 99 & 105 London Road and the extension of the car park to the neighbouring employment. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Lucy Mondon, Planning Officer, presented the report and assisted the Committee in its deliberations. Additional paragraphs were included in the amendment sheet relating to Habitat Surveys and Natural England Standing Advice.

Mr Robert Pomery, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He took the opportunity to clarify that discussions had taken place between the applicants and the residents of Allendale Drive. He suggested that as the layout was only indicative at this stage, aspects such as the footpath could be removed. A compromise had been reached regarding car parking spaces and it was planned to provide 11 spaces over and above policy requirements. He stated that the cul-de-sac was not satisfactorily finished in its current state and that the development would improve this situation.

A member of the Committee was glad of the clarification relating to car parking on the site and said that if this could be addressed and accommodated for, residents would be happy. The inclusion of the footpath was not considered beneficial. It was noted that any reserved matters issues would form part of another application.

RESOLVED (NINE voted FOR, ONE ABSTAINED from voting) that –

- (i) The application be approved, subject to the signing of a Section 106 Legal Agreement within six months from the date of the Committee meeting to provide the following:
 - That the development outside the settlement boundary is not commenced until such a time that the development on the adjacent site has commenced; and
 - That, should the development not commence within 12 months from the date of permission, a revised viability assessment be undertaken and any surplus revenue be paid to the Council for the use of Affordable Housing, Community Facilities, Open Space, Sport and Recreational Facilities (to be repeated if the development is not substantially complete within 24 months from the commencement of the development).
- (ii) In the event that the Section 106 Legal Agreement is not signed within six months, authority be delegated to the Head of Commercial Services to refuse the application, or otherwise to complete the Agreement.
- (iii) On Completion of the Legal Agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions set out in the report and amendment sheet.

81. 131020 & 131023 – The Jumbo Water Tower, Balkerne Passage, Colchester

Councillor Chillingworth (in respect of his being a Trustee of the Building Preservation Trust) and Councillor T. Higgins (in respect of her being a Colchester Blue Badge Guide) declared a non-pecuniary interest in these items pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Chillingworth clarified on behalf of the Conservative Group that advice had been sought from the Monitoring Officer and there was no disclosable pecuniary interest to declare regarding donations made by the applicant to the North Essex Conservative Association.

The Committee considered an application for the change of use of the Jumbo Water Tower and alterations to provide a mixed use development comprising of three apartments, a restaurant, an office and an observatory / museum with an ancillary shop / café and the erection of an ancillary building (boiler house) and associated work. A listed building application for these works was also considered. The Committee had before it a report and amendment sheet in which all the information was set out.

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposal for the site.

Ms Sue Jackson, Principal Planning Officer, and Ms Libby Kirkby-Taylor, Historic Buildings and Areas Officer, presented the report and assisted the Committee in its deliberations.

Mr Brian Light of the Balkerne Tower Trust addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He suggested that the existing features of the Water Tower were not being used and that damage would be done to the tank structure. He claimed that the designation of the area for cultural facilities was not being adhered to. He objected to the prospect of light pollution from the in-filled glazed area, especially at night. He believed the proposal, at a considerable £2.4 million investment, was unlikely to be viable in the long term and that discussions had regarding the involvement of the Balkerne Tower Trust in the running of the museum were unrealistic. He urged the Committee to consider the alternatives and refuse the application.

Mr Robert Pomery, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He recognised that the Jumbo site was of great importance and suggested that English Heritage did not entirely object to the proposal but had advised that the application should only be approved if it was considered to be the only practical solution. He believed that the proposed development was the only viable option, with no other practical alternative being found in the past 30 years. He claimed the development would unlock an unrivalled heritage asset for the town. He also welcomed discussion with the Balkerne Tower Trust in regard to the museum arrangements.

Councillor Quince, attended the meeting and, with the consent of the Chairman, addressed the Committee. He raised the point that 16 applications for the Jumbo site had been refused and the building was now decaying. He sympathised with those that wanted to save the unconverted Jumbo Water Tower but suggested that no viable alternative could be found. He highlighted that no tax payer money would be used for the proposal, which would become a significant heritage asset. He urged the Committee to welcome change and regeneration. He believed that the regeneration of the Jumbo site could put Colchester on the map. He supported the application and believed the proposal would provide enjoyment for the whole town.

Councillor Hayes, Heritage Champion, attended the meeting and, with the consent of the Chairman, addressed the Committee. She referenced the National Planning Policy Framework (NPPF) which stated that any deliberate neglect to this site should be ignored when considering the planning application. The NPPF also laid out a test for the consideration of listed buildings. If the harm done to the building was substantial then the application must be refused unless necessary for public benefit. If the harm was considered less than substantial then the use must be reasonable, there must be no viable alternative use, grant funding must be demonstrably not possible and the public benefit must outweigh the damage done. She claimed that this proposal fulfilled none of these requirements.

Councillor Barlow, attended the meeting and, with the consent of the Chairman, addressed the Committee. He warned the Committee against agreeing the proposal solely because something needed to be done. He advised that the Victorian Society had put Jumbo on the 'At

Risk' register because of this application. He also suggested that the restaurant and museum should be the key to the application rather than added on as an afterthought. He claimed that more detail on these proposals was needed. He suggested that, if approved, in the future conditions and uses could be altered to something entirely different.

It was explained by the Principal Planning Officer that the oak door and railings would be, where possible, retained or replicated. She advised that, although restricted to cultural use, the Planning Policy Team had raised no objections to residential and office use being included in the application. She recognised that the museum report should have been made available earlier. In relation to the opening of the museum element of the proposal, it was indicated that three months was a minimum requirement and that it was hoped the museum would be open for much longer. There would be a requirement for the museum to open even if the other elements of the proposal were to close. The details of the museum space were to be submitted and agreed to by the Council.

It was explained by the Historic Buildings and Areas Officer that if a listed building was not originally designed with windows it was not uncommon for windows to be added when the uses of such buildings were changed. It was the Officer's opinion that the proposal did not cause substantial harm to the building as the alterations were, excluding the removal of the pipes and valves, mainly additive and reversible. None of the alterations would adversely affect the elements which had contributed to the building's Grade II* listed status. The in-filling of the legs was not necessarily harmful, with several buildings of national importance, such as the Albert Hall and British Museum, making similar alterations. She also advised that the public benefit of the proposal greatly outweighed any harm.

It was explained by the Planning Project Manager that English Heritage had verbally indicated at the preliminary enquiry stage that the harm done was less than substantial. It was considered that this was the only viable proposal, which was not reliant on unspecified grants. He suggested that, when considering the views from around the Colchester area, the space between the legs of the tower was more perceived than real, as the central staircase blocked some of these views.

The Committee called attention to several points regarding the application. Questions were raised as to the viability of the proposal. It was also suggested that access to the tower, through the lift and emergency staircase, was insufficient. Several members of the Committee were concerned about the significant light pollution resulting from the glazed in-fill. It was suggested by several members of the Committee that in-filling the legs of the tower was substantial harm and that it was not just the views from a far that should be considered.

It was explained by Officers that the lift would be within a fireproof shaft and was considered satisfactory by the Essex Fire and Rescue Service. It was also clarified that uniform blinds would be fitted to all the windows to prevent light pollution.

The Committee accepted that the Jumbo Water Tower was a national asset and recognised that action needed to be taken to maintain it. The Tower was considered to be part of Colchester's identity with local workmanship throughout many parts of the structure and should not be allowed to continue to decay.

A member for the Committee highlighted that several key changes had been made since the last application. In particular, the tank was to be retained, which, it was suggested, was more important to the heritage of the building than the space between the tower legs.

Concern was raised by several members of the Committee as to the effect of the proposed development on the listing of the building and the current state of disrepair was criticised.

In response to a question on any subsequent appeal, the Planning Project Manager stated that a planning inspector would be expected to consider the extent of any harm done and whether or not this was justified, as well as considering any viable alternatives. He stressed that no viable alternative had been found. He clarified that the listed status of the building could be reviewed at any time, irrespective of this proposal, although there was nothing within the proposal to suggest the listing would be down graded. He also explained that if the application were to be refused it would be possible for the owner to serve a notice on the Council requiring the purchase of the building, although the associated costs of this possibility were unknown.

RESOLVED (NINE voted FOR, ONE voted AGAINST) that –

- (i) The Committee were minded to refuse the applications due to the unacceptable impact incurred on a Heritage Asset in a Conservation Area; and
- (ii) The Delayed Decision Protocol be invoked and the detailed reasons for refusal of the applications be submitted to a future meeting of the Committee for determination.

82. 131512 & 131648 – Seaview Holiday Park, Seaview Avenue, West Mersea

The Committee considered applications for the variation of condition 2 of planning permission COL/95/1190 and condition 3 of planning permission C/COL/05/2073 to allow for a twelve month, year round, holiday use on these elements of Seaview Holiday Park. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. She proposed to the Committee that additional conditions be added to provide approval on a temporary basis, for 18 months, in order for the Council to fully monitor the effects of the proposal. A condition relating to the clear signage of the site was also suggested.

Town Councillor Peter Clements, Mayor of West Mersea, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He suggested it was naive to believe that only holiday use would continue on the site if this proposal was approved. He claimed that the caravan site was already a huge strain on local resources and that services such as the local surgery would buckle if the additional months use were approved. He believed that this was a back door application for cheap, substandard housing.

Councillor Sheane attended the meeting and, with the consent of the Chairman, addressed the Committee. He said that extended occupancy was a real concern, particularly when considering the limited school places. He also claimed that the proposal would be detrimental to tourism, as the caravans would be used for residential purposes instead. He believed the proposal would change the very nature of the caravan site to residential. He suggested several additional conditions to the proposal such as having an up to date register and providing council tax documentation for primary residences.

Councillor Sutton attended the meeting and, with the consent of the Chairman, addressed the Committee. He supported the comments made by Councillor Sheane and added that conditions mitigating the potential detrimental effects of the proposal were important. He asked the Committee to consider refusal or, if they were minded to approve, to adopt robust conditions.

It was explained by the Principal Planning Officer that although this was the first application of

its kind within Colchester, elsewhere permission had been granted for such proposals. She suggested that the temporary nature of the refusal would allow the Council to review the situation. Regarding concerns raised about the ability of the infrastructure to cope with the extra two months use, it was advised that the Highways Authority had not objected. If children from the caravan site were attending school, this would indicate use as a residential dwelling and would be contrary to the permission.

The Committee recognised that this was a difficult issue to monitor and would concern the local residents. It was suggested that a proactive approach be taken to monitoring the situation during the trial period. An amendment to conditions, to ensure that users of the caravan site would not be permitted to travel to school or work from the site, was suggested. The additional conditions regarding Council Tax information, temporary permission and additional signage were approved of. It was suggested that local Councillors should be involved in the monitoring of the site, in order to achieve a great amount of community involvement.

The Principal Planning Officer explained that proactive monitoring would take place and that the owners of the site were paying business rates, although it was unclear whether these rates would increase as a result of extended use.

RESOLVED (UNANIMOUSLY) that –

- (i) In respect of application no 131512, subject to no objections being raised by the Emergency Planning Officer, authority be delegated to the Head of Commercial Services to grant planning permission, subject to the conditions set out in the report and amendment sheet and:
- An additional condition for 18 month temporary permission;
 - An additional condition providing for signage to indicate holiday use only;
 - An additional condition that Borough / Parish Councillors be involved in site monitoring; and
 - Condition 3 to be reworded to ensure occupants of the caravans/chalets cannot go to work or attend school from the site.
- (ii) In respect of application no 131648 authority be delegated to the Head of Commercial Services to grant planning permission, subject to the conditions set out in the report and amendment sheet and:
- An additional condition for 18 month temporary permission;
 - An additional condition providing for signage to indicate holiday use only;
 - An additional condition that Borough / Parish Councillors be involved in site monitoring; and
 - Condition 3 to be reworded to ensure occupants of the caravans/chalets cannot go to work or attend school from the site.

