

Planning Committee

Council Chamber, Town Hall
24 April 2014 at 6.00pm

This Committee deals with

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

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

Material Planning Considerations

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

The following approach should be taken:

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

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

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

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

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

- land ownership issues including private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses
- matters specifically controlled through other legislation
- unless they are “exceptional”, personal circumstances, including hardship

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions and Considering Reasons for Refusing Applications

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

In terms of the Planning Committee, Circular 03/2009 makes it clear that "*Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority*".

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that "*Whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed*". Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. *The Circular adds that "A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead."* Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, they are challengeable at appeal as *ultra vires* (i.e. their imposition is beyond the powers of local authorities). If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted.

In considering the reasons for that refusal, Circular 03/2009 makes it clear that planning authorities must "*properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason*". In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.

COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
24 April 2014 at 6:00pm

Members

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

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

Agenda - Part A

(open to the public including the media)

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

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

Pages

1. Welcome and Announcements

1

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

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

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

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

6. Minutes

2 - 15

To confirm as a correct record the minutes of the meeting held on 20 March 2014

7. Planning Applications

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

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| <p>1. 131604 Former Essex County Council Offices, Park Road, Colchester (Lexden)</p> <p>Erection of 31 dwellings, creation of a new vehicular access via Park Road and provision of an access road, refuse and bicycle store, landscaping, public open space and groundworks</p> | <p>16 - 42</p> |
| <p>2. 141087 62 Brook Street, Colchester (Castle)</p> <p>Erection of 12 dwellings, provision of new access road, upgrading of right of way and other ancillary development</p> | <p>43 - 57</p> |
| <p>3. 142128 9 Walters Yard, Colchester (Castle)</p> <p>Erection of a new 1 bedroom detached dwelling with basement - (Following approval under 090732 now expired)</p> | <p>58 - 70</p> |

- | | | |
|----|---|------------------|
| 4. | 142481 5 Queens Road, West Bergholt
(West Bergholt and Eight Ash Green) | 71 - 81 |
| | Stationing of a mobile food trailer for hot food takeaway sales | |
| 5. | 142947 Hill Farm, School Lane, Great Wigborough
(Birch and Winstree) | 82 - 88 |
| | Replacement dwelling. Resubmission of 131529 | |
| 6. | 142146 Oak Farm, Vernons Road, Wakes Colne
(Great Tey) | 89 - 95 |
| | Rebuild and alter the porch to the annex at Oak Farm | |
| 7. | 142633 Briar Cottage, Mill Lane, Birch
(Birch and Winstree) | 96 - 100 |
| | Application for a Lawful Development Certificate for a proposed conversion of existing attached garage into Bedroom and Store | |
| 8. | 142929 31 Egerton Green Road, Colchester
(Shrub End) | 101 - 106 |
| | Single storey front extension | |
| 9. | 142419 24 Marram Close, Stanway
(Stanway) | 107 - 113 |
| | Single storey rear extension | |

8. Exclusion of the Public

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

Audio Recording, Filming, Mobile phones and other devices

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops and other such devices is permitted at all meetings of the Council, with the exception of Committee members at all meetings of the Planning Committee, Licensing Committee, Licensing Sub-Committee and Governance Committee. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Where permitted, Councillors' use of devices is limited to receiving messages and accessing papers and information via the internet. Viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

Facilities

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

Evacuation Procedures

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Colchester, CO1 1JB
telephone (01206) 282222 or textphone 18001 followed by the full number you wish
to call
e-mail: democratic.services@colchester.gov.uk
www.colchester.gov.uk

PLANNING COMMITTEE

20 March 2014

Present:- Councillor Chuah* (Chairman)

Councillors Chillingworth*, Liddy*, MacLean, Manning,
P. Oxford and L. Sykes*.

Substitute Members:- Councillor P. Higgins for Councillor T. Higgins,
Councillor Jarvis for Councillor Lewis and
Councillor Lilley for Councillor Ford.

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

119. Minutes

The minutes of the meetings held on 13 February 2014 and 27 February 2014 were confirmed as a correct record.

