



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 28 March 2024 at 18:00**

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

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

Audio Recording, Streaming, Mobile phones and other devices

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Access

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

Facilities

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

Evacuation Procedures

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COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 28 March 2024 at 18:00

The Planning Committee Members are:

Cllr Lilley	Chair
Cllr Barton	Deputy Chair
Cllr Davidson	
Cllr Hogg	
Cllr Mannion	
Cllr MacLean	
Cllr McCarthy	
Cllr McLean	
Cllr Tate	
Cllr Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

Cllr Arnold	Cllr Bloomfield	Cllr Burrows	Cllr Buston
Cllr Cory	Cllr Cox	Cllr Dundas	Cllr Ellis
Cllr Goacher	Cllr Hagon	Cllr Harris	Cllr King
Cllr Kirkby-Taylor	Cllr Law	Cllr Laws	Cllr Luxford-Vaughan
Cllr Naylor	Cllr Nissen	Cllr Pearson	Cllr Powling
Cllr Rippingale	Cllr Rowe	Cllr Scordis	Cllr Scott-Boutell
Cllr Smalls	Cllr Smith	Cllr Smithson	Cllr Sommers
Cllr Sunnucks	Cllr Willetts	Cllr J. Young	

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

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

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

Live Broadcast

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

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

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

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

6 **Minutes of Previous Meeting**

The Councillors will be invited to confirm that the minutes of the meeting held on 15 February 2024 are a correct record.

2024-02-15 CCC Planning Committee Minutes

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7 **Planning Applications**

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

7.1 **240068 Portal Precinct, Sir Isaacs Walk, Colchester, Essex, CO1 1JJ** 17 - 24

Application to affix a 700mm x 600mm aluminium composite panel with a painted (black finish) wooden frame complete with digitally printed graphics directing users to secure bike park in portal precinct. To be affixed to the East-facing wall of "fast stitch".

7.2 **240183 278 Mersea Road, Colchester CO2 8QY** 25 - 32

Application for part two storey , part single storey rear extension. Two Storey side extension (resubmission of 230041).

8 **Exclusion of the Public (not Scrutiny or Executive)**

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

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

PLANNING COMMITTEE

15 February 2024

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Davidson, Hogg, Laws, MacLean, Mannion, McCarthy, McLean, and Warnes
<i>Substitute Member:-</i>	Councillor Laws substituted for Councillor Tate
<i>Also in Attendance:-</i>	Councillor Goacher Councillor Goss Councillor Nissen

1046. Site Visits

A site visit took place for applications 232564 and 232565 Holy Trinity Church, Trinity Square, Trinity Street, Colchester with the following Members in attendance:

- Cllr Lilley
- Cllr Barton
- Cllr Davidson
- Cllr Hogg
- Cllr McCarthy
- Cllr McLean

1047. 232564 and 232565 Holy Trinity Church, Trinity Square, Trinity Street, Colchester

Robert Carmichael, Democratic Services Officer Declared that a close family member had worked on the application for the site and as such did not clerk this item. Matthew Evans, Democratic Services Officer Clerked the item.

The Committee considered an application for the listed building consent to reposition 23 no. gravestones, minor realignment of boundary wall and new lighting (amended description). The also considered an application for the minor realignment of boundary wall and railings and reposition of 23 no gravestones. Additional footpaths, hard surfacing, additional gates and removal of some railings and new lighting (amended description). The application was referred to the Planning Committee as the application had been called in by Councillor Goacher for the following reasons:

“Significant concerns raised by residents about the applications to open up the graveyard to the public and move headstones. Concerns that this alters the setting of a heritage building and could lead to increased anti-social behaviour around one of Colchester’s oldest buildings: littering and urination in particular. The opening up of the church door and its

location could lead to it becoming a stopping off point for users of the night time economy to relieve themselves. The moving of the gravestones amounts to a change in the setting of the building and raises ethical concerns about the encouraging of the public to eat, drink, and throw litter onto people's graves. Concerns that this shows a casual disrespect and that this lowers the cultural tone of the area. Also significant concerns about the loss of wild flora and fauna to a planned and manicured garden.

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

Chris Harden, Senior Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee were shown the plans of the site which included the proposed changes to the positioning of some gravestones, the proposed pathways, and the root protection areas of the existing trees. It was detailed that a balance had been negotiated of the use of the land between public benefits and protection of the heritage asset and confirmed that Historic England supported the application. It was detailed that the proposal would include the repair and refurbishment of the boundary wall and confirmed that some of the gravestones were not in their original positions. It was considered that the moving of the gravestones was acceptable and that they would be repaired and cleaned as part of the proposal. The Committee were asked to note that the lighting details were indicative and would be subject to consultation with the Police and that the anti-social behaviour elements were being addressed via the detailed conditions to manage the site with locked gates at night and other security measures. It was noted that the proposal would increase public access and confirmed that there would not be a significant impact on trees and vegetation, and that there were no highway concerns. The Senior Planning Officer concluded by detailing that there was one additional informative note that needed to be added to the recommendation as follows:

- That the applicant should have regard to the provisions of s.78 of the Mission and Pastoral Measure 2011 concerning the relocation of gravestones.