83. 131667 – Elmcroft Bungalow, Fen Lane, East Mersea

The Committee considered an application to extend the occupancy period of Cosways

Caravan Park from 1 March – 31 December to 1 March – 31 January. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. Conditions to ensure an 18 month trial period of the proposal and additional signage were suggested.

Mr Ian Butter addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He advised that the extension of months of use for caravan sites was a national trend. He also suggested that allowing residential use of the site would not be in the owner's interest as it raised planning, licensing and contractual issues. He believed the 18 month trial would be beneficial to determine the use of the site. He also clarified that business rates were paid by the owners of the site and that the caravan users were contributing to this through the paying of fees.

Councillor Sutton attended the meeting and, with the consent of the Chairman, addressed the Committee. He clarified that this was, practically, an application for 11 months use. He believed temporary permission was a good idea and suggested that involvement of local Councillors be incorporated into this application as well.

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

- An additional condition for 18 month temporary permission;
- An additional condition providing for signage to indicate holiday use only;
- An additional condition that Borough / Parish Councillors be involved in site monitoring; and
- Condition 4 to be reworded to ensure occupants of the caravans / chalets cannot go to work or attend school from the site.

84. 131622 – 112 Bromley Road, Colchester

The Committee considered an application for a first floor extension over the garage of 112 Bromley Road and a ground and first floor extension to the gable end of the rear elevation. The Committee had before it a report in which all the information was set out.

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposal for the site.

Ms Nadine Calder, Planning officer, presented the report and assisted the Committee in its deliberations. She explained that all three of the skylights fronting 8 Chaffinch Gardens were to be glazed.

Mrs Swaine addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that she had an amicable relationship with her neighbours and had consulted them on the proposals at several stages, resulting in the proposals before the Committee tonight being half the size of the original submission. She stated that the proposal would not have any detrimental effect regarding loss of light. The windows facing 8 Chaffinch Gardens would be obscure glazed and the street scene would not be significantly affected. She spoke of her reluctance to uproot her family from their home and believed that extending for the future was a necessity.

Councillor Hogg attended the meeting and, with the consent of the Chairman, addressed the Committee. He informed the Committee that he was representing the views of the residents at 8 Chaffinch Gardens, directly adjacent to the application site. The proposal would mean that the view from the dining room and master bedroom of this property would be of brickwork and roof tiles, which was not welcome. He suggested that this would have a fundamentally detrimental impact on the life of the residents of 8 Chaffinch Gardens and, as such, considered the design of the proposal to be detrimental. He considered that the residents visual amenity would be impacted and their decision to object to the application was understandable.

Several members of the Committee expressed their appreciation of the objector's situation and the work done by the applicant to take mitigating action. It was requested that conditions be put in place to ensure that the rooflights were obscure glazed, non-opening and of sufficient height. It was considered that no light would be lost and, although the proposal was significant, it would not be overbearing in terms of planning policy. It was noted that the wall of the extension would be broken up by painted render.

Concerns were raised by several members of the Committee that the skylights would be directly facing two main rooms in the objector's property and would alter the atmosphere and perceived privacy of these rooms. It was suggested that the proposal could be refused on the ground of design, bulk, mass and appearance as well as loss of amenity.

It was explained by the Planning Officer that the 45 degree rule had been applied to the proposal and, in accordance with Council policy, the development was not considered to be overbearing.

RESOLVED (FOUR voted FOR, FOUR voted AGAINST, TWO ABSTAINED from voting and the Chairman having exercised her casting vote FOR) that the application be approved, subject to the conditions and informatives set out in the report with an additional condition to ensure that rooflights in the southern elevation facing Chaffinch Gardens are obscure glazed, non-opening and of sufficient height.

PLANNING COMMITTEE

14 November 2013

Present:- Councillor T. Higgins (Chairman)

Councillors Chillingworth, Chuah, Lewis, Liddy,
MacLean, Manning and L. Sykes.

Substitute Members:- Councillor Lilley for Councillor Ford and
Gerard Oxford for Councillor Philip Oxford

(*Committee members who attended the formal site visit.)

85. Minutes

The Minutes of the meeting held on 17 October 2013 were confirmed as a correct record.

86. 131952 – Garage Site, Holborough Close, Colchester

Councillor Lilley (in respect of his position as a Colchester Borough Homes board member) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of 21 existing garages in Holborough Close and the construction of three 2 bedroom, 2 storey houses with associated parking, displacement parking spaces, external works, drainage and landscaping. The Committee had before it a report in which all the information was set out.

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

87. 131927 – Garage Block, Windsor Close, Colchester

Councillor Lilley (in respect of his position as a Colchester Borough Homes board member) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of 40 existing garages in Windsor Close and the construction of eight 2 bedroom, 2 storey houses with associated parking, displacement parking spaces, external works, drainage and landscaping. The Committee had before it a report in which all the information was set out.

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

88. 131931 – 14 Boadicea Way, Colchester

The Committee considered an application for a single storey rear extension of 14 Boadicea Way with front and rear disabled ramps. The Committee had before it a report in which all the information was set out.

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

89. 131957 – Garage Site 1, Monkwick Avenue, Colchester

Councillor Lilley (in respect of his position as a Colchester Borough Homes board member) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of 43 existing garages at Site 1 on Monkwick Avenue and the construction of six 3 bedroom, 2 storey houses and eight 2 bedroom, 2 storey flats with associated parking, displacement parking spaces, external works, drainage and landscaping. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr Andrew Tyrrell, Planning Manager, and Mr Lee Smith-Evans, Urban Designer, presented the report and assisted the Committee in its deliberations.

Mr James Catley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He suggested that the proposed buildings looked nothing at all like the existing dwellings in the area and were out of character. He raised concerns about potential security problems resulting from the scheme and the inclusion of enclosed, unlit footpaths. He suggested that the two storey flats, with the upper floors in continuous occupation, would result in overlooking and loss of privacy. He also questioned whether there would be wheelchair access from the site to the local woodlands.

Councillor Harris attended the meeting and, with the consent of the Chairman, addressed the Committee. He praised the work done by Officers on this project and the community involvement. He said the fact that alternatives had been provided for individuals currently making use of the garages was very positive. He drew attention to the footpath issue and suggested that access to the nearby woodlands needed to be secured and open to all users.

Councillor Bourne attended the meeting and, with the consent of the Chairman, addressed the Committee. She explained that it had been 23 years since Colchester Borough Council had built housing and 31 years since the build before that. As such, she identified the group of applications before the Committee tonight as historic, with Colchester Borough Council acting as landlord and Colchester Borough Homes managing the scheme. She suggested that these schemes had been designed to a high specification with an over provision of parking and to a Code 4 sustainable homes level. A high amount of consultation had been carried out before the application stage in order to put forward the best scheme possible and address any points of concern, such as the footpath to the woodlands.

It was explained by the Planning Manager that the design of the properties was a deliberate attempt by Colchester Borough Council to keep the traditional characteristics of Local Authority housing but to update the design for the 21st century. Privacy had been a key consideration within the design and all relevant distances and angles complied with policy. He explained that the footpath had been designed to direct pedestrians away from the private,

sheltered areas and into public areas that were under surveillance. He clarified that when the details of the landscaping were finalised, hard standing for the footpath could be included.

The Committee was pleased to see the high specification proposed for the developments and the over provision of parking was welcomed, as it was important to ensure the first Council built properties for several decades were of a high standard. The importance of providing affordable housing was emphasised. The Committee was also pleased to note the level of community involvement and consultation carried out in relation to the proposals.

The Planning Manager clarified there had been discussions with Councillor Harris regarding the Public Art Space, which would be lost when the garages were demolished, and it was intended that a similar scheme would be set up in its stead. It was further clarified that several physical restrictions, such as the placement of the nearby electricity pylons and cables, limited the possible layout of the proposals.

In response to questions raised about the efficiency and environmentally friendly nature of the proposals the Urban Designer clarified that, as the development was of such a high specification, the dwellings would be very efficient. He suggested that it was impractical to include all the available efficiency making schemes within the proposals due to financial and logistical restrictions.

A member of the Committee questioned whether the education facilities had been considered and if provision to encourage the elderly to downsize had been included in the applications at any stage. The Planning Manager explained that Essex County Council had been consulted in relation to education facilities and no objections had been raised. Although schools may have limited spaces, the small number of houses proposed in each application would not make any significant difference. He clarified that the Strategic Housing Team were investigating schemes to encourage the elderly to downsize, however the affordable housing need was so great that these proposal could not be limited in such a manner.

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

90. 131956 – Garage Site 2, Monkwick Avenue, Colchester

Councillor Lilley (in respect of his position as a Colchester Borough Homes board member) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of 39 existing garages at Site 2 on Monkwick and the construction of four 3 bedroom, 2 storey houses with associated parking, displacement parking spaces, external works, drainage and landscaping. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

Mr Chris Parkin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He spoke on behalf of all the residences that currently shared a boundary wall with the garages. He stated that the current wall was attractive and in keeping with the area, whereas a replacement fence of a lesser height would not offer sufficient protection to their properties. He claimed seclusion and security would be lost, along with the acoustic barrier currently enjoyed. He suggested that a fence with horizontal panelling would aid criminal activity. He also suggested that a fence would decay

quickly, with a much shorter life span than a brick wall. He drew attention to the lean-tos currently relying on the garage walls, for which no provisions had been made.

Mr Scott Barlow of Ingleton Wood Building Consultancy addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He detailed the parking survey that had been carried out by Ingleton Wood regarding displacement parking. Taking into account those garages not in use, those used for storage and those with owners outside of the area it was determined that only five parking spaces needed to be displaced. The scheme provided 11 car parking spaces. As such six spaces would be available for those cars which currently parked on the road during the school rush. The road would be busy regardless of the development but, it was claimed, that this scheme would improve the situation.

Councillor Harris attended the meeting and, with the consent of the Chairman, addressed the Committee. He highlighted the great need in Colchester for affordable housing and the importance of the schemes before the Committee tonight. He suggested that parking would always be a problem in the area but that the spaces provided would help move some cars off the road. He suggested that a fence replacement at the boundary of the site would decay and the Committee should consider the ongoing maintenance cost of this in relation to a one off payment for a wall, which would uphold the status quo.

Councillor Bourne attended the meeting and, with the consent of the Chairman, addressed the Committee. She explained that where private landlords would charge rent at 100% of the market rate and housing associations would charge rent at 80% of the market rate, Colchester Borough Council would only charge rent at 60% of the market rate, making these schemes truly affordable. She stated that a long process of consultation had been carried out before any applications were submitted, with objections being addressed and plans re-drawn. She suggested that, whilst she appreciated the benefits the wall provided the residents, the fence provided would be robust and would cost approximately £14,000 less than a new wall.

It was explained by the Planning Manager that a fence taller than 1.7 metres would be more desirable, although no acoustic barrier was considered necessary. He stated that under the landscaping condition, the detail of whether a fence or wall was provided would be decided in due course. He clarified that the current garage wall was within Council owned land and was under the Council's control. If local residents wanted to erect their own wall, they could do so.

The Committee requested that any replacement fencing be erected immediately after the garages were demolished.