120. 111672 – Cannock Mill House, Old Heath Road, Colchester

The Committee considered an application for a mixed residential development at Cannock Mill House, Old Heath Road of 23 two, three and four bedroom homes, as well as associated amenity and parking. The Committee had before it a report and amendment sheet in which all the information was set out.

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

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Section 106 Legal Agreement to cover the items set out in the report.
- (b) Upon receipt of a satisfactory Section 106 Legal Agreement, the Head of Commercial Services be authorised to grant consent subject to the conditions set out in the report.

121. 130107 – High Trees Farm Barn and Outbuildings, Lexden Road, West Bergholt

The Committee considered an application for the change of use of High Trees Farm Barn and Outbuildings, Lexden Road to separate residence including live / work arrangement and holiday let. The Committee had before it a report in which all the information was set out.

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

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

122. 132224 – High Trees Farm Barn and Outbuildings, Lexden Road, West Bergholt

The Committee considered an application for the change of use of existing buildings at High Trees Farm Barn and Outbuildings, Lexden Road. Changes included the main barn to a dwelling, the small barn to an office, the existing cart lodge to parking and the outbuildings to a holiday let and garden storage. The erection of a car lodge and a brick wall was also considered. The Committee had before it a report in which all the information was set out.

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

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

- Removal of Permitted Development rights for all extensions, outbuildings and enclosures at the “large barn”.

Reason: In the interests of visual amenity in this sensitive site outside of the West Bergholt settlement limit and close to a Grade II* Listed Building.

- Prior to the commencement of development, full details of the boundary wall shall be submitted to, and agreed in writing by, the Local Planning Authority and shall be implemented as such prior to the new dwelling coming into use. Such details shall include height, brick type and gauge, joint profile and mortar type.

Reason: In the interests of visual amenity in this sensitive site outside of the West Bergholt settlement limit and close to a Grade II* Listed Building.

123. 132235 – Cosway Holiday Park, Fen Lane, East Mersea

The Committee considered an application for the extension of existing building at Cosway Holiday Park, Fen Lane and the erection of a new building to provide A3 (Restaurant), A5 (Hot Food Takeaway), B1 (Business), B8 (Storage) and A1 (Shop) uses with ancillary facilities, together with Children’s Play Equipment, associated access and parking facilities. The Committee had before it a report and amendment sheet in which all the information was set out.

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

Mr Ru Watkins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he represented the community of East Mersea and that residents were disappointed with the lack of consultation from the applicant. It was clear from the Village Plan that further development was not desired. Mr Watkins referenced the National Planning Policy Framework (NPPF) suggesting that development was not appropriate, as needs were already being met within the community. If the Committee were of a mind to approve the application, Mr Watkins urged them to reconsider opening hours. He also suggested that use should be limited to only Cosways residents. The need for low level lighting and restriction on live music was also raised. Mr

Watkins believed the countryside setting of the site should be considered.

Mr Ian Butter addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the application was part of an upgrade and improvement programme for the site, which was identified for local business use within the Local Plan. Mr Butter explained that similar sites in the area had similar facilities. The proposal would generate 10 new jobs on the site. Mr Butter believed that the opening times of the facilities proposed by the applicant were already conservative and that the application was important for local investment.

Councillor Sutton attended and, with the consent of the Chairman, addressed the Committee. He suggested that the conditions proposed had addressed his main concerns. He further suggested that the outside eating area for the takeaway could have its hours of use restricted, as noise from this area could travel a significant distance.

The Planning Officer explained that the Spatial Policy Team had been consulted and their comments were included in the report. The opening times proposed by residents were considered to be too restrictive. The Planning Officer suggested that restrictions could be placed upon the outside seating area, instead of the take away itself.

Members of the Committee were also disappointed that consultation with local residents had not been undertaken. It was recognised that if such facilities were not present on the site, residents would simply have to go elsewhere for meals or takeaways, which would cause similar levels of activity.

It was suggested by a member of the Committee that the hours of the takeaway facility be shortened by one hour to 09.00 to 21.00.