John Burton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee were asked to refuse planning permission for the application and to restore the walls surrounding the site. The speaker detailed that some people liked the wild appearance to the Churchyard and detailed that they were a member of the Church Building Council and cared for Westminster Abbey and Canterbury Cathedral. It was detailed that placing land into the public highway would change the curtilage of the listed building and that in cases of less than substantial harm this should be taken into account and all harm should be avoided where possible. The Committee heard that the gates were currently locked and one option would be to unlock the gates give access to the site. The speaker concluded by detailing that the National Planning Policy Framework referenced the importance of assets in situ and questioned why so much public money was being spent on this when there were pot holes that needed to be filled and that the proposal would be adding to the maintenance budget of the Council.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that if approved the proposal would be cultural vandalism of the site and outlined that there was no mention of the ownership of the site, or of Community 360 using the Church, and would restore anti-social behaviour in the area. The speaker detailed that there was an absence of anti-social behaviour because the gates were locked and that any harm or loss of heritage assets should show justification as they would be against the Public Space Protection Order. The speaker concluded by detailing that the Council should not allow areas where anti-social behaviour

could occur and that the proposal was contrary to the spirit of the Biodiversity Supplementary Planning Document.

Matthew Sterling addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the proposal would be an improvement to the City Centre and part of boosting the local economy through the City Centre Masterplan. The Committee heard that the proposal would not disturb any human remains and confirmed that the application was supported by Historic England. It was noted that there had been a rise of online shopping and changes to leisure patterns and as such the City needed to remain vibrant and that the proposal before the Committee was part of a £40 million investment which would care for the space and which has previously been neglected and would create a quiet space. The speaker concluded by confirming that the gates to the site would be locked at night.

Hannah Loftus addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that they had designed the proposal and outlined that Trinity Church was an extraordinary heritage asset which had been deconsecrated in 1956 when it had been given to the Council under the Open Space Act 1906. It was detailed that this legislation designated that spaces should be made accessible and to allow the enjoyment of open spaces and was remodelled and reduced in size and confirmed that the railings had been installed in the 1970s and did not date back 1000 years. The speaker concluded by detailing that the proposal had done the minimum to restore public access to the site and make it accessible for all so that all citizens could appreciate the significance of the Church and the open space.

Councillor Mark Goacher addressed the Committee as a visiting Councillor and Ward Member for the application. The Committee heard that the presentation did not show what the site looked like in the summer and detailed that the winter photos of the site were unrepresentative. The Committee were asked to refuse permission for the application as it would lead to possible public urination and littering if it was not properly maintained. The speaker also detailed their concern regarding the impact on bats which lived in the tower of the Church and the loss of green open space on site. The Committee heard that the site needed to be better maintained and that there were concerns on making the area outside the Church a public pavement in the same way as St Botolphs Priory. The visiting Councillor concluded by detailing that they felt that the moving of the gravestones was disrespectful and that the economic gains of the proposal did not outweigh the tranquillity of the area.

Councillor Steph Nissen addressed the Committee as a visiting Councillor and Ward Member for the application. The Committee heard that Castle Ward suffered from anti-social behaviours and detailed that other Churches in the area had their churchyards closed and locked during the day. The speaker detailed that if the application was approved they ask for CCTV to be installed to overlook the areas. It was added that the churchyard was an oasis of biodiversity and did not need to be meddled in. The Committee heard that if approved six new bins would be provided and raised concerns that this would have an additional workload for operatives. The speaker concluded by asking whether the entrance next to the library could be converted into a wheelchair accessible ramp and questioned how Councillors as an administration could change these plans.

Councillor Martin Goss addressed the Committee as a visiting Councillor. The Committee heard that the application had been controversial and that the conversation on the regeneration of Colchester centred on the Town Deal Fund of which the Council had received £19 million. The visiting Councillor detailed that the proposal was good for Colchester and although they had concerns over the original plans these had been resolved in the revised

plans and reminded Members that the operation of the grounds was not a material planning consideration. The Committee heard that the ownership of the land should be discounted from consideration, that on balance the development was good for Colchester, that every effort should be made to encourage footfall in the City Centre, and that there were no grounds to refuse the application.

At the request of the Chair, the Senior Planning Officer responded to the points raised by the Have Your Say Speakers. The Committee heard that the impact on the heritage asset had been assessed and that the Council could approve development where there was less than substantial harm and the public benefits outweighed the harm. Committee Members were also asked to take into account the enhancement of assets including the repairs to the wall but ultimately it was a judgement that needed to take into account significant public benefits. The Joint Head of Planning added that the response from Historic England went beyond a no objection response to support the proposal.

Members debated the proposal on issues including: the loss of some of the railings on the site and that there had previously been issues of anti-social behaviour at other similar sites within the City Centre, that there was a concern that the proposal was modernising for the sake of doing so, and that the application was supported by Historic England. Concern was raised regarding the indicative lighting plans and questioned what risks there were to the historic asset currently.

At the request of the Chair, the Senior Planning Officer responded to the points raised and detailed that there had been a response from the Police and added that there would be level access to the site and that the current footpaths on site were narrow and made of gravel with a height difference not allowing access for all. The Committee heard that the proposed footpaths could have been wider but that they had been kept at their current width to protect the trees. The Joint Head of Planning added that the removal of some of the railings would provide an open space 24/7 but also provide a functioning porch for the Church and confirmed that the area would be subject to CCTV and on the Street Wardens patrol route.

At the request of the Chair Eirini Dimerouki, Historic Buildings and Areas Officer, detailed that the works on the site would address some of the vegetation and drainage issues as well as rising damp. It was added that the proposal would provide rainwater management and would maintain the trees on site as well as cleaning and maintenance of the area.