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

91. 131929 – Garage Block, Rosabelle Avenue, Colchester

Councillor Lilley (in respect of his position as a Colchester Borough Homes board member) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of 40 existing garages in Rosabelle Avenue and the construction of five 3 bedroom, 2 storey houses with associated parking, displacement parking spaces, external works, drainage and landscaping. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

Mr Shaun Boughton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He claimed that the objections of 97 residents had been ignored. He suggested that Wivenhoe was more deprived than Greenstead. He believed that the privacy of existing properties would be diminished and that the parking problems in the area had been underplayed. He claimed that the proposed dwellings were not in keeping with the locality, with bungalows adjacent to the development site. He suggested that a sustainable development should be proposed, such as retirement housing, which would be more appropriate. He requested that the Committee defer the application in order for further investigation to be carried out.

Mr Scott Barlow of Ingleton Wood Building Consultancy addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He suggested that, after factoring in empty garages, those used for storage, owners out of the area and owners with their own parking, the amount of cars to be displaced could be as little as two. He stated that the parking stresses of the area never exceeded 80% and that displaced cars could be safely accommodated within the existing provisions.

Councillor Cory attended the meeting and, with the consent of the Chairman, addressed the Committee. He believed that many of the similar schemes presented to the Committee tonight were laudable. However he suggested that this particular site should be considered separately. He claimed that Wivenhoe was different in nature to other areas and a bungalow complex for the elderly would be more suitable. He requested that the application be deferred in order to consider all of the options for the site. He also suggested that the parking situation in the area was worse than outlined in the report and the development would have a detrimental impact. He believed that extra parking could be provided for this application, as with the previous applications.

Councillor Bourne attended the meeting and, with the consent of the Chairman, addressed the Committee. She suggested that the proposal was in keeping with the locality. She clarified that although Wivenhoe was more deprived than Greenstead in relation to fuel use, in all other areas it was better off. As such, she suggested, Wivenhoe needed these homes, which would be finished to a high standard and very efficient. She suggested that affordable homes in this area would be desirable and that the area itself was made up of a significant amount of ex-Local Authority housing.

It was explained by the Planning Manager that the displacement parking provisions were considered sufficient and that the Highways Authority had raised no objections to the proposal. The local school and doctor's surgery had both stated that they would be able to cope with the demands created from five more dwellings.

The Committee suggested that most of the objections made had been remedied prior to the application being submitted. It was claimed that the strongest objection, that of housing for the elderly being more appropriate, was not part of the application in front of the Committee and, as such, could not be considered. Some members of the Committee expressed their deep concern about the 4,000 strong waiting list for affordable housing noted that this scheme identified as part of a rolling programme to address this issue.

A member of the Committee expressed disappointment at some of the representations received, relating to the 'fear of crime' affordable housing would attract and advised that representations be limited to objections on planning grounds.

A member of the Committee queried the ownership of the hedge and considered the view of

the development from the adjacent property's window to constitute a demonstrably negative impact on their amenity. In response the Planning Manager stated that the existence or not of a hedge would not change the recommendation and that he believed the impact on neighbouring amenity would be minimal.

RESOLVED (NINE voted FOR and ONE ABSTAINED from voting) that the application be approved, subject to the conditions set out in the report.

92. Delayed Decision Protocol Report – 131020 & 131023 Jumbo Water Tower, Balkerne Passage, Colchester

The Committee considered the report of the Head of Commercial Services. It was resolved at the Committee meeting on 31 October 2013 that the Committee were minded to refuse planning applications 131020 and 131023 for the Jumbo Water Tower, contrary to the Officer recommendations and to defer the applications under the Delayed Decision Protocol. The report responded to this decision and set out detailed reasons for refusal.

Mr Simon Cairns, Planning Project Manager, presented the report and assisted the Committee in its deliberations.

RESOLVED (FIVE voted FOR, FOUR voted AGAINST and ONE ABSTAINED from voting) that applications 131020 and 131023 be refused, for the reasons set out in the report.



Application No: 131977

Location: The Gilbert School, Brinkley Lane, Colchester, CO4 9PU

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **12 December 2013**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Lucy Mondon Due Date: 09/01/2014

MAJOR

Site: Gilberd School, Brinkley Lane, Colchester, CO4 9PU

Application No: 131977

Date Received: 10 October 2013

Agent: Ingleton Wood

Applicant: The Gilberd School

Development: Proposed new Sports Hall and ancillary accommodation including changing and storage.

Ward: Highwoods

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it constitutes a major application on which material planning objections have been received in the stipulated time span and the officer recommendation is to approve.

2.0 Synopsis

2.1 The proposal is for the erection of a sports hall to serve the Gilberd School. The proposal is part of a larger master plan for the site which includes the provision of additional outdoor sport courts (already approved under 131098) and classroom extensions to provide accommodation for 150 additional students by 2020 (current application 132168).

- 2.2 The key issues explored below are: design and impact on the character of the area; impact on open space and sports facilities; impact on residential amenity; biodiversity; flood risk; and parking and highway safety.
- 2.3 The report provides an assessment of the main planning considerations, as well as the representations received as part of the public consultation, leading to the conclusion that the proposal is acceptable and a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The application site is an existing area of playing field serving the Gilbert School. The school buildings are located to the south-east corner of the site and are accessed from a roundabout between Brinkley Grove Road and Brinkley Lane. To the rear of the school buildings, towards the centre of the site, are a number of hard courts. The proposed sports hall would be sited over one of these hard courts. In anticipation of the loss of one of the hard court facilities, a planning application (ref: 131098) was made for a four-court multi-use-games area (MUGA), as well as an extension to the existing hard courts to the southern side of the site. Preparation works for these courts has begun and precise details of the courts are currently out to consultation with Sport England for comment in respect of the conditions of the permission. The existing sports facilities at the school are also available to members of the public in the evening as part of Leisure World Highwoods.
- 3.2 To the northern boundary of the site is a security fence separating the site from the residential properties beyond. There are also a number of oak trees, two of which are proposed to be removed due to poor health and future condition. The southern boundary of the site, along Brinkley Grove Road has a planted hedge.
- 3.3 The site is within the settlement boundary of Colchester and is identified as Predominantly Residential and an area of Private Open Space in the LDF.

4.0 Description of the Proposal

- 4.1 The proposal is for a sports hall to be used in connection with The Gilbert School. The proposal is part of a larger master plan for the site which includes the provision of additional outdoor sport courts (already approved under 131098) and classroom extensions to provide accommodation for the 150 additional students allocated to the school by Essex County Council by 2020 (current application 132168).
- 4.2 The sports hall would provide indoor sports facilities for existing pupils as well as for the additional 150 pupils expected by 2020. The Design and Access Statement explains that the new sports hall will resolve health and safety hazards experienced with the current sports hall which is also used as a dining hall and will avoid loss of lesson time from changing the use of the hall around lunch and break times. The sports hall would not be made available to members of the public as part of the dual school/Leisure World use of the existing facilities.

- 4.3 The sports hall would be located towards the northern side of the site and would be placed on an existing hard court. It would be 10 metres high and would measure approximately 47 metres by 18.5 metres in footprint. Materials would be a mixture of brick and render with a panelled parapet. Solar panels would be installed on the south-facing roof slope behind the parapet. The hall would provide an indoor multi-use games area (MUGA), classroom, office, toilet and storage at ground-floor and changing rooms and toilets at first-floor. The applicant states that the building will be Disability Discrimination Act (DDA) compliant.
- 4.4 The planning application also details the school's intention to remove two oak trees at the northern side of the site. The removal of the trees is not as a result of the current proposal: one of the trees is in poor condition due to fungal growth and needs to be removed. Although only one of the trees requires removal, the second tree will also need to be removed because the growth and form of the joint canopy of the two trees is such that it would not allow the second tree to be safely retained following the removal of the diseased tree. The school intends to compensate for the loss of these two trees by planting two new trees in memory of a student and member of staff.
- 4.5 The application is accompanied by the following documents:
- Planning Statement
 - Design and Access Statement
 - BREEAM Pre-Assessment Report
 - Ecological Appraisal
 - Arboricultural Impact Assessment
 - Transport Assessment

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Relevant Planning History

- 6.1 There have been a number of extensions and additions to the school over the years, the most recent planning history is as follows:

120450 - Two storey extension to provide additional administration facilities and a new student reception as part of the schools safeguarding improvements. Approved

120623 - Two-storey extension to provide additional class bases along with a dedicated dance studio and ancillary accommodation. Approved

131098 - Proposed new 4 court Multi-use Games Area (MUGA) and extension to existing hard courts. Approved

A planning application has recently been submitted for extensions to the school to provide additional classrooms (ref: 132168). This application is currently out to consultation and is being assessed.

7.0 Principal Policies

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

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

UR2 - Built Design and Character
ER1 – Energy, Resource, Waste, Water and Recycling

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

DP1 Design and Amenity
DP15 Retention of Open Space and Indoor Sports Facilities
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

Vehicle Parking Standards
Sustainable Construction
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

8.1 Sport England: No objection subject to the implementation of the scheme to deliver replacement hard court provision (approved under planning permission 131098) prior to any loss arising from the sports hall scheme (this can be conditioned). Sport England has concerns that the proposal is for a stand alone facility that is not integrated with other facilities within the site and that current guidance for hall size, storage provision, and changing room location are not being followed. However, these concerns do not constitute a statutory objection.

8.2 Urban Design: No objections, but suggestions that the lettering on the residential side of the building is removed and that the entrance is made more visible.

8.3 Highway Authority: As the proposal will not result in an increase in student/staff numbers the Highway Authority does not wish to submit a formal recommendation.

- 8.4 Environmental Protection: Recommended conditions for hours of use, details of external lighting, and site boundary noise levels.
- 8.5 Landscape Officer: Satisfied with the landscape content of the proposals provided that the School's boundary hedge to Brinkley Grove Road is strengthened by gapping it up with native hedging in weak areas under the established hedgerow trees and either side of the gate to strengthen the existing landscape framework, reinforce the landscape character of Brinkley Grove Road, and help filter screen the development. Recommended condition for shrub planting.
- 8.6 Arboricultural Officer: The tree report is satisfactory; recommended conditions for tree protection and monitoring.

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

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 Four letters of objection have been received, the contents of which are summarised below:

- There is noise and light pollution from the existing courts into late evening (10pm and later). The proposal will bring the sports hall and courts closer to residential properties and will generate increased light and noise pollution;
- Traffic congestion, pollution, and noise;
- Lack of local infrastructure;
- Construction noise;
- Negative impact on quality of life and house value;
- Higher number of people will use car park;
- Security issues: people could come over fence onto property;
- Impact on foxes and hedgehogs and so on.

10.2 The objections also included the misconception that works had already started in connection with the sports hall, and that the sports hall would accommodate 1500 additional pupils. This is not the case: works on site are in connection with planning permission for hard courts at the southern end of the site (ref: 131098), and the sports hall would be to accommodate existing pupils as well as the anticipated 150 (not 1500) additional pupils by 2020.

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

11.0 Parking Provision

11.1 The proposal does not include the provision of additional parking on the site. However, as the sports hall would be for school use only, it would not generate additional parking need.

12.0 Open Space Provisions

- 12.1 The site is identified as an area of private open space in the LDF. Please see the main body of the report for an assessment of the impact of the proposal upon open space and sports facilities.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. Due to the nature and scale of the proposal, it was determined that no S106 contributions were required.

15.0 Report

- 15.1 The key issues explored below are: design and impact on the character of the area; impact on open space and sports facilities; impact on residential amenity; biodiversity; flood risk; and parking and highway safety.