RESOLVED (FIVE voted FOR, FIVE voted AGAINST, the Chairman having exercised her casting vote FOR) that the application be approved, subject to the conditions set out in the report and the amendment to condition 6 to ensure the takeaway use shall only be open to customers between the hours of 09.00 and 21.00.

124. 140327 – Tesco Stores Ltd, Highwoods Square, Colchester

The Committee considered an application for a 'home shop (dot com)' canopy extension at Tesco Stores Ltd, Highwoods Square and the extension to the store with associated works to the existing retail store. An extension to the 'click and collect' canopy and associated parking amendments was also considered. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Nadine Calder, Planning Officer, and Mr Vincent Pearce, Major Developments Manager, presented the report and assisted the Committee in its deliberations.

Ms Julia Usher addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She represented local residents who were concerned that the new activity would increase traffic and create a bottleneck situation. Ms Usher explained that pedestrian access to the car park over the service road was already dangerous and that the site was already overdeveloped. She was not comforted by restrictive conditions as, in her opinion, there was no site management and current rules were already being flouted. Ms Usher requested that the removal of trees be limited and believed that lighting on the site was already an intrusion to local residents' amenity.

Councillor Beverley Oxford attended and, with the consent of the Chairman, addressed the

Committee. She highlighted the problems caused for residents by engine noise and blocked access. Councillor Oxford believed that, as the site was established in a residential area initially, the residents should not bear the brunt of the applicant's lack of foresight. It was suggested that conditions had little effect and that there had been minimal enforcement action. She urged the Committee to consider the amenity of local residents and not to allow further overdevelopment of the site.

The Planning Officer clarified that any further signage would have to be submitted with separate planning applications and that lighting had been dealt with via condition. It was noted that previous problems with lorries waiting on the service road with their engines running had been addressed in the conditions and that the opportunity had been taken with this application to try and address on going concerns from residents. The Planning Officer clarified that previous works on the site regarding the trees had been to remove dead wood.

A member of the Committee expressed disappointment that existing conditions on the site were not being adhered to. It was further suggested that ward Councillors should be consulted or notified before works were done on the trees on site.

The Committee understood the concerns of residents. It was requested that a message be passed on to the Enforcement Team that the site should be monitored regularly. The Planning Officer advised that, as well as enforcement action, if conditions were not adhered to the Environmental Protection Team retain powers under Environmental Protection Legislation to act against noise and disturbance.

The Committee wished to communicate to the applicant that the site appeared to be at its capacity for development and that alternative sites, with better traffic access, should be considered for further development of the business. It was emphasised that the applicant should act responsibly.

The Major Developments Manager advised that he would be happy to inform all of the major retailers in Colchester of the Committee's opinion. He further suggested that a planning workshop could be set up with major retailers invited to discuss the future nature of retail. This would allow Councillors and retailers alike to achieve a better understanding of the retail landscape in the upcoming years.

In response to a question the Planning Officer explained that the trees on the boundary of the site were subject to Tree Protection Orders and would require permission to be removed, however the trees within the site were not subject to such orders.

A member of the Committee enquired as to whether there were other 'click and collect' facilities in the nearby area. It was explained that other retailers operated similar operations which were becoming more prominent.

RESOLVED (SEVEN voted FOR, THREE voted AGAINST) that the application be approved, subject to the conditions set out in the report and amendment sheet.

125. Amendment to Committee Minutes and update on s106 agreement

The Committee considered a report of the Head of Commercial Services seeking endorsement of amendments to the published Planning Committee minutes relating to outline planning application 121272 for the development of the Northern Growth Area Urban Extension (NGAUE). The report also provided an update in respect of the Section 106 Legal Agreement.

Mr Alistair Day, Principal Planning Officer presented the report and assisted the Committee in its deliberations.

Mr Pete Hewitt of Mile End Community Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He suggested a rewording of the proposed resolution to widen and allow further comment on the Section 106 Legal Agreement. Mr Hewitt believed that Mile End Community Council should also be included in Section 106 Legal Agreement discussions.