Members continued to debate the proposal on issues including: the less than substantial harm of the proposal, the parking restrictions alongside the Church, whether one of the tombs would be subject to anti-social behaviour being in the accessible 24/7 public area, and whether there was any provision for the railings to be drawn across after hours.

At the request of the Chair the Senior Planning Officer responded that the impact of less than substantial harm was weighed against the public benefits to improve the public realm, enhancement of the railings, and the gravestones themselves. It was detailed that any change to the scheme limiting the open space would undermine the reasoning behind the proposal and detailed that there were differing heights on site that needed to be accounted for when looking at access. In response to a further question the Joint Head of Planning outlined that a fully compliant ramp would need to have a 1 in 20 incline and would have a significant impact on the archaeology of the site and the root protection area of the existing trees.

Members continued to debate the application on issues including: that the proposal would improve the space within the City Centre, that the lighting needed to be reviewed to be within

acceptable levels and the proposed opening and closing times of the churchyard. It was proposed and seconded that the applications be approved as detailed in the officer recommendation with the additional informatives as follows:

1. The applicant should have regard to the provisions of s. 78 of the Mission and Pastoral Measure 2011 concerning the relocation of gravestones.
2. The condition of the tomb chest on the north side of the west tower should be monitored and reviewed with regard to the potential need for relocation should damage occur.

RESOLVED (SIX votes FOR and THREE votes AGAINST, with ONE ABSTENTION) That application 232564 is approved as detailed in the officer recommendation with the additional informatives as follows:

1. The applicant should have regard to the provisions of s. 78 of the Mission and Pastoral Measure 2011 concerning the relocation of gravestones.
2. The condition of the tomb chest on the north side of the west tower should be monitored and reviewed with regard to the potential need for relocation should damage occur.

RESOLVED (SIX votes FOR and FOUR votes AGAINST) That application 232565 is approved as detailed in the officer recommendation with the additional informatives as follows:

1. The applicant should have regard to the provisions of s. 78 of the Mission and Pastoral Measure 2011 concerning the relocation of gravestones.
2. The condition of the tomb chest on the north side of the west tower should be monitored and reviewed with regard to the potential need for relocation should damage occur.

1048. 231600 Land to West of, The Folley, Layer-de-lay-Haye, Colchester

A short break was taken between 19:48-20:01 following the conclusion of application 232565 but before the commencement of 231600.

It was noted that Cllr Laws left the meeting during the break.

The Committee considered an application for the Construction of 70 dwellings including 24 affordable homes (Rural Exception Site Local Letting homes, Affordable Rent Homes and Shared Ownership Homes), garages, parking, vehicular/ cycle and pedestrian accesses, public open space, landscaping, drainage infrastructure and other associated works. The application was referred to the Planning Committee as it was a major application on an allocated site where the proposal is a departure from the adopted local plan. The proposed access point deviates from the allocation policy of SS10 Layer De La Haye. The policy requires primary access to serve the development from Great House Farm Road, (South Boundary of the site) whereas the proposal is for sole vehicle access onto and from The

Folley. In addition policy SS10 also requires a fully equipped Children's play area. However, due to local objections, this is not included in the final proposal. Furthermore, the rural exception site has been amalgamated into the wider scheme and does not site within an area outside of the settlement limits as per the previous approval.

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

Daniel Cooper, Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee were shown the site layout plan and access to the site as well as the pedestrian accesses to the site. It was noted that the power lines were not in the gardens of the proposed houses and there was a mixture of designs on site and the Committee were shown a mock-up of the street scenes. It was noted that the application had been brought before the Committee as it did not include a Children's play area as detailed in policy SS10 and because the site allocation policy required a second access. The Planning Officer concluded that despite these departures from the policy it was considered that the proposal was acceptable and that the officer recommendation was for approval as detailed in the Committee report.

Robert Eburne (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the application before the Committee was a culmination of two separate applications that had been master-planned and had been designed to retain the benefits of both sites including the local lettings policy. It was noted that concerns had been raised over the access to the site but confirmed that these had been addressed and that this was a high-quality development.

At the request of the Chair, the Democratic Services Officer read out the statement from Councillors Andrew Ellis and Kevin Bentley, Ward Members for Marks Tey and Layer and read as follows:

"Thank you Chairman and Committee members for taking a few moments to hear what Cllr Bentley and I have to say with regard this application.

We have had an involvement with this application site for over 8 years. During that time working with the Parish Council on behalf of residents, we met with the previous applicants, Tollgate Partnership, (who had strong local connections to the village) on a number of occasions. I have lost count of the number of round table meetings with officers, the Parish Council and Tollgate Partnership that we attended. Cllr. Bentley spoke at a village meeting about this development at its inception, and I did likewise about five years ago. These development plans have been a long time in 'gestation'!

This Committee granted outline approval for 70 homes back in 2022, since then Tollgate Partnership has sold the site to Denbury Homes. They did not sell to 'just any developer', Denbury was chosen with care because the Tollgate Partnership wished to see the site developed sensitively and as well as they would have hoped. Looking at the plans before you this evening, it appears that Denbury has fulfilled that brief.

I cannot hand on heart claim that they meet with universal approval in Layer de la Haye, most people dislike change and this development will change the outlook for a number of people. It will increase the number of residents in the village calling on its facilities and services, such as they are, and it will inevitably increase traffic flows. That said, the site IS allocated in the Local Plan and 70 homes will be built on it come what may. I happen to

believe that if we are to see a development on the site, then the one before you is a pretty good one. I know that as a committee you will determine this on planning grounds and I know that amalgamating the Rural Exception site into the main scheme is a Plan departure, but it's one that makes sense and should be welcomed. The developer has also paid great attention to the numerous submissions made by residents to the outline applications and has changed the access arrangements as a result. The saying goes, 'you can't please all the people all the time', but this change has been a positive one that has pleased many.