Design and Impact on the character of the area

- 15.2 The proposed sports hall is of a modern design that accords with the height and proportions of the existing buildings within the school site. The sports hall would not be sited within the main complex of existing buildings, due to space restrictions, but would be sited in close proximity to the existing school buildings.
- 15.3 As the sports hall would be within an enclosed school site, where visibility from outside the site is limited, it is unlikely that the proposal would have a significant impact on the character of the surrounding area. However, it is recommended that the school’s boundary hedge along Brinkley Grove Road is strengthened by gapping it up with native hedging in weak areas under the established hedgerow trees and either side of the existing gate. This would both strengthen the existing landscape framework, reinforcing the landscape character of Brinkley Grove Road, and help to filter screen the development, especially in the winter months when leaf coverage is sparse.
- 15.4 The proposed sports hall is large in order to accommodate the sports use, but has not been designed in a purely functional way. The mass of the building is broken up with the use of articulated brick and render, as well as the panelled parapet, and the fascia lettering and glazed entrance provides some presence to the building. The Urban Design Officer has questioned the need for the lettering on the rear of the building and, whilst this lettering does appear to be superfluous, its presence is not considered to justify a refusal of planning permission. There is, however, a concern with the illumination of this lettering. The Design and Access Statement states that the fascia lettering would be backlit at night and this is not considered to be appropriate as the lighting is likely to cause unnecessary disturbance to neighbouring properties. It is considered necessary to condition that any the north (rear) elevation fascia lettering is non-illuminated and that the details of any other lighting is submitted and approved

prior to being installed. It is also considered necessary to condition that the lighting is switched off when the building is not in use.

- 15.5 A BREEAM pre-assessment report has been submitted as part of the application which concludes that the building is likely to reach BREEAM 'very good' standards. This is supported by Core Strategy Policy ER1, which encourages non-residential developments to achieve a minimum BREEAM rating of 'very good' in order to help to reduce energy demand, waste and the use of natural resources in the use of sustainable construction techniques. Similarly, the use of solar panels on the building is also supported in the reduction of carbon emissions through the use of renewable energy.

Impact on open space and existing sports facilities

- 15.6 The proposal would result in the loss of an existing hard court and a proportionately small part (457 sq m) of the existing playing field. In order to compensate for the loss of an existing sports facility, the school is currently in the process of constructing a new hard court, as well as four new MUGA courts to the southern side of the site in accordance with planning permission 131098. Sport England have commented as part of this application that, provided that the additional outdoor courts are constructed and made available prior to the construction of the sports hall, they would not have any statutory objection to the proposal. A condition can ensure that the compensatory works are carried out prior to any construction for the sports hall taking place.
- 15.7 Sport England has set out its concerns that the sports hall facility is not in accordance with current Sport England guidance. However, this is not a statutory objection on its part and, as the sports hall will be for school use only and has been designed in order to meet the requirements of the school, it is not considered reasonable to refuse planning permission on this basis. It is recommended that the applicant is advised of Sport England requirements, and given information of where further information can be sought, via an informative to the decision notice.
- 15.8 The sports hall would be for school use only and would not, therefore, be part of the joint use agreement with Colchester Borough Council Leisure World. There is no requirement for the new sports hall to be part of Leisure World Highwoods and, provided the school does not hire the hall out to the public, in competition with the existing community facilities, there should not be a conflict with the joint use agreement.

Impact on residential amenity

- 15.9 The proposal would be approximately 30 metres away from residential properties to the north of the site, being opposite the side boundaries of No. 50 Gratian Close and No. 31 Purvis Way. Due to the distance from the neighbouring boundaries, there would not be any harmful impact in terms of loss of light to these properties: there would be a clear 25 degree vertical angle from two metres above ground level at the boundary. Loss of sunlight and overshadowing would also be minimal due to the distance of the building from the boundary: the sports hall would be to the south of the residential properties, but this would only obstruct sunlight when the sun is very low in the sky during the winter months.

- 15.10 The sports hall may be visible from neighbouring gardens, but is not considered to be overly dominant or visually oppressive due to its distance from the boundary and the intervening trees.
- 15.11 The proposal does not include any windows at first floor level that would overlook neighbouring properties. There is a fire escape staircase to the rear of the building, but this would only be used in an emergency (a condition can be applied to secure this) and would not result in harmful levels of overlooking to neighbouring properties, especially as views would be obscured by the trees on the northern boundary.
- 15.12 Objections have been received concerning the noise that would be generated as a result of the sports hall. It is understood that, due to the community use of the site, there can be noise from sports being played on the outdoor courts/pitches late into the evening. In contrast, the proposed sports hall would provide indoor sports facilities, so noise levels would be at a minimum as activities would be indoors. The sports hall would only be used during the school day so there would not be any associated activity in the evenings and any noise generated by pupils entering and leaving the sports hall would not be any greater than that currently generated by student use of the outdoor facilities. Further, the sports hall would sit between the residential properties and the remaining outdoor courts so would serve as a sound barrier to the outdoor activities taking place. Therefore, the proposal is not considered to result in the generation of noise that would be harmful to residential amenity. As a preventative measure, Environmental Protection has recommended conditions to restrict noise levels.
- 15.13 One objection has been received that comments on the possibility that people may climb over the boundary fence into residential gardens. There is nothing to suggest that the proposal for a school sports hall on an existing school site would result in this happening. In any case, there is a security fence along the northern boundary of the site that would prevent access to neighbouring properties.

Biodiversity and trees

- 15.14 The National Planning Policy Framework (NPPF) places clear responsibility on Local Planning Authorities to aim to conserve and enhance biodiversity and to encourage biodiversity in and around developments. Similarly, Core Strategy Policy ENV1 states that the Borough Council will safeguard the Borough's biodiversity through the protection and enhancement of sites of international, national, regional and local importance.
- 15.15 The Gilbert School site is not a nationally or locally designated site (i.e a nature reserve or local wildlife site) and the Ecological Appraisal submitted with the application identifies the site as having a very low ecological value, being maintained sports pitches and areas of hardstanding. The Ecological Appraisal identifies suitable habitat for breeding birds along the northern and southern boundaries and bat foraging along the southern boundary of the site, both of which are protected species. There are records of badgers, hedgehogs, harvest mice, and water voles near the site but no particular potential for suitable habitat within it, although a local resident has commented that foxes and hedgehogs have been seen on site. The proposal would not have a direct impact on the boundaries of the site where there is suitable ecological habitat for protected species and other wildlife so there is no concern for loss of habitat. However, there may be indirect impacts that arise from the construction

period. In this case, it is considered appropriate to set out the developer's responsibilities with regard to protected species to ensure that areas of habitat are protected during construction.

- 15.16 Both the NPPF and the Council's Core Strategy seek to enhance biodiversity and it is therefore encouraging that the Ecological Appraisal also includes recommendations for ecological enhancement within the site. In order to meet the expectations of ecological enhancement as set out in national and local planning policy, it is recommended that the recommendations of the Ecological Appraisal are conditioned.
- 15.17 The proposal has been assessed in terms of its impact upon the nearby oak trees on the northern boundary of the site. The Arboricultural Impact Assessment (AIA) submitted concludes that the proposal would not have a harmful impact on the trees, either in terms of protection during construction or in terms of long-term health. The Council's Arboricultural Officer agrees with the findings and conclusions of the AIA but does recommend that tree protection and on-going tree monitoring is conditioned. Although not strictly related to the proposal, there is no objection to the removal of two of the oak trees due to their poor condition.

Flood risk

- 15.18 The application site is located within Flood Zone 1 and the application has been assessed in line with the NPPF and Environment Agency Standing Advice. As a Flood Zone 1, the site is unlikely to be susceptible to flooding and the main issue to consider is the effect of the development upon surface water flooding. The majority of the sports hall would be sited on an existing hard court so the increase in hard surface area on the existing sports field would be the 457 sq m. It is not considered likely that the increase in hard surface area would result in a significant increase in surface water run off that would contribute to flooding, especially as the surrounding sports field would allow for natural surface water drainage. The proposal is not, therefore, considered to be a flood risk.

Highway safety

- 15.19 The proposal is for a sports hall to serve an existing school and would not, therefore, generate additional traffic that would require additional parking facilities or lead to congestion issues. A Transport Assessment has been submitted with the application, but this is not strictly relevant to this proposal as it focuses on the anticipated 150 additional pupils that would be accommodated for by an extension to the school that is the subject of a separate planning application (ref: 132168). The proposal is not, therefore, considered to cause any issues in terms of parking or congestion and the Highway Authority does not have any objections to the proposal in terms of traffic safety.

Other

- 15.20 Objections have been received regarding noise disturbance during construction and the impact upon house value. In terms of construction noise, the construction phase of a development is a relatively brief period and it is not considered to be reasonable to refuse a planning application on that basis. The developer is advised to refer to Advisory Notes for the Control of Pollution during Construction and Demolition Works in order to avoid issues of pollution during construction works.

15.21 The impact of a development upon house value is not a material planning consideration and cannot be taken into account.

16.0 Conclusion

16.1 The proposal, for the erection of a sports hall, is considered to be acceptable and in accordance with national and local planning policy subject to conditions that seek to ensure that community sports facilities are provided, suitable ecological protection and enhancement is undertaken, and that the proposal does not have a negative impact on neighbouring and visual amenity.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 001 Revision C, 100, and 200, received on 15th October 2013.

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

3 - Non-Standard Condition/Reason

No development shall commence until replacement hard court provision has been provided and made available for use in accordance with planning permission 131098.

Reason: In order to compensate for the loss of community sports facilities in the siting of the sports hall on existing outdoor hard courts.

4 - Non-Standard Condition/Reason

The sports hall hereby permitted shall not be used outside of the following times:

Weekdays: 8.00 – 17.00

Saturdays: Not at all.

Sundays and Public Holidays: Not at all.

Reason: As this is the basis on which the application has been submitted to, considered and approved by the Local Planning Authority having had regard to the amenity of the area and/or nearby residents and a proposal for hours of use outside of these times would need further consideration at such a time as it were proposed.

5 - Non-Standard Condition/Reason

Notwithstanding the submitted details, no external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details. Any approved external lighting shall be turned off when the building is not in use.

Reason: To reduce the risks of any undesirable effects of light pollution

6 - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

7 - Tree or Shrub Planting

No works shall take place until details of tree and/or shrub planting and an implementation timetable has been submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

8 - Tree and Hedgerow Protection: General

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

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

9 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the recommendations set out in the Landscape Planning Ltd Preliminary Ecological Appraisal, dated April 2013, unless the Local Planning Authority agrees in writing to a variation.

Reason: In order to prevent disturbance to protected species and to enhanced bird and bat habitat.

10 – Non Standard Condition

The sports hall hereby permitted shall be used in connection with the Gilbert School only.

Reason: As this is the basis on which the application has been submitted to, considered and approved by the Local Planning Authority having had regard to the context of the surrounding area. Any change to this use would need further consideration at such a time as it were to be proposed.

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

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

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

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

(4) Non Standard Informative – Protected Species

For the avoidance of doubt and in accordance with the provisions of the Natural Environment and Rural Communities Act, 2006 and the provisions of Conservation of Habitats and Species Regulations, 2010 in relation to protected species, the Applicant is advised that the northern boundary of the site is a potential habitat for bats and nesting birds. Although the development will not directly affect these habitats, the Applicant is advised of the following:

All bat species and their roosts are fully protected by legislation (Wildlife and Countryside Act 1981 and The Conservation (Natural Habitats & c.) Regulations 1994). The combined legislation makes it illegal to deliberately kill, injure or capture (take) bats, deliberately or recklessly disturb bats (whether in a roost or not) or damage, destroy or obstruct access to bat roosts.

Nesting birds are protected under the Wildlife and Countryside Act (1981) (as amended), which gives protection to all wild birds and makes it an offence (subject to certain exceptions) to intentionally kill, injure or take any wild bird; take, damage or destroy the nest of any wild bird, whilst it is in use or being built; or take or destroy the egg of any wild bird.

Further advice can be sought from Essex Wildlife Trust or Natural England.