The Principal Planning Officer clarified that the Section 106 contributions were not being altered and that the report purely sought to ensure the minutes precisely reflected the recommendations and resolution of the Planning Committee at its meeting on the 26 September 2013.

RESOLVED (EIGHT voted FOR, ONE voted AGAINST and ONE ABSTAINED from voting) that –

- (a) the amendments to the published Planning Committee minutes relating to outline planning application 121272 for the development of the Northern Growth Area Urban Extension be approved, as set out in the report (the amended minutes of the Planning Committee meeting of 26 September 2013 are attached as Appendix 1 to these minutes); and
- (b) it be noted that the Section 106 Legal Agreement is likely to be signed after the six month period from the date of the Committee resolution.

126. Amendment to Deeds of Variation // Garrison Urban Village Development

The Committee considered a report of the Head of Commercial Services concerning a proposed amendment to the Deeds of Variation to a Section 299a Agreement relating to the affordable housing review mechanism on the Colchester Garrison Urban Village Development.

Mr Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

RESOLVED (UNANIMOUSLY) that the proposed amendment to the review mechanism which facilitates the provision of an increased level of affordable housing in the even the Garrison development becomes more viable owing to significant improvements in the housing market, be endorsed.

PLANNING COMMITTEE

26 September 2013

Present:- Councillor T. Higgins* (Chairman)

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

Substitute Members:- Councillor G. Oxford* for Councillor P. Oxford

Councillor Lilley* for Councillor Ford

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

64. Minutes

The Minutes of the meeting held on 12 September 2013 were confirmed as a correct record subject to the following amendments:

Minute Reference No. 58

- (i) "A Member of the Committee raised concern" be altered to "Members of the Committee raised concern..."
- (ii) The addition of "It was pointed out that DP4 contained no definition of community space and that the wording of the policy was so vague as to be unhelpful."

65. 121272 – North Colchester, Urban Extension, Mile End Road, Colchester

The Committee considered a major outline application for a mixed use development comprising of residential dwellings, a neighbourhood centre including commercial, residential and community uses, education uses, strategic landscaping, green infrastructure and areas for outdoor sports facilities, access related infrastructure, other works and enabling works. The Committee had before it a report and amendment sheet in which all the information was set out.

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

Ms Karen Syrett, Place Strategy Manager, and Mr Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. The Place Strategy Manager explained the policy background behind the application. She stated that public consultation had been carried out several times before the Core Strategy went to examination

and was then adopted by Full Council. Regarding the Site Allocation's DPD, three public consultations were undertaken and it had been adopted by Full Council following examination in public and receipt of a binding report from the Inspector. The National Planning Policy Framework, which came into effect in March 2012, introduced a presumption in favour of sustainable development and underlined the need to meet the needs for housing and that proposals that accord with the development plan should be approved without delay. The affordable housing need in the Strategic Housing Market Assessment in 2008 was 1,082 dwellings per year.

The Principal Planning Officer explained the site context and that the proposed development parcels had been informed by the existing landscape structure. Full details of the proposed access arrangement had been submitted. It was explained that the main access into the development was from the diverted A134 in the north with a bus only access in the south. A full planning report had been prepared for the Planning Committee's consideration.

Have Your Say! Speakers

Mr Peter Hewitt of Myland Community Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He said that inclusion of the proposed land in development plans was decided at Local Development Framework Committee, however he could not find reference to such a decision in any Minutes. He suggested that the developers were relying on the Housing Trajectories to bring the site forward and evidence demand for housing, although this was not an adopted document. He suggested that there would be more than sufficient housing in the Colchester area and that there had not been sufficient evidence to bring forward the date of commencement from 2021 to 2016, further suggesting that approval of the development would be unlawful. He also highlighted the greenfield nature of the site, claiming development on the site would be contrary to Government policy and that this development should not prejudice the development of brownfield land, such as Severalls Hospital.