As Ward Councillors we have always worked with the Parish Council to try to ensure that any benefits of development are reaped by the local community and that issues caused by the development can be mitigated. I know that people tend to look at the negatives, but development, done well, can bring positives too.

The inclusion of a Rural Exception site was one such positive. It was the result of much work by the Parish Council, Ward Cllr's and Officers. Providing affordable housing for Layer residents and their families in perpetuity, must be viewed as an incredibly positive thing.

*In addition to the 8 affordable units in the Rural Exception Scheme, there will be an additional 16 affordable units within the main scheme. I am grateful to officers and the applicant for agreeing to maintain the Pilot Scheme for a policy which as the then Portfolio Holder for both Housing and Planning, I wished to introduce for Colchester. I referred to it as '**Communities that grow together, stay together**'. As a policy title that might sound a tad corny but in my opinion it's imperative that rural communities accepting growth, should see very tangible benefits from that growth, this is one of those. With rising costs of living, and property, particularly rural property, in short supply, the need for access to affordable housing in our village communities has never been greater.*

Affordable housing that ensures that families can stay close to one another is a tremendous benefit, both socially, economically and environmentally. This development will afford the opportunity to a large number of people in Layer de la Haye and villages local to Layer de la Haye to remain close to their support network of family and friends providing something demonstrably positive for this rural community development.

And with the development comes some financial planning mitigation for Layer which will see much needed improvements to the Village Hall, the Play area which, it should be noted, is sufficiently close to the development to negate the need for an on-site play area, and a variety of schemes around the village which will improve it for its current residents and its new ones.

Chairman and Committee members, whilst few like change, and we would all prefer that this land remained undeveloped, we are where we are. You are looking at plans for an allocated site this evening and as Ward Cllr's we feel this is an acceptable scheme."

Members debated the application on issues including: the inclusion of a Children's play area as detailed in the Local Plan Policy SS10 and whether the Committee should insist on its inclusion. Some Members did not feel that this was necessary following the statement from the Ward Member and comments from the Parish Council. Members discussed the distance from the site to the existing Childrens Play Area which was 420 metres, and it was confirmed that the high voltage power cables could be buried if needed.

It was proposed and seconded that delegated authority be given to the Joint Head of Planning to approve the application as detailed in the officer recommendation subject to a further requirement for the delivery of an on-site children's play area and undergrounding of the existing overhead lines with securing these matters delegated to officers and no need for the application to be returned for committee reconsideration.

RESOLVED (SEVEN votes FOR and TWO votes AGAINST) That delegated authority be given to the Joint Head of Planning to approve the application as detailed in the officer recommendation subject to a further requirement for the delivery of an on-site children's play area and undergrounding of the existing overhead lines with securing these matters delegated to officers and no need for the application to be returned for committee reconsideration.

1049. 232367 4 St Botolphs Street, Colchester, CO2 7DX

The Committee considered an application for planning permission for replacement of timber sash windows with upvc sash windows which will be painted black. The top corners of the proposed sash windows located on the front corner to be curved to match original windows. Also, the provision of a new timber door to serve upper floor flats and re-instatement of parapet and clock to front elevation. (resubmission of 231370). The application was referred to the Planning Committee as the previous application 231370 was refused at Committee and this submission aims to overcome the previous concerns.

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

Daniel Bird, Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee heard that the application was a locally listed building and was within the conservation area and were shown photos of the site and the windows as well as the proposed clock as well as its historical context. The officer detailed that there were other sites in the area that had upvc windows and concluded that the officer recommendation was for approval as detailed in the report.

John Burton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that they sat on other buildings committees and detailed that the preserving of Historic Buildings and keeping their character was vital to the tourist trade and that a previous application had required the retention of the sash windows. The Committee heard that the works that had been undertaken and the application before Members was in contravention of the previous conditions and concluded by detailing that they were not sure what the public benefits of the proposal were and that the window frames should have been retained.

Sam Good addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that there had been frustration that the previous application on site had been rejected by the Committee after a member of the Committee had called a local businessman disgraceful. The Committee were asked to note that the proposals would have less than substantial harm to the conservation area designation and detailed that there were other businesses in the area that had not followed the conservation area rules and that there was a distinction between homes and businesses that was unfair. The Speaker concluded by detailing that the local list of significant dwellings was not publicly available and that they had invited the Civic Society to have discussions regarding the application, but these had not been taken up.

Councillor Martin Goss addressed the Committee as a visiting Councillor. The Committee heard that they were addressing the Committee as the applicant was a resident in their ward. The Committee heard that they had visited the site and outlined that there were no material planning reasons to refuse the proposal. The speaker reminded Members that they needed

to declare interests in items and that the proposal was a high-quality development which would restore the clock on the building and detailed that the flats had been developed to a high standard. The speaker detailed that Queen Street was known locally as Kebab alley and that the City Centre Masterplan had been made to regenerate the area but could not find any reason to object to the proposal and noted the objection from the Civic Society and that it was a shame that a meeting had not taken place between the Civic Society and the Applicant. The speaker concluded by detailing that they did not feel that there were any grounds to refuse the application and that if it went to appeal the Council would lose and would be liable for costs.