(5) Non-Standard Informative – Sport England

The Applicant is advised of the following comments that have been received from Sports England which may influence amendments to the design of the sports hall. If amendments are proposed, these are likely to require planning permission and the Applicant is advised to contact the Local Planning Authority.

- The hall size does not appear to meet current Sport England Guidance for a community sports hall although it would seem to meet earlier guidance setting out a requirement for 33 metres x 18 metres (equating to 601 square metres). The current guidance, which specifies dimensions of 34.5 metres x 20 metres x 7.5 metres allows for safe margins for indoor netball for community and school activity (netball is known to be an important community sport at this site), two training volleyball courts instead of just one, safe margins for spectators/trainers behind courts and more flexible layouts for multi activities.
- In terms of access, Sport England advocates two entry points to any sports hall space, which should be provided within one of the longer sides of the hall. This enables the hall to be split into a three and one, and two and two format with entry points directly into those spaces, thereby avoiding teaching/coaching sessions from continuous disruption by students/participants conducting other activities. Doors should also be flush and open outwards.
- The proposed storage provision of 52 square metres does not comply with current Sport England Guidance, as 12.5% of the total floor space of the hall should be included as storage space. For a Sport England compliant 34.5 metre x 20 metre hall this would equate to just over 86 square metres of storage, and for the 601 square metre hall proposed, just over 75 square metres. The potential implication of this is that equipment may need to be stored in the activity area which should clearly be avoided. Further guidance on the need for this amount of storage space can be found via the link provided above.

- A clearance height of a minimum of 7.5 metres should be provided across the full extent of the sports hall, with no intrusion from plant or other fixtures. Clarification is requested that this is to be achieved.
- Sport England Guidance advocates that changing accommodation is provided at the same level as the activity space. Clarification is also requested in terms of whether the changing facilities are proposed to be used additionally in connection with outdoors sports activity, as there is concern that this could result in mud contamination of indoor activity space. There are several detailed concerns in relation to access to changing accommodation (including inferior access for disabled persons, and direct site lines into changing area when both doors are open). The provision of cubicle showers is welcomed, but the numbers proposed fall below that recommended in Sport England Guidance.

Further guidance is available on the Sport England website regarding sizes and layouts that may help to inform future revisions to address the points raised: <http://www.sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/sports-halls/>

(6) Non Standard Informative

For the avoidance of doubt, the applicant is advised that the development hereby permitted is for school use only within the hours conditioned. Should the development be used for anything other than school related sporting activities, such as renting out for public use, this is likely to require planning permission and may conflict with the Leisure World community use agreement on the site.



Application No: 131728

Location: St. Helens, Ferry Road, Fingringhoe, Colchester, CO5 7BX

Scale (approx): 1:1250

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7.2 Case Officer: Lucy Mondon

OTHER

Site: St. Helens, Ferry Road, Fingringhoe, Colchester, CO5 7BX

Application No: 131728

Date Received: 10 September 2013

Agent: Mr Alan Cudmore

Applicant: Miss Christine Punter

Development: Retention of existing covered storage lean to, replacement staircase to existing first floor office balcony guard rails and balustrade together with the installation of privacy screens with the change of use of the former hay loft to home office

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee at the request of Councillor Sutton for the following reasons:

'The amount of building that is requested questions whether the site is being used for commercial purposes and not domestic use.'

2.0 Synopsis

2.1 The application seeks planning permission for:

- Retention of change of use of first-floor of hay store to a home office;
- Erection of guard rails, balustrade and privacy screen for the continued use of a balcony;
- Retention of a replacement staircase; and
- Retention of a lean-to.

2.2 The following report considers the matters raised by the Local Ward Member, as well as other material planning matters together with issues raised in representations. The report describes the site and its setting, the proposal itself, and the consultation responses received. The key issues explored are: design and impact on the character of the area and impact on neighbouring amenity.

2.3 The planning merits of the case will be assessed, together with the Case Officer's reasoning, leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 'St Helens' is a detached property that fronts onto Ferry Road, Fingringhoe. The property is part of a ribbon development of detached properties that sit within large plots. The land behind the properties slopes down to the west towards the Roman River. As a consequence, the properties are at a higher level than the gardens to the rear.
- 3.2 Whilst 'St Helens' and its garden lie within the settlement boundary of Fingringhoe, the area of the site to which the application specifically relates is within the countryside and does not form part of the garden (residential curtilage), being a paddock, with associated stables and outbuildings. With the exception of the hay store, the stables are recently constructed under planning permission 121680 (i.e. within the last three years). There are some additional stables that are on 'skids' so that they can be moved around the site.
- 3.3 There is a Site of Special Scientific Interest to the west of the site, but this is unaffected by the proposal.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for works to an existing outbuilding as follows:
- Retention of change of use of first-floor of hay store to a home office;
 - Erection of guard rails, balustrade and privacy screen for the continued use of a balcony;
 - Retention of a replacement staircase; and
 - Retention of a lean-to.
- 4.2 The outbuilding runs along part of the northern boundary of the site and was formerly a store and hay loft. The outbuilding is currently used as a tack room and store at ground-floor, with a home office at first-floor level. As the outbuilding is not within the residential curtilage of the dwelling, the use of the first-floor as a home office requires planning permission (had the outbuilding been within the residential curtilage it could have been converted to a home office without the need for planning permission).
- 4.3 Prior to the use of the first-floor of the outbuilding as a home office, there was access onto the flat roofed structure. A timber rail has now been constructed, although this would be altered as part of the proposal so that the balcony area is moved away from the neighbouring boundary. A 1.8 metre high planted screen (using a timber trellis and planting trough) is proposed to the northern side of the balcony. The remaining sides of the balcony would have a low level timber rail to allow for views to the west.

- 4.4 The first-floor of the outbuilding was previously accessed via a ladder, with a small platform at the door. This has now been replaced with a timber stair and platform. The proposal has been amended so that the platform is shortened to just beyond the door, approximately 2.75 metres from the boundary with 'Fenders'. A trellis planting trough (similar to that proposed on the balcony) is also proposed on the platform closest to the neighbouring boundary.
- 4.5 The lean-to has a corrugated plastic roof and covers an area of hardstanding to the side of the existing outbuilding. The area is used for storage.

5.0 Land Use Allocation

- 5.1 N/A

6.0 Relevant Planning History

- 6.1 Planning permission was granted in 2012 for the erection of a stable, washing area and rug room, and the replacement of three existing stables for private use on the site (ref: 121680). The stables have been erected and are in use.
- 6.2 A previous application (ref: 130855) was submitted for the retention of the staircase and balcony, but this application was withdrawn due to the need for further information and the requirement for planning permission for the home office use.

7.0 Principal Policies

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
- UR2 - Built Design and Character
ENV1 - Environment
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

8.0 Consultations

8.1 No comments have been received.

9.0 Parish Council Response

9.1 The Parish Council have stated that there has been no improvement since the previous application and that they object to the proposal on the following grounds:

- Visually intrusive;
- Out of character with the area; and
- Would cause overlooking to neighbouring properties.

10.0 Representations

10.1 Four letters of objection (from three objectors) and four letters of support have been received. A letter providing general comments has also been received.

10.2 The four letters of objection are summarised as follows:

- There is a commercial use here as there is a 'viewing gallery';
- The planted screen is unworkable: the plants will need to be in pots and no information has been provided about the size of pots;
- Overdevelopment and not in keeping with the residential area: the site has an industrial appearance;
- The buildings constructed changes the ambience of the area;
- Overlooking and intrusion of well-established views from 'Fenders' and 'Hillside';
- Danger of electric fence in residential area;
- Smells from manure;
- Buildings constructed exceed number and size of those replaced;
- The screening will block views of the Roman River;
- The stairs overlook gardens;
- The previous applications for the stables were made after the stables were built;
- There was no viewing platform previously as the building was in a poor state of repair; and
- The rails are unsightly.

10.3 The four letters of support are summarised as follows:

- The original stair was rotten and a poor design, but the new one is robust and very safe;
- First-floor office is of a high standard of construction and the new door is similar to the original one;
- The balcony is very solid with good rails and balustrade and a privacy screen will be added;
- The ground floor tack room must have a sink and water for hygiene and the welfare of the horses;
- There are no commercial activities at the site;
- There has been a huge improvement of the site.

10.4 A letter from a previous owner of 'St Helens' has been received, which confirms the following:

- There was a door at first-floor from at least 1981;
- The flat roof has always been accessible;
- There was a wooden platform to gain access to the first-floor; and
- The first-floor was previously used as a gym and (from 1998) a playroom.

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

11.0 Parking Provision

11.1 The proposal does not generate additional parking needs.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 The main planning considerations are: design and impact on the character of the area; impact on residential amenity; biodiversity; and flood risk.

Design and Impact on the Character of the Area

15.2 The impact of a development proposal upon the character of the countryside is an important planning consideration. The NPPF states that one of the core planning principles is to recognise the intrinsic character and beauty of the countryside. Core Strategy Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline.

- 15.3 The proposal is not considered to have a harmful impact on the character of the area, taking into consideration existing development. The change of use of the first-floor to a home office does not involve any external changes to the building so will not have a visual impact; the new stairs are positioned between existing buildings so will not be overly visible; and the lean-to is a modest structure, subservient to the host outbuilding so that it would not have a significant visual impact. The railings and privacy screen for the balcony would be more visible as they would be located at first-floor level, but would not be overly prominent in the context of this group of outbuildings.
- 15.4 The change of use of the first-floor of the outbuilding to a home office could constitute a change of use of the surrounding land to residential curtilage, as the outbuilding lies outside the existing residential curtilage. An extension to the residential curtilage has not been applied for and would need to be considered as part of a planning application. In order to make it clear to the Applicant that a change of use of the land has not been permitted, a restrictive condition is recommended that states that the change of use relates solely to the first-floor of the outbuilding.

Residential Amenity

- 15.5 The main issue to take into consideration in respect of residential amenity is whether the balcony and stairs cause overlooking to neighbouring properties. The property most likely to be affected is 'Fenders' to the north and north-east of the site.
- 15.6 With regards to the balcony, this is set 1.75 metres from the boundary with 'Fenders' and would have an outlook to the south-west towards the Roman River and not towards the neighbouring property. The planted screen would obscure views across neighbouring gardens and would reduce any perception of overlooking as perceived from 'Fenders'. Even without the planted screen, the amount of overlooking from the balcony would be minimal: there would be some views to the bottom of garden of 'Fenders', but this would not be so significant to justify a refusal of planning permission. Further, there has long been access onto the flat roof and, although repairs to the building would have been necessary to make the flat roof structurally sound, this access could remain without planning permission.
- 15.7 The stair replaces an existing ladder and platform that was used to access the first-floor of the outbuilding. The main difference from the old arrangement is that the current stair is more substantial, with a longer platform. Due to Case Officer concerns that the longer platform would potentially encourage sitting out and therefore overlooking into the garden of 'Fenders' the Applicant has elected to reduce the length of the platform. The proposal also introduces a planter (similar to the planted screen for the balcony). This planter would restrict indirect views towards the neighbouring property so that the risk of overlooking is significantly reduced. Again, even if the planter were not included, it is considered that the levels of overlooking would not be such to justify refusal due to the distance of the platform from the neighbouring boundary.
- 15.8 The planted screens are not considered to be overly dominant to the neighbour due to their position at the end of the garden and their distance from the neighbouring boundary.

- 15.9 Objections have been received from local residents that the proposal would affect 'well-established views'. It is a long-held planning principle that there is no private 'right to a view' and therefore any impact upon a neighbour's view is not a material planning consideration. An assessment has been made as to whether the proposal has a detrimental impact upon public views and the appearance of the surrounding area, with the conclusion that the proposal has a minimal impact.