Mr Andy Ward of Royal Haskoning DHV addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was a Transport Planning Consultant commissioned by Myland Community Council to review the transport documentation for the development. He commented that with the significant highways infrastructure proposed a cultural model shift was vital. He suggested that a condition was added to ensure no development was started until after the Park and Ride facility was established. He considered that provision for cyclists was deficient and that a footbridge over the A12 should be provided for in the Section 106 Legal Agreement. He suggested that the 2007 transport model should be validated and traffic counts checked to ensure the model remained valid. He questioned the use of trigger points for the Colne Bank highways works and suggested that regular payments from the start of the development would be more practical.

Ms Jean Dickinson of Myland Community Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She cited the National Planning Policy Framework, claiming that an application should be refused if the residual effects of transportation alterations were severe. She stated that the Core Strategy Policy required a transport strategy to be prepared but that the Council had failed to do this. Regarding money secured, she suggested that if funding for the development was not guaranteed then it should not be approved, claiming that there was £12,000,000 yet to be secured. She summarised Myland Community Council's objection to the application as non-compliance with Local Strategy, incomplete and premature development, unaccountability and inadequate funding to mitigate impact.

Mr Lawrence Revill of David Lock Associates addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the development was a result of seven year's work and supported growth in the area whilst being sustainable. He highlighted the significant provision of open space in the development, which would ensure the protection and enhancement of ecological habitats. He drew the Committee's attention to the development's provision of affordable housing and work carried out to mitigate any effects on local traffic. He hoped the development would benefit both the future and current communities.

Mr Mark Leigh of Vectos addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He said that the development had been subject to a high level of scrutiny from the local Highway Authority (Essex County Council) and the Highways Agency, with all the technical information submitted considered to accord with best practice guidance. He specified that the proposal, although supportive of behaviour change with regard to transportation, did not rely on such a change.

Mr Stuart Cock of Mersea Homes addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He emphasised that he was accountable to the local community and understood their concerns. He reiterated the need for new homes in Colchester and explained that this development was a long term investment, which needed to be sustainable. He stated that years of gathering evidence had resulted in a carefully and well thought out proposal that he hoped Colchester could be proud of.

Councillor Goss, Mile End Ward Councillor attended the meeting and, with the consent of the Chairman, addressed the Committee. He suggested the development did not have a proper business case and that it lacked healthcare resources, education facilities and retail provision, which would result in more traffic through North Station. The reduction of the retail store size had decreased the Section 106 funding by £2,000,000. The community centre at Severalls Hospital was paying £25,000 more. No mention had been made of the existing sports pavilion, which the applicant had previously stated he would refurbish. In his opinion, the flood risk had been underplayed. He claimed that the maintenance of open spaces had not been properly considered. He suggested that the aspiration of a 15% modal shift was implausible and highlighted that the development would likely become a commuter parking hub. He suggested that train links into Colchester would not be able to handle the increase in residents. The development vision was not sustainable and was without a business case.

Councillor Hayes, Castle Ward Councillor attended the meeting and, with the consent of the Chairman, addressed the Committee. She expressed concern about the effect of the development on air quality and traffic in the surrounding Wards. As Heritage Champion she underlined the need for strict archeological conditions. She criticised the methodology used for regarding ecological surveys and the need to protect hedgerows, making reference to protected species and the site being a wildlife corridor. She stated that with the addition of 1,600 homes, wildlife would certainly be affected. She claimed that there were several brownfield developments that were struggling and if greenfield sites were to be approved this would deter further brownfield development. She said that although the Government policy on East of England growth had been revoked, Colchester was still continuing down the same route. She highlighted the need to balance development with the local economy, stating this scheme was premature.

Councillor Anne Turrell, Mile End Ward Councillor attended the meeting and, with the consent of the Chairman, addressed the Committee. She claimed that the local area had grown too fast and that the infrastructure would not be able to cope. She suggested that granting outline permission before infrastructure provisions were finalised caused problems, as conditions would be changed at a later date. She said the application provided no traffic plan and was not

therefore compliant with the Core Strategy. She said the site was not sustainable. She said the development should be refused on the basis of development plan non-compliance, the priority of brownfield sites, highway safety and capacity issues, the timing of highway works, cost of funding and lack of viability. She suggested that Colchester did need housing but not at such a cost to local residents.