At the request of the Chair the Democratic Services Officer detailed that all Members had been contacted earlier in the day following consultation with the Monitoring Officer and advised that if Committee Members were also members of the Civic Society then they would need to declare this as an Other Registerable Interest and that if this was the case then they would also need to consider whether they were predetermined or not.

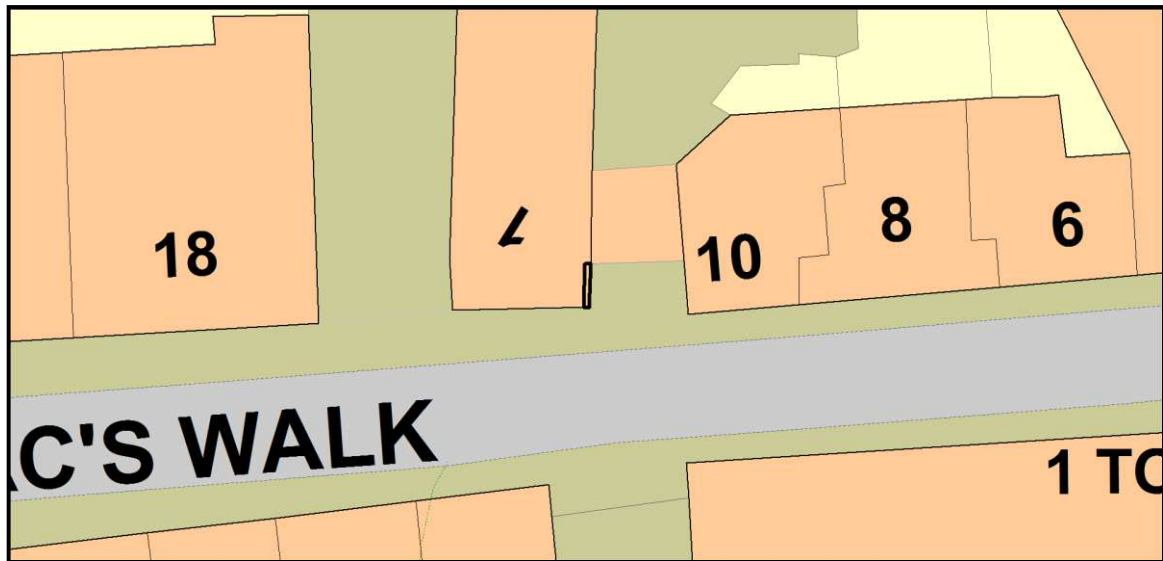
Councillor Robert Davidson declared an Other Registerable Interest that he was a Member of the Civic Society and that he did was not predetermined with regards to the application.

At the request of the Chair the Planning Officer responded to the points made by the Have Your Say Speakers. The Committee heard that on a previous application for the site there was a condition to not change the windows and that following an enforcement investigation an application was invited to regularise the windows as it was a non-designated heritage asset in a conservation area. The Joint Head of Planning detailed that Planning does not run on the principle of precedent and detailed that works had been carried out on an unauthorised basis and planning permission was required. The Committee heard that there was a statutory duty to preserve and enhance the conservation area and that this needed to be balanced against public benefits and detailed that a thermal upgrade to the windows would have been required. The Joint Head of Planning concluded that the works were unauthorised, but the harm needed to be balanced against the benefits of the pediment, clock and other works.

Members debated the proposal on the issues of the heritage preservation and what impact this would have on the wider area as there were other instances of other planning breaches. The Joint Head of Planning detailed that the Council would be looking at other breaches in the area as a matter of fairness.

Members continued to debate the proposal and detailed that the windows had not been noticed by many people and that the Council needed to support businesses in the City. At the request of the Chair, the Joint Head of Planning detailed that substantial harm was a very high bar to reach in terms of damage to a heritage asset.

RESOLVED (FIVE votes FOR and TWO votes AGAINST and TWO) That the application is approved as detailed in the officer recommendation.



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Item No: 7.1

Application: 240068

Applicant: Mr Michael Polom

Agent:

Proposal: Affix a 700mm x 600mm aluminium composite panel with a painted (/black finish) wooden frame complete with digitally printed graphics directing users to the secure bike park in portal precinct. To be affixed to the East-facing wall of 'fast stitch'

Location: Portal Precinct, Sir Isaacs Walk, Colchester, Essex, CO1 1JJ

Ward: Castle

Officer: Nicola Perry

Recommendation: Approve

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee for transparency and probity as it has been submitted by Colchester City Council.

2.0 Synopsis

- 2.1 The application seeks advertisement consent to affix an aluminum composite panel with digitally printed graphics to the east-facing wall of 'Fast Stitch', to direct users to the secure bike park in Portal Precinct. The panel measures 700mm x 600mm and is edged with a wooden frame in a painted black finish. The key issue for consideration is the impact of the proposed advertisement upon amenity and public safety.
- 2.2 Having assessed the application against local and national legislation and policy in accordance with guidelines for advertisements, it is considered that the proposal would not cause any demonstrable harm to amenity or public safety.
- 2.3 The application is subsequently recommended for approval, subject to a set of standard conditions. All relevant issues are assessed in the report below.