Biodiversity

- 15.10 The proposal has been assessed in line with the NPPF and Natural England Standing Advice. The site as a whole may provide suitable habitat for protected species, but the proposal is not considered likely to have an impact upon protected species as it relates to an existing building and would not result in any loss of vegetation. The proposal is therefore acceptable in regards to biodiversity.

Flood Risk

- 15.11 The site is located within Flood Zone 1 and the application has been assessed in line with the NPPF and Environment Agency Standing Advice. As a Flood Zone 1, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding. No mitigation is required.

Other Matters

- 15.12 Objections have been received that concern a commercial use of the site; that the site is overdeveloped and has an industrial appearance; the risks associated with electric fences in residential areas; smells from manure; and that the buildings constructed exceed those replaced.
- 15.13 There is no indication that a commercial use is being undertaken at the site. Two site visits have been made by the Case Officer, during which time the site was either empty or only the applicant was present. The current proposal is not for a commercial enterprise and restrictive conditions are recommended so that the home office remains ancillary to the residential unit. However, a commercial use of the site is not unacceptable in principle: the NPPF (at paragraph 28) supports appropriate commercial uses in rural areas, as does Core Strategy Policy ENV2. Should the site be used for commercial purposes, planning permission would be required in its own right.
- 15.14 In terms of the appearance of the site, there are a number of recently constructed stable buildings, but these are not considered to result in the site having an 'industrial' appearance. The buildings are modest in scale and have a traditional stable appearance, being constructed in timber with felt roofs. The most prominent outbuilding is the hay store, which has been present on the site for over 30 years. The proposal would involve some minor additions to the hay store: a balustrade and planted screen for the balcony and the retention of the stair and platform. These additions are not considered to represent an overdevelopment of the site due to their minimal visual impact.

15.15 The comments relating to electric fences and smells of manure are not relevant to the current proposal, but will be discussed for completeness. The site is used as a paddock and therefore the use of electric fences is not uncommon. The site may be close to a residential area, but is not likely to be frequented by the public as it is a privately owned site. The electric fencing along the boundary with 'Fenders' would not require planning permission (provided it is less than two metres in height), although it may be subject to the Party Wall Act. Procedures under the Party Wall Act are a civil, rather than a planning, matter so would not be considered as part of this planning application. With regards to smells, the site is located in the countryside where smells associated with farming and equestrian activities are likely to occur. Smells from manure would not, therefore, be out of the ordinary. It is unlikely that there are high levels of smells from the site as no manure piles were noted during the site visits and the applicant has verbally confirmed that manure is loaded onto a trailer and then removed from the site on a regular basis; a recently emptied trailer was seen on site during the site visit. It would not be appropriate to apply a condition relating to manure storage as this relates to the existing use of the site and is not relevant to the current proposal.

15.16 The recently constructed stable buildings already have planning permission (ref: 121680) and do not form part of this application.

16.0 Conclusion

16.1 The proposal is considered to be in accordance with planning policy. The proposal would not have a detrimental impact upon the character or appearance of the area and would not have a significantly adverse impact on residential amenity to justify refusal of planning permission.

17.0 Recommendation - APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings CP.101 and CP.102 Rev A, received on 30th August 2013, drawing 13.1730.01, received on 6th November 2013, and drawings CP.103 Rev C and CP.104 Rev C, received on 7th November 2013.

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

3 - Non-Standard Condition/Reason

The change of use shall relate solely to the first-floor office space, as identified on drawing CP.103 Rev A. The first-floor office shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as 'St Helens'.

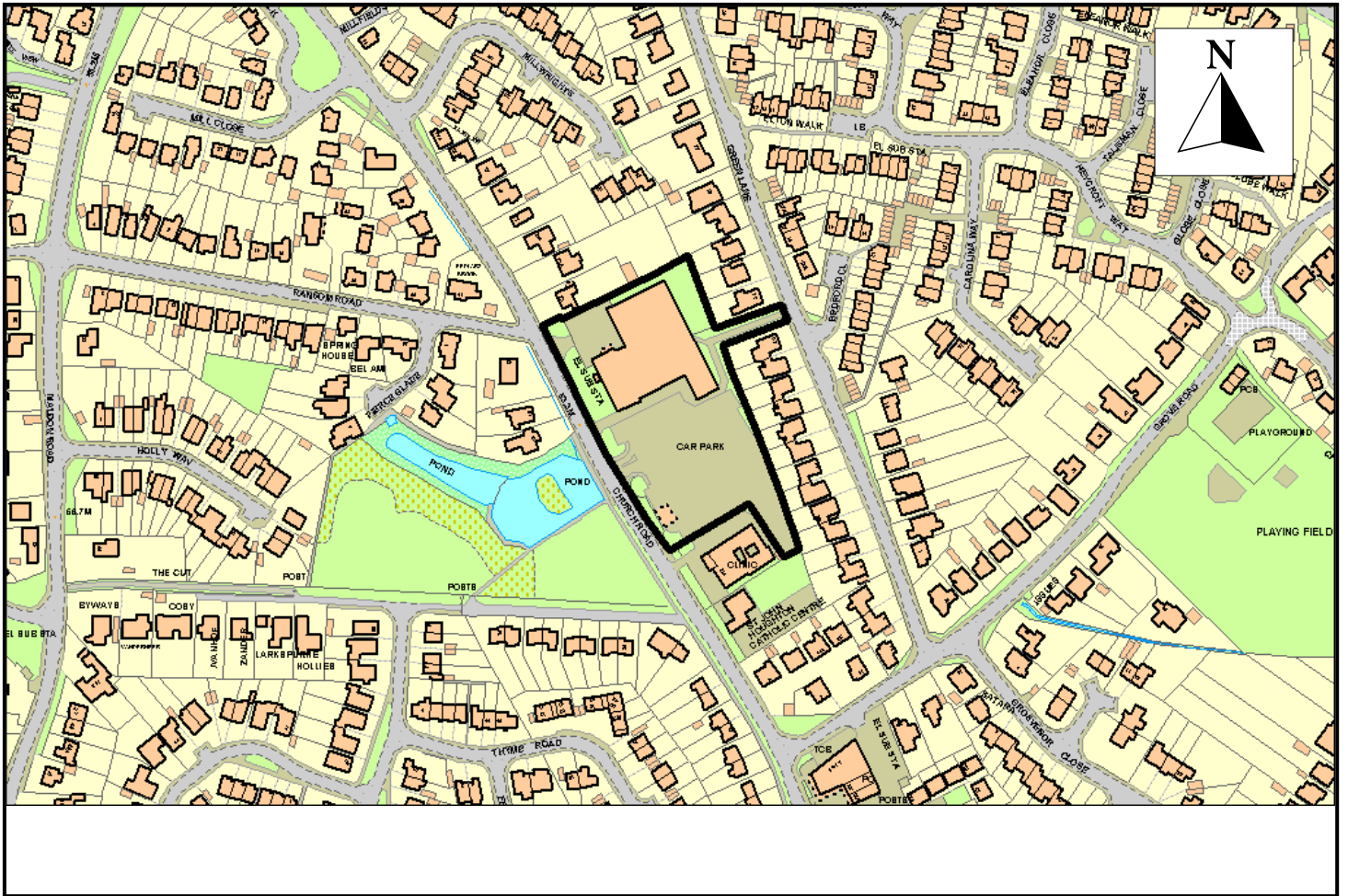
Reason: For the avoidance of doubt as to what has been approved and to ensure that this permission does not result in the extension of the residential curtilage into the countryside.

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

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

(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.



Application No: 131863

Location: Asda Supermarket, 25 Church Road, Tiptree, Colchester CO5 0LA

Scale (approx): 1:2500

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7.3 Case Officer: Simon Osborn

Due Date: 24/12/2013

OTHER

Site: Asda Supermarket, 25 Church Road, Tiptree, Colchester CO5 0LA

Application No: 131863

Date Received: 24 September 2013

Agent: Deloitte LLP

Applicant: ASDA Stores Limited

Development: Application for the variation of condition 2 of planning permission 121668 to amend the hours of opening. The proposed variation in the hours of use is amended to 06:00 to 24:00 (midnight) Mondays to Saturday. Sunday trading remains unaltered.

Ward: Tiptree

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because this is technically a major application (based on the footprint of the existing building) and objections have been received.

2.0 Synopsis

2.1 The application seeks to extend the opening hours of the store from 0600 hours to 2400 hours (midnight) on Mondays to Saturdays, with Sunday opening hours unchanged at 1000 hours to 1700 hours. The report considers the impact of this change upon residential amenity in the vicinity of the site. The applicant has proposed the amended hours for an initial trial period of 1 year and the application is recommended for approval on this basis.

3.0 Site Description and Context

3.1 The application site comprises a brick supermarket building with an associated large car park. The site has a frontage onto Church Road and backs onto residential properties (bungalows) in Green Lane. There is also a pedestrian access to the supermarket from Green Lane.

4.0 Description of the Proposal

- 4.1 The present permitted opening hours of this supermarket, which now trades as Asda, are 0700 hours to 2200 hours on Mondays to Saturdays (and 1000 to 1700 hours on Sunday). The application as originally submitted sought 24 hour opening on Mondays to Saturdays; however, the applicant subsequently consented to an amendment to these opening times of 0600 hours to 2400 hours (midnight) on Mondays to Saturdays, with Sunday opening hours remaining unchanged. The applicant has also consented to these amended hours being on an initial trial basis of 12 months.

5.0 Land Use Allocation

- 5.1 Rural District Centre

6.0 Relevant Planning History

- 6.1 COL/1361/86 – erection of 2,100 sqm foodhall together with 132 parking spaces, allowed 1988 on appeal. Condition 6 limited the opening hours from 0830 hours to 2000 hours Mondays to Saturdays.
- 6.2 93/0508 and 94/1471 – external lighting between 0600 hours and 2200 hours daily, approved 1995.
- 6.3 111546 – variation of hours to allow retail sales between 0730 hours and 2200 hours Mondays to Saturdays and from 1000 hours to 1700 hours Sundays and Bank Holidays, approved 2011.
- 6.4 121668 – variation of hours to allow retail sales between 0700 and 2200 hours Mondays to Saturdays and 1000 to 1700 hours Sundays and Bank Holidays, approved 2012.

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
CE1 - Centres and Employment Classification and Hierarchy
CE2b - District Centres
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP7 Local Centres and Individual Shops

8.0 Consultations

8.1 The Environmental Protection Officer initially raised concerns that the proposal would impact upon residential amenity from disturbance caused by customers arriving and leaving during sleeping hours. However, following a site visit by the Officer a revised consultation response was received:

“Our original concern was that houses located behind the car park in Green Lane could be adversely affected by noise levels late at night caused by customers arriving and leaving. In particular we thought that between 23:00 and 07:00 bedrooms may experience maximum noise levels caused by vehicle doors and boots slamming that would exceed World Health Organisation guidelines. A site visit has shown that the properties of most concern are bungalows situated at a lower level than the car park, which are orientated with living rooms and kitchens facing the car park. The bedrooms are therefore shielded. These properties further benefit from the attenuation provided by a 1.8 metre brick wall along the rear car park boundary and are therefore unlikely to be significantly affected by use of the car park late at night. Customer volume at these times is likely to be low and the majority of customers will park close to the entrance for convenience and away from the perimeter and nearby properties. We have previously received a complaint regarding use of the car park as a meeting point and race track after the store was closed. We wish to ensure that there will be no such reoccurrence of this activity and require the applicants to provide a list of measures designed to prevent it”.

8.2 The Environmental Protection Officer confirmed there was no objection to the amended hours, but asked that barriers prevent access when the store is closed.

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

9.0 Parish Council Response

9.1 Tiptree Parish Council objected to this application on the grounds of loss of amenity to existing residents and no proven necessity to extend opening hours.