Committee Consideration

The Place Strategy Manager clarified that the need for a fifteen year supply of housing land was raised as an issue when the Core Strategy was subject to examination. The fifteen years was from its adoption. At that time inspectors reports were binding, which could explain the lack of Committee Minutes. Although the Housing Trajectory is not a statutory document it forms part of the Annual Monitoring Report, which is a statutory requirement and which is adopted by Colchester Borough Council each year. The latest trajectory showed that there is a deficit in the fifteen year housing land supply. She explained that nowhere in the NPPF did it state that greenfield sites should be held back from development to allow brownfield sites to proceed.

The Principal Planning Officer explained that, in relation to transportation, the developers were only required to mitigate the effects of their proposed scheme and not resolve existing problems. The transport assessment had been considered by the Highway Authority and Highway Agency this, together with the mitigated package was considered acceptable. He highlighted that Myland Community Council had commissioned an independent review of the transport documentation and that, in the main, they had considered the transport assessment to be satisfactory.

In relation to Air Quality, assessments had been carried out on and off-site, which included the North Station Area and CBC's Environmental Control Officers had raised no objections. The flooding, ecology, Public Rights of Way and archaeology had all been considered, with no objections raised from the relevant bodies. It was also clarified that parking arrangements would be the subject of detailed applications and would be required to comply with CBC parking standards. The issue of commuter parking had been raised with the Highway Authority and there is not an objection in principle to a residents parking scheme covering this site but this would need to be controlled by highway legislation. Likewise the requirement for bus corridors would need to be subject to a Transport Regulation Order.

The viability of the development was address by the Principal Planning Officer. The NPPF states that the development proposals should not be unduly burdened by policy or Section 106 requirements. The scheme had been subject to a viability appraisal and it had been demonstrated that it could not afford all Section 106 requests. The proposed Section 106 package seeks to address the Council's strategic priorities and those identified by the local community. The viability assessment used a lower land value than that outlined in the Community Infrastructure Levy evidence based work (£500,000) and used a profit of 17.5%, as opposed to the industry standard of 20%. If the land and profit values were raised, the Section 106 funding would be considerably less.

Mr Martin Mason, Essex County Council Highways Strategic Development Engineer, explained that conditions had been included to mitigate the effect of the development and it was likely the proposed works would also be of benefit to the existing community. He clarified that the model, although based on 2007 surveys, was still considered to be robust. He explained that the highway works related to part of the network which would be significantly affected by the development. He stated that the bus strategy related to the implementation of the development and that the bus operators would see the development as a positive commercial opportunity.

The Committee recognised the need to provide more homes in the area as well as affordable

homes to meet demand. It was considered that the design of the proposal was well thought out and they were pleased to note the low density of housing and open spaces throughout, as well as the retention of trees and hedgerows. It was highlighted that the Core Strategy and Site Allocations DPD had been agreed by the, then, Local Development Framework Committee and Council.

It was clarified by Mr Vincent Pearce, the Major Developments Manager, that the Council was confident in the legality of the Officer recommendation.

Several Members of the Committee expressed concern regarding the highways ramifications of this development. A Member of the Committee commented that mitigation of the site had to include a positive impact on existing issues, otherwise it would not work. The bridge near North Station was cited as a particular area where ‘funnelling’ may occur. It was also emphasised that the proposal was taking into consideration the infrastructure improvement works previously agreed, including the Northern Approach Road 3, bus lanes, improvements to North Station and the Park and Ride facility, which would alleviate any ‘funnelling’ effect.

Uncertainty as to the sufficiency of future car parking capabilities was also raised, however Officers responded that a condition required car parking to accord with the Council’s adopted parking standards.

A Member of the Committee raised concern regarding the impact of the development on Bakers Lane, which was narrow and often used as a short cut. It was explained that impact on this lane from traffic associated with this development would be minimal. It was suggested that if Councillors had concerns regarding individual roads, they should consult the Local Highways Panel at Essex County Council.

Concerns were also raised as to the provision of education relating to the development, with the current oversubscription of schools in the area mentioned as a problem. The prospect of having to move children across the town to get to school was considered unacceptable.