3.0 Site Description and Context

- 3.1 The application site comprises a commercial premises, currently occupied by Fast Stitch, located on the north side of Sir Isaac's Walk, at the entrance to Portal Precinct. Sir Isaac's Walk forms part of an attractive and quirky thoroughfare within the inner core of the city centre, featuring a number of independent shops and businesses with associated advertisements.
- 3.2 The premises is not a Listed Building, nor is it included on the Local Heritage List but is within proximity of several historically significant buildings. The site is also situated within the designated Colchester Conservation Area 1 and in proximity to a Scheduled Monument (below ground Town Wall remains).

4.0 Description of the Proposal

- 4.1 Advertisement consent is required for a panel displaying digitally printed graphics in relation to the Bike Hub. The Bike Hub provides a secure bike park located in Portal Precinct. As per the submitted application form, the proposed advertisement comprises an aluminum composite panel, measuring 700mm in height by 600mm in width, with a depth of 25mm and is positioned at a height of 1000mm from the ground to the base. The design features a yellow background with black lettering/images and is edged with a black painted wooden frame. No illumination is included as part of the proposal.
- 4.2 The proposed advertisement is located on the east side elevation of Fast Stitch, a commercial premises located on the north side of Sir Isaac's Walk at the entrance to Portal Precinct. The panel would not be situated on a Listed

Building and therefore no other planning consent is required for its installation. The Applicant does not own the building to which the proposal relates, however the submitted application form confirms the requisite permission has been sought.

5.0 Land Use Allocation

5.1 Within Colchester settlement limits.

6.0 Relevant Planning History

6.1 There is extensive planning history for the site and surrounding area though none is pertinent to the current application.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

ENV1 Environment
TC2 Retail Frontages
DM15 Design and Amenity
DM16 Historic Environment
DM21 Sustainable Access to Development

7.4 The site is not within a Neighbourhood Plan area.

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

- The Essex Design Guide
- External Materials in New Developments
- Shopfront Design Guide

- Town Centre Public Realm Strategy

8.0 Consultations

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

Historic Buildings and Areas Officer

- 8.2 The application is reviewed from a heritage perspective for its impact on the character and appearance of the Conservation Area, in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that in the exercise of planning functions, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 8.3 On the basis of the submitted details, it is regarded that the proposed sign would not result in harm to the street scene and the visual amenity of the Conservation Area. As such, there are no objections to the application on heritage grounds.

Essex Highway Authority

- 8.4 The Highway Authority does not object to the proposals as submitted. They confirm that, as far as can be determined, the proposal will have no implications from a Highway perspective and therefore have no comment on the application. No conditions or informatives are requested.

Environmental Protection

- 8.5 The Environmental Protection Planning team have no comment to make on the application.

9.0 Parish Council Response

- 9.1 The area is non-Parished.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No written representation from members of the public (objections/or support) were received in response.

11.0 Parking Provision

- 11.1 Parking provision would not be affected by this proposal.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. In considering the application, due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Representations have not been received identifying any specific equality implications potentially arising from the proposed advertisement and requiring additional consideration. The height of the proposal would appear to be suitable to be read by all users and it does not give rise to any other concerns from an accessibility or equality perspective.

13.0 Open Space Provisions

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

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 Regulation 3 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) provides the legislative criteria for express consent for the display of advertisements.

16.2 The definition of "advertisement", for planning control purposes is "any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed partly or wholly for the purposes of, advertisement, announcement or direction." (Town & Country Planning Act, 1990, section 336)

16.3 As described in Paragraph 026 of the National Planning Policy Guidance (NPPG), Regulation 3 requires local planning authorities when determining an application under these provisions shall only exercise its powers in the interests of amenity and public safety, taking account of policies within the development plan, in so far as they are material, or any other relevant factors.

16.4 Unless the nature of the advertisement is in itself harmful to amenity or public safety, consent cannot be refused because the local planning authority considers the advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary or offensive to public morals.

16.5 Paragraph 141 of the National Planning Policy Framework (NPPF) states that the quality and character of places can suffer when advertisements are poorly sited and designed. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

16.6 The main issues in this case are:

- The Principle of Development
- Amenity
- Public Safety
- Other Matters

Principle of Development

16.7 The principle of installing advertisements within the inner core of the city centre is established, with a high proportion of signage already present. The proposed advertisement would signpost members of public to the Bike Hub, to ensure users are aware of its location.

Design and Amenity

16.8 Section 1 Local Plan Policy SP7: Place Shaping Principles states that all new development should respond positively to local character and protect and enhance assets of historical value.

16.9 In considering design and visual impact, Section 2 Local Plan Policies DM15, DM16 and ENV1 are particularly relevant. These policies seek to secure high quality and inclusive design in all developments, which respects and enhances the characteristics of the site, its context and surroundings and safeguards heritage and landscape features, as well as ensuring development protects public and residential amenity.

16.10 For the purposes of advertisement consent, the NPPG confirms that “Amenity” is not defined exhaustively in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. In practice, amenity is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site where the advertisement is to be displayed, where residents or passers-by will be aware of it. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic scenic, architectural, cultural or similar interest.

16.11 The proposed advertisement would be located on a commercial premises, which already features signage, in an area of the city centre characterised by commercial/retail buildings. It would be limited to one side elevation of the building, thereby preventing a visually cluttered aesthetic. In terms of design, colour, size, form and use of materials, the proposed advertisement is considered acceptable in this location. The colour scheme is relatively bright but is intended to draw users’ attention to the secure bike park facility. Overall, given its limited scale, the proposed advertisement would not introduce an

unduly prominent feature, or significantly alter the character of the site in an unacceptable way.