9.2 The Parish Council has been notified of the amended proposal. Any comments received to this will be reported to Committee.

10.0 Representations

10.1 Seven objections were received to the proposal as originally submitted. These raised the following issues:

1. Car noises and loud music will disturb nearby residential amenity.
2. Tiptree fairly quiet from midnight onwards and an overnight liquor licence would attract drinking customers from far and wide.

3. The car park becomes a race track for youngsters when store is closed and giving longer hours of access would be undesirable.
4. Will lead to increase in cars parking in Green Lane (with customers nipping through to the supermarket).
5. Limited number of Tiptree residents need to shop for food after 10.00pm.

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

11.0 Parking Provision

- 11.1 The proposal to amend the opening hours of use has no implications for parking provision at the site.

12.0 Open Space Provisions

- 12.1 The proposal to amend the opening hours of use has no implications for public open space provision at the site.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 Although this application is technically classed as a "Major" application on the basis of the footprint of the building, the proposal does not increase the size or floor-space of the building and relates only to a variation in the opening hours. There is no requirement therefore for any obligations under Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 Asda supermarket is situated with the Tiptree Rural District Centre, but is also close to residential properties, with the car park being directly adjacent to bungalows in Green Lane. The vehicular access into the site is from Church Road and there is also a pedestrian walkway from Green Lane between Nos. 28 and 32 Green Lane.
- 15.2 Policy CE2b in the adopted Core Strategy states rural district centres will be protected and enhanced to provide shops, services, etc to meet the needs of local communities. Policy DP1 in the adopted Development Policies seeks to protect existing residential amenity. The prime planning consideration of this application therefore is whether or not the proposed variation to the hours of use will harm local residential amenity in regard to noise disturbance. The Local Planning Authority has a duty to consider a wide range of matters and the planning system advocates the use of consultees who are recognised experts in their fields. With regard to noise nuisance, the advice of the Environmental Protection Team has been sought, as they have specialist knowledge of these matters.

- 15.3 The comments of the Environmental Protection Officer are provided in paragraph 8.1 of this report. This response indicated that the properties in Green Lane that are potentially most affected by the proposal, "...are bungalows situated at a lower level than the car park, which are orientated with living rooms and kitchens facing the car park. The bedrooms are therefore shielded. These properties further benefit from the attenuation provided by a 1.8m brick wall along the rear car park boundary and are therefore unlikely to be significantly affected by use of the car park late at night. Customer volume at these times is likely to be low and the majority of customers will park close to the entrance for convenience and away from the perimeter and nearby properties".
- 15.4 The specialist advice received to the proposal does not therefore support refusal of the application. The application as originally submitted has in fact been amended from a 24 hours of opening from Monday to Saturday to opening hours from 0600 hours to 2400 hours (midnight) on these days and also proposes this for a trial period of 12 months.
- 15.5 The representations received in opposition to the proposal refer to the car park being used as a "racetrack" during store closure hours, and concern that an increase in opening hours will increase the likelihood of this. Asda in-store security staff would be responsible for preventing anti-social use of the car park during early morning and late evening hours when footfall is lower. The Environmental Protection Officer advised that barriers should be provided when the store is closed to prevent vehicular access to the car park. Asda previously advised Environmental Protection that barriers to the car park would be put in place and Environmental Protection has not received any complaints since then. It would not be appropriate to impose a planning condition for a permanent barrier to be installed for an application seeking temporary permission for a year. Rather, it is proposed that this matter is drawn to the attention of the applicant by an informative, to ensure that measures are put in place to prevent vehicular use of the car park during store closure hours.
- 15.6 The representations received also reported that Tiptree is fairly quiet after midnight and raised concerns that all-night opening will increase the likelihood of customers arriving from outside Tiptree to purchase alcohol, resulting in anti-social behaviour in these quieter hours. The amendment to the proposed opening times would mean the store was closed from midnight until 6.00 am the following morning. The amended proposal is for a trial 12-month period; this would allow the Local Planning Authority, in conjunction with Environmental Protection, to consider if an increase in opening hours was appropriate on a permanent basis, should an application be submitted on this basis at a future date.

16.0 Conclusion

- 16.1 The principal planning consideration arising from this proposal is the impact of the increased opening hours upon local residential amenity. Although objections to this proposal have been received from local residents, the Environmental Protection Team has not raised an objection to it on amenity grounds. The applicant has amended the proposal as originally submitted so as to increase opening hours on Mondays to Saturdays from 0700 to 2200 hours (as existing) to 0600 to 2400 hours (as proposed) and for an initial trial period of 12 months. The benefit of this is that it would enable the Local Planning Authority, in association with the Environmental Protection Team, to consider the impact of longer opening hours if a subsequent application for permanent permission is received. The application is recommended for approval on this basis.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions (see section 19.0)

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - Non-Standard Condition/Reason

Retail sales shall not be carried out at any time outside of the hours of 0600 to 2400 hours (midnight) Mondays to Saturdays and from 1000 to 1700 hours Sundays and Bank Holidays.

Reason: In the interest of nearby residential amenity.

3 - Non-Standard Condition/Reason

The developer shall notify the Local Planning Authority of the date of commencement of this planning permission for longer opening hours, and the use hereby permitted shall be discontinued on or before 12 months of the date of commencement of this permission.

Reason: The applicant has proposed a trial period of 12 months for the longer opening hours in order to enable the Local Planning Authority to judge the effect of the longer opening hours upon the amenities of the locality.

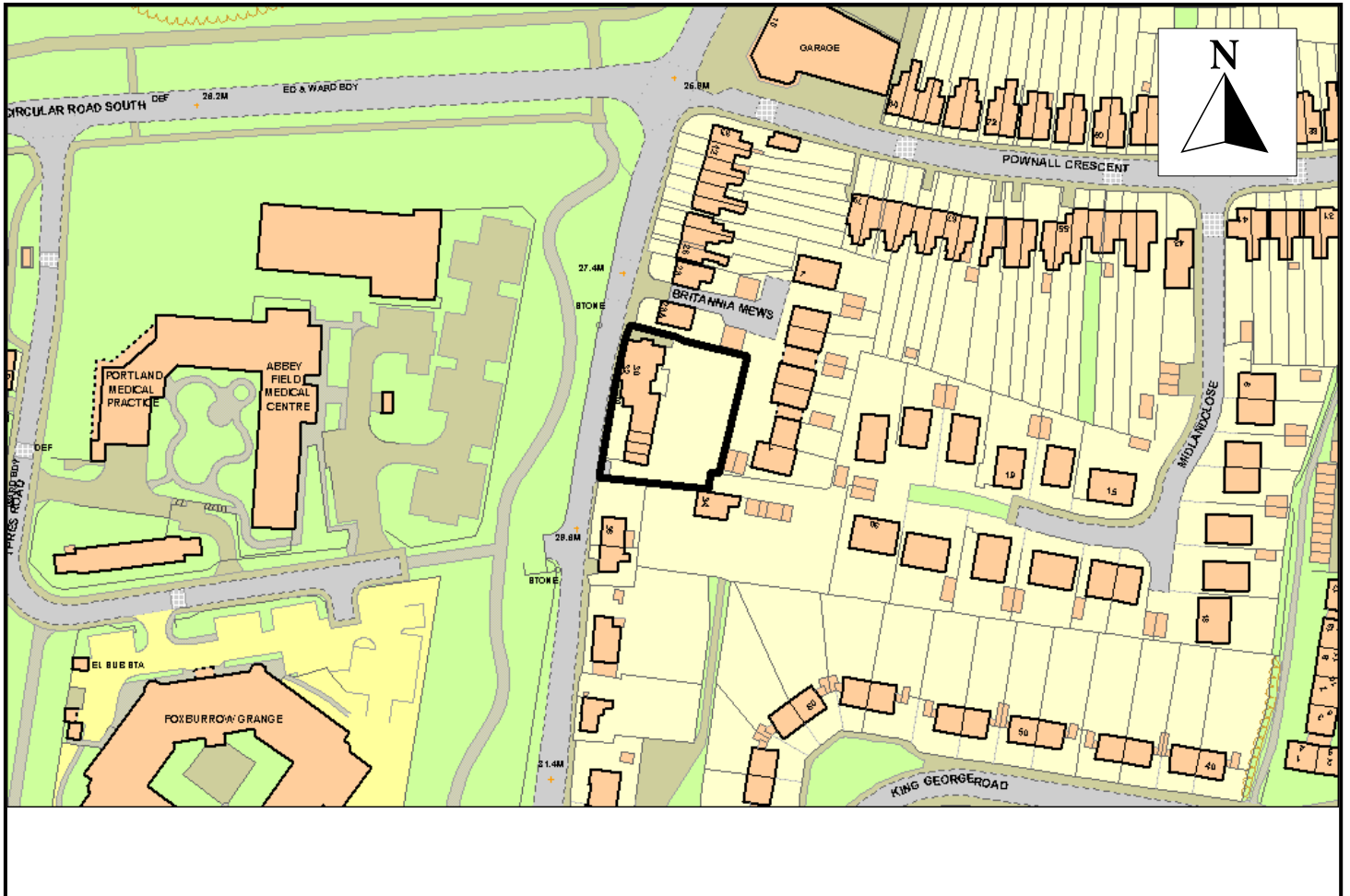
4 - Non-Standard Condition/Reason

The development hereby granted relates solely to the variation of condition no. 2 of planning permission 121668 in relation to the permitted opening times of the retail premises, and all other conditions relating to that permission and any other extant permission for the application site shall still apply.

Reason: For the avoidance of doubt as to the scope of this permission.

20.0 Informatives

(1) The Council would expect appropriate measures to be in place, including the provision of a barrier, to prevent cars entering and leaving the car park during closure hours of the retail store.



Application No: 132157

Location: 30-32 Berechurch Road, Colchester, CO2 7QB

Scale (approx): 1:1250

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7.4 Case Officer: Nadine Calder

Due Date: 03/01/2014

OTHER

Site: 30-32 Berechurch Road, Colchester, CO2 7QB

Application No: 132157

Date Received: 8 November 2013

Agent: Mr Peter Tyler

Applicant: Mr A Patel

Development: Change of use from shop store to form additional HMO bedsit.

Ward: Berechurch

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the agent is a former employee of the Borough Council.

2.0 Synopsis

2.1 The key issues explored below are the design of the proposed development as well as its impact on neighbouring amenity and the character and appearance of the surrounding area. It is considered that the proposal would not result in any design or amenity issues and accords with national and local policy requirements. The application is therefore recommended for approval subject to conditions.

3.0 Site Description and Context

3.1 The application site is located on the eastern side of Berechurch Road. The shop store subject of this application is located adjacent to three existing garages within a single storey element which itself is attached to the side of the main dwelling. The main dwelling currently houses five occupants as part of a House in Multiple Occupation (HMO), all of which share the existing kitchen which is located adjacent to the shop store. In addition to the existing three garages there is ample off street parking to the rear of the site and there is existing rear amenity space from which the proposed additional bedroom could benefit.

4.0 Description of the Proposal

4.1 The application seeks to change the use from shop store to an additional bedroom within the existing HMO. The room has a gross internal floor space of 29 square metres and a wetroom would be provided within the bedroom. Furthermore, it is proposed to block off the existing front door and move it further left with an additional window being proposed next to the new door. Within the rear elevation it is proposed to install two new windows.

5.0 Land Use Allocation

5.1 The site is located within the settlement limit of Colchester and is within a predominantly residential area.

6.0 Relevant Planning History

6.1 There is no planning history relevant to this site.

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and an environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

- SD1 - Sustainable Development Locations
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- UR2 - Built Design and Character

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

- DP1 Design and Amenity
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP16 Private Amenity Space and Open Space Provision for New Residential Development

8.0 Consultations

8.1 Environmental Control has not raised any objection to the proposal.

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 No letters of representation have been received at the time of writing this report.