- 16.12 The application site falls within Colchester Conservation Area 1 and in proximity to several Listed Buildings, as well as locally listed heritage assets. Specialist advice has therefore been sought from the Council's Historic Buildings and Areas Officer. They have responded with no objection to the proposed advertisement on heritage grounds, as it would not result in harm to the visual amenity of the Conservation Area.
- 16.13 The proposed advertisement is not overly obtrusive and is therefore not expected to have a negative impact on residential amenity, given the relationship and distance from any nearby properties. No illumination is included and so there are no concerns regarding light spill or pollution. Consequently, the proposed advertisement is not found to cause material harm to visual, public or residential amenity.

Public Safety

- 16.15 In assessing an advertisement's impact on public safety, it is necessary to consider the effect upon the safe use and operation of any form of traffic or transport on land (including the safety of pedestrians), over water and in the air. Section 2 Local Plan Policy DM21 requires all development to maintain the right and safe passage of all highways users.
- 16.16 Paragraph 067 of the NPPG states that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. Road safety problems are considered less likely, if the advertisement is on a site within a commercial or industrial locality, if it is a shop fascia sign, name-board, trade or business sign, or a normal poster panel, and if the advertisement is not on the skyline. If it can be demonstrated that signs would be confused with traffic or directional signals or the visibility of drivers is impaired, an application may be refused.
- 16.17 The proposed advertisement does not project significantly beyond the plane of the building, being flush as far as practicable with no protrusions. It would be located within a predominately commercial/retail area within the city centre, amongst several other buildings displaying content relating to their respective premises or the locality. Therefore, the proposed advertisement would not appear particularly incongruous, nor could it be easily mistaken for traffic signs to pose a danger to highway safety. The graphics would attract passers-by to a certain degree (as they are designed to do) but is not anticipated to distract pedestrians or road users unnecessarily, or to a hazardous extent.
- 16.18 The Highway Authority have been consulted regarding the proposed advertisement and confirm they have no comment to make, as they do not consider it would have any implications from a Highway perspective. There are no other public safety issues. Consequently, there are no concerns that the proposed advertisement would pose a risk to public safety.

17.0 Planning Balance and Conclusion

- 17.1 To summarise, the proposed advertisement has been assessed in accordance with guidelines for advertisements and is acceptable in terms of public safety and amenity, subject to the inclusion of standard conditions. The proposal accords with the Council's policy requirements, which are material considerations in so far as they relate to these matters and no objections have been received.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of advertisement consent subject to the following conditions:

1. Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

19.0 Informatives

- 19.1 Not applicable.



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Item No: 7.2

Application: 240183

Applicant: Mr S Barfoot

Agent: Miss Lauren Broomfield

Proposal: Part two storey, part single storey rear extension. Two storey side extension (resubmission of 230041)

Location: 278 Mersea Road, Colchester, Colchester, CO2 8QY

Ward: Berechurch

Officer: Sakeena El Diwany

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because of a call in from Councillor Dave Harris due to objections received from neighbours regarding the proximity between the proposed side extension and their property. The neighbours are concerned that the proposed extension is too close to the shared boundary and that they will be unable to access the South elevation of their property to carry out maintenance work. They are also concerned about the overhang of the proposed roof onto their roof.

2.0 Synopsis

2.1 The key issues for consideration are the proximity of the proposed extension and its impact on neighbouring amenity.

2.2 This application is a resubmission of a previously approved application (referenced 230041) submitted in January 2023. This application was of a larger footprint and scale, with the proposed two-storey extension the same distance (700mm) from the site boundary as the new proposal. The previous application was approved as it was considered acceptable and not contrary to local and national policies, and no objections were received.

3.0 Site Description and Context

3.1 The application site lies on the West side of Mersea Road, Colchester. The site contains a single two-storey detached dwelling that is set back from the highway via a front garden and driveway. The site does not lie within a Conservation Area and there are no Listed Buildings affected by this proposal.

4.0 Description of the Proposal

4.1 This proposal seeks consent for a part two storey, part single storey rear extension, and a two-storey side extension. This revised proposal has been changed from the previously approved application to reduce its footprint, as it no longer includes the single-storey rear extension element. The two-storey side extension element, however, remains virtually unchanged.

5.0 Land Use Allocation

5.1 Residential.

6.0 Relevant Planning History

6.1 This application is a revised submission of a previously approved application (referenced 230041) submitted in January 2023.

230041: Part two storey, part single storey rear extension. Two storey side extension – Approved.

7.0 Principal Policies

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

Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

ENV1 Environment
DM13 Domestic Development
DM15 Design and Amenity

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

The Essex Design Guide
External Materials in New Developments
Sustainable Construction

8.0 Consultations

8.1 No objections from the stakeholders who have been consulted have been received.

9.0 Parish Council Response

9.1 The site is not within a Parish.

10.0 Representations from Notified Parties

10.1 The application resulted in one notification from a neighbouring property. The full text of the representation received is available to view on the Council's website. However, a summary of the material considerations is given below.

10.2 The immediate neighbour to the North raised concern on how close the extension will be to the shared boundary, thus making access to the South elevation of their property difficult. They raised concerns that this will make it difficult to carry out maintenance work. They also raised concerns regarding the overhang of the proposed roof onto their existing roof.

11.0 Parking Provision

11.1 It is noted that the two-storey side extension element will extend over an existing side driveway and block off a rear garage. That being said, the proposal includes a very deep internal garage that is around 2.8-2.9m wide and in excess of 12m in depth. In addition, the front driveway will be retained and provide ample off-road parking. Taking this into account, it is considered that adequate onsite parking will be retained

with no pressures for on street parking. Essex County Council Highways have not objected.

12.0 Accessibility

12.1 This application is a Householders Application for a domestic extension to an existing dwelling. There are no steps proposed, internal or external and no other details that would raise concern over access issues or conflict with the Equalities Act.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Massing
- Impacts on Neighbouring Properties
- Private Amenity Space Provision

16.2 Principle - The application site sits in a residential setting within the defined settlement and as a result the development proposed is acceptable in principle and should be judged on its planning merits.

Design and Layout / Impact on the Surrounding Area

16.3 The proposal is a resubmission of a previously approved application (referenced 230041) submitted in January 2023. As can be seen from this new resubmission, the single-storey rear element has now been removed. The remaining two-storey side extension element for the ground-floor garage and first floor bedrooms remains unchanged. As with the previously approved application, the side extension element sits 700mm away from the shared boundary of the neighbouring property to the North. With regards to amenity, the North neighbour will be the most affected. This neighbouring dwelling is a bungalow however, and there are no South side elevation windows therefore there is no concern regarding loss of light.

- 16.4 While the neighbour's objections regarding the proximity to the shared boundary fence are noted, the proposed development does sit within the site boundary lines, and residents can build within their own land, within the red line site plan subject to relevant planning considerations such as impact on amenity through loss of daylight / sunlight and/or angles of outlook into private amenity spaces or living areas. Given that the proposal does not negatively impact the neighbouring properties amenity and that it is considered to be in keeping with the character of the existing dwelling in terms of its design, scale and form, it is therefore considered that a refusal on this basis would be difficult to justify.
- 16.5 It is important to note that the built form along the shared boundary is exactly the same as the previously approved planning application, which the applicants still have extant permission for. The neighbours will therefore not notice any difference between the previously approved application (which is still in date and can be commenced at any point), and the current proposed application. It is also important to note that this current resubmission is a reduction of built form rather than an addition of built form, as the ground floor rear extension element has now been removed from the proposal.
- 16.6 The proposed materials of matching roof tiles, UPVC aluminium windows and doors, and block and block walls with render is not only evident in the existing host dwelling but also prevalent in the neighbouring properties. The materials are therefore considered to be in keeping with the character of the host dwelling and surrounding area. It therefore complies with Policy DM15 Design and Amenity which provides that all development must respect and enhance the character of the site, its context and surroundings in terms of materials.
- 16.7 The main bulk of the built form will be to the North elevation where the two-storey side extension will be located. The proposed hipped roof reduces the massing and visual impact of the two-storey element. It is considered wide in comparison with the host dwelling however, it is noted that the dwelling opposite has in the past constructed a very wide two storey side extension and this example dwelling is of the same design as this host dwelling. In light of this, the proposed width is considered acceptable on balance.
- 16.8 In comparison to the surrounding plots regarding built form and footprint, the host dwelling is rather smaller than nearby neighbour's dwellings. With this in mind, although the proposed extension is a significant addition, it would not result in a dwelling that is out of context with the locality regarding overall footprint size and given the depth of the plot as well as neighbour examples, is not considered to be over development. Consequently, the character of the surrounding area will not be negatively impacted.

Impact on Neighbouring Residential Amenity

- 16.9 The two storey side extension element is located 700mm away from the shared boundary. This element will add around 4m in width to the host dwelling. This will then extend further at ground floor level with a ground floor rear extension, adding 7m in depth. The North neighbour will experience marginal impact. They have an existing rear conservatory that will be the main section of impact and given the nature of all glass structure, loss of light will be minimal. As stated

above, there are no side elevation windows affected. In addition, the increase in depth will not result in an overly deep dwelling and over development.

16.10 There is only one proposed new first floor rear window, and no proposed side windows. The proposed new bedroom rear facing first floor window will not create significantly greater angles of outlook into the rear garden of the neighbours beyond what currently exists. The height of the window as well as its angle of outlook is identical to the existing windows on the rear of the dwelling. Therefore, there will be no new angles of outlook into the adjacent neighbour's gardens. This angle of outlook is considered appropriate and will cause no harm.

16.11 The proposal therefore complies with Policy DM15 in this respect which states that all development must protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, daylight and sunlight.

Private Amenity Space Provision

16.12 While the plot is not overly large it is considered that adequate amenity space will remain without the feeling of overdevelopment. The proposal therefore accords with Policy DM13 in this respect.

17.0 Conclusion

17.1 To summarise, this proposal is of an acceptable design and, whilst there would be some impact upon the amenities of the occupier of the neighbouring property to the North, such impacts would be within acceptable bounds. This application is a revision of a previously approved application. While it is evident from objections that the North neighbours remain unhappy with the proposal, it is noted that the proposal is compliant with policy and a refusal would be difficult to justify. Lastly, as previously noted, in terms of impact on the North neighbour, the proposed built form along the shared boundary is exactly the same as the previously approved application, and that this new application is a reduction of built form rather than an addition of built form.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM - *Development to Accord With Approved Plans*

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

referenced 2022/582/0201 dated January 2023, Rev C; Site plans & Block plans referenced 2022/582/0500 dated January 2023, Rev A; and Proposed floor & roof plans referenced 2022/582/0202 dated January 2023 Rev A.

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

3. ZBB - Materials As Stated in Application

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

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

4. ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

19.1 Informatives

19.1 The following informatives are also recommended:

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.

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