11.0 Parking Provision

- 11.1 The proposed development would not result in any changes to the parking provision on site which is in compliance with current parking standards.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 The application seeks planning permission for the change of use of the existing shop store to an additional bedroom as part of the HMO. The proposed ground floor plan shows that a wetroom would be included in the bedroom. The proposal would include external alterations to the front of the house with the existing front door being blocked off and a new door and window being inserted further to the left. Similarly, two new windows are proposed within the rear elevation. The design of the proposed development is considered satisfactory on its own merits.
- 15.2 In terms of the Council’s adopted policies, Core Strategy Policy H3 (Housing Diversity) and Development Policy DP11 (Flat Conversions) recognise the need and seek to promote a mix of housing types to suit a range of different households so this scheme would sit broadly in line with these aims and objectives. Paragraph 5.5 of policy DP11, however, suggests that the Council will generally encourage the provision of self-contained flats comprising a separate lounge, kitchen, bedroom and bathroom facilities as opposed to bed-sitting rooms. Nevertheless, in this instance, given that the main property on this site already benefits from five individual bedrooms it is considered that such a use would be considered acceptable in principle on this site.
- 15.3 Although the proposed windows would be of a different design and proportion to existing windows on the property, this is not considered to have an adverse impact on the character and appearance of the property or the surrounding area. Furthermore, the conversion of the shop store would not have an adverse impact on neighbouring amenity. The bedroom would be located in between the existing kitchen and garages where it is considered unlikely to have a negative impact on neighbouring amenity. Additionally, the proposed new windows at ground floor level would not offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above mentioned SPD. Furthermore, the room currently benefits from a use as a shop store. The change of use to an additional

residential unit is unlikely to increase the amount of noise and traffic movement and as such, the proposed change of use is considered to be acceptable.

- 15.4 The proposed change of use does not raise any concerns regarding the provision of parking and amenity space as to the rear of the site there is ample off street parking and amenity space provided for the occupiers of the HMO.

16.0 Conclusion

- 16.1 The proposal is considered to be acceptable as it would have a minimal impact on the character and appearance of the host dwelling and the surrounding area and would be acceptable in terms of highway safety by not having a significant impact on the amount of parking available to the property.

17.0 Recommendation

- 17.1 APPROVE subject to conditions.

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

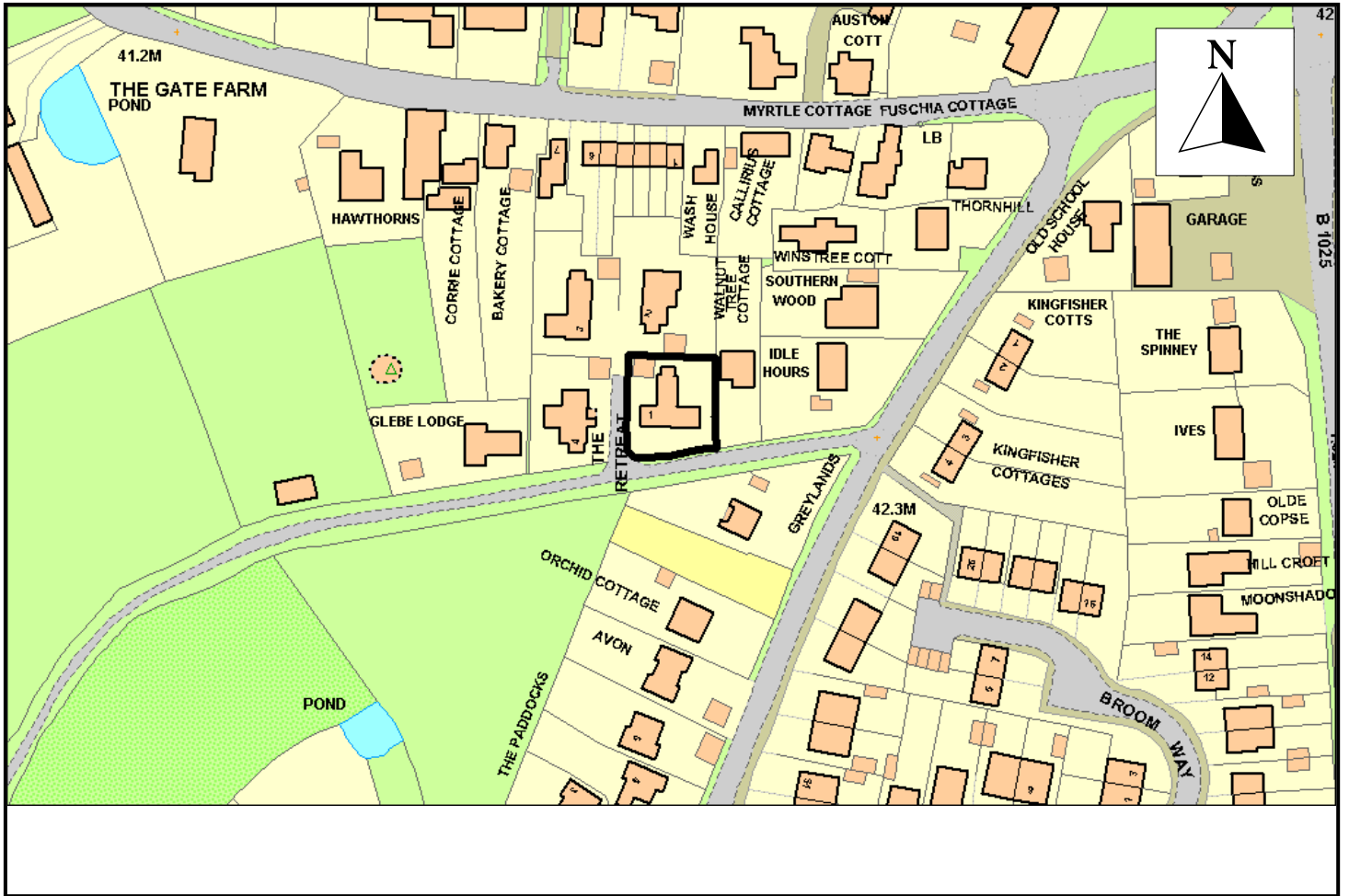
The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1A, 2A, 3A, 4A and 5A unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Non-Standard Condition/Reason

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

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



Application No: 132144

Location: 1 Hawthorns, The Retreat, Glebe Lane, Abberton, Colchester, CO5 7NW

Scale (approx): 1:1250

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7.5 Case Officer: Nadine Calder

Due Date: 20/12/2013

HOUSEHOLDER

Site: 1 Hawthorns, The Retreat, Glebe Lane, Abberton, Colchester, CO5 7NW

Application No: 132144

Date Received: 25 October 2013

Agent: Tyler Surveying

Applicant: Mr Roger King

Development: Single storey garden room extension.

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the agent is a former employee of the Borough Council.

2.0 Synopsis

2.1 The key issues explored below are the design of the proposed development as well as its impact on neighbouring amenity and the character and appearance of the surrounding area. It is considered that the proposal would not result in any design or amenity issues and accords with national and local policy requirements. The application is therefore recommended for approval subject to conditions.

3.0 Site Description and Context

3.1 The application site comprises a T-shaped detached residential dwelling with a detached garage. The property is one of four dwellings within 'The Retreat' for which planning permission was granted in 2002. Access to the site is off Glebe Lane which itself is an unmade cul-de-sac that serves eight dwellings and is accessed off Peldon Road.

4.0 Description of the Proposal

4.1 Planning permission is sought for the erection of a single storey side extension to form a garden room. The extension would be 5 metres wide and 3.8 metres deep with a pitched roof and a maximum height of 5 metres. The proposed extension would have a dormer window on the front elevation to match the dormers on the main dwelling and patio style doors opening into the garden to the rear.

5.0 Land Use Allocation

5.1 The site is located within the defined settlement limits of Abberton and Langenhoe.

6.0 Relevant Planning History

6.1 There is no planning history that is relevant to this site.

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and an environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

- SD1 - Sustainable Development Locations
- UR2 - Built Design and Character

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

- DP1 Design and Amenity
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings

8.0 Consultations

8.1 The consultation exercises have not resulted in any objections.

9.0 Parish Council Response

9.1 The Parish Council supports this application.

10.0 Representations

10.1 No letters of representation have been received at the time of writing this response.

11.0 Parking Provision

11.1 The proposed development would not result in any changes to the parking provision on site which is in compliance with current parking standards.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 The most significant planning issues are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy.

15.2 The design of the proposed development is considered satisfactory on its own merits. The proposed extension would read as minor, subservient addition to the original dwelling and would not result in the dwelling appearing cramped in its plot. The proposed materials would match the materials used on the existing dwelling. The proposed development is therefore considered to be visually acceptable and would not detract from the appearance of the original building. Consequently, the design and layout do not harm the surrounding area either.

15.3 There is existing mature landscaping along the boundary of the site with Glebe Lane that partially screens the dwelling from the road. The proposed extension would be positioned between the main dwelling and the existing hedgerow thus being partially screened when viewed from Glebe Lane. Given its location and its single storey height, the proposed development would not appear overbearing on the outlook of neighbours. Similarly, there are no concerns regarding loss of light and there are no new windows proposed that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties.

15.4 Despite its location close to the entrance of the junction of The Retreat with Glebe Lane, it is not considered that there would be any negative impact upon highway safety when entering or leaving The Retreat as the proposed extension would not have any detrimental impact upon existing visibility splays. As such, the proposal does not raise any concerns on highway safety grounds.

16.0 Conclusion

16.1 To summarise, the proposed development fully accords with the Council’s policy requirements and no objections have been received.

17.0 Recommendation

17.1 APPROVE subject to conditions.

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1, 2, 3, 4A and 5 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Non-Standard Condition/Reason

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

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

AMENDMENT SHEET

**Planning Committee
12 December 2013**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 131977 – Gilbert School, Brinkley Lane, Colchester

A late representation has been received from an agent to Braidwood General Management Company Limited, a management company that is responsible for the upkeep of communal car parks along Gavin Way, Avitus Way and Carus Crescent, Highwoods adjacent to the Gilbert School site. The comments are as follows:

‘The only item that I would like to be flagged up and confirmed is that no damage will be caused to the land adjacent to where our client is responsible for the maintenance during the construction of the proposed sports hall. The only reason I say this is that one of the car parks has suffered with some subsidence where there is a large tree in situ and sufficient works to the river bank were not completed at the time of construction of the estate. We have not had any problems in recent years but we do not want to disturb anything as a result.’

7.2 131728 – St Helens, Ferry Road, Fingringhoe

An error on one of the drawings has been corrected and condition 2 (approved plans) has therefore been amended to read the following:

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings CP.101 and CP.102 Rev A, received on 30th August 2013, drawing 13.1730.01, received on 6th November 2013, drawing CP.103 Rev C, received on 7th November 2013, and drawing CP.104 Rev D, received on 9th December 2013.

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

7.3 131863 – Asda Supermarket, 25 Church Road, Tiptree

The attention of Members is drawn to the submission of a new planning application (reference 132734) by Asda Stores Ltd, for a manual vertical rising arm barrier across the vehicular entrance to the site, which will only be closed when the store is not open. The purpose of this application is to try to stop issues with anti-social behaviour. The application was validated on 29th November 2013 and is currently pending consideration.

Officer Comment:

Paragraph 15.5 of the Committee report referred to an issue that has previously been brought to the attention of the Environmental Protection Team regarding the anti-social use of the car park during store closure periods. The report includes an informative that recommends the provision of a barrier and a planning application to secure this is therefore broadly welcomed, subject to any consultation responses received.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

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.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

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. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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