The Major Developments Manager commented that Colchester Borough Council was not the Education Authority. Regarding suggestions that pupils would have to travel across Colchester to get to school, he suggested that Essex County Council may be required to rethink its approach to schools in the area, possibly retaining schools in the North Colchester area.

The Committee made the point that a street light reduction policy was to be drawn up by Colchester Borough Council and that this would need to be referred to when reserved matters were considered to ensure low emission lighting was used.

RESOLVED (EIGHT voted FOR, TWO voted AGAINST) that –

- (i) The Secretary of State be advised that this Council is minded to grant a conditional planning approval subject to a) his confirmation that he does not wish to call the application in for his own determination; and b) the signing of a S106 Legal Agreement.
- (ii) The Head of Commercial Services be authorised to complete the s106 legal agreement and undertake necessary amendments to ensure conformity between the planning conditions and the legal agreement and also authorised to amend the mechanism for delivering the required outcomes to provide the following:
 - Affordable Housing
 - 15% minimum affordable housing contribution on each phase of the scheme.

- A minimum of 10% to be provided as affordable rent unless otherwise agreed with the Local Planning Authority. A maximum of 5% to be Intermediate tenure such as Shared Equity, Shared Ownership of Shared Equity Percentage Commuted Sum. For Commuted Sums the Market value of the properties being offered will be ascertained by an RICS redbook valuation.
- Other form of rented tenure types may be acceptable if proposed by the Developer and accepted by the Local Planning Authority.
- Viability to be tested prior to the commencement of the 455th unit and again prior to 855th and finally 1255th unit to ascertain if future reserved matter applications can support an increased affordable housing percentage up to a maximum of the then_current policy target.
- Viability test to be based on agreed model with land costs fixed and index linked and profit percentages fixed and criteria so that if the parties do not agree it can be referred to an independent expert to adjudicate.
- The assessments shall be submitted not earlier than 355th, 755th and 1155th occupation unless otherwise agreed with the Local Planning Authority.
- The type and size of Affordable Housing units in each phase to be guided by the Strategic Housing Market Assessment that is relevant at the time and agreed by the Council.
- No more than 40 percent of the private dwellings on each phase to be occupied prior to contracts signed with Registered Providers for 50 percent of Affordable Housing dwellings in that phase.
- No more than 80 percent of the private dwellings to be occupied prior to contracts signed with Registered Providers for 100 percent of Affordable Housing dwellings in that phase.
- No future phase completions will be allowed until 100 percent of the previous phase affordable housing is delivered.
- Highway Improvements (on and off site)
 - Bus stops and upgrading of footpaths as identified.
 - The works at Essex Hall Roundabout, Station Way and Colne Bank Roundabout (shown on drawing numbers VN20059-711-B and VN20059-710-C) to be capped at £4,475,000 (index linked). In the event that the capital cost of the works exceeds £4,475,000, the developer is to work with Essex County Council to find additional funding to enable the works to proceed or identify an alternative scheme.
- Bus Strategy
 - To pay bus subsidy to a bus operator to facilitate a bus route to run through the length of the primary street in instalments up to a maximum contribution of £330,000.

- The bus subsidy is subject to the bus route not being viable prior to any payment. Payments will cease in the event that the bus service becomes viable. Provisions will set out the frequency, timings and route the service will take.
- Developer to provide evidence to show £330,000 Index Linked has been spent on bus service. If less than any balance shall be utilised on sustainable transport initiatives agreed by the Council.
- Details to be subject to further discussion.
- Travel Plans and Travel Co-ordinator
 - Developer to pay Local Planning Authority a total of £70,000 in equal instalments at the first occupation and the [xx]th occupation. The contribution is to be used to implement the measures in the approval travel plans.
 - Details to be subject to further discussion.
 - To prepare and implement a Travel Plan.
- Land to facilitate footbridge of the A12
 - To procure that the land shown on drawing xx is set aside for 10 years after the completion of the 900th unit for the construction of a footbridge over the A12.
- Education
 - The school land is shown on drawing xx (both primary (including the potential provision for early years) and secondary shown separately).
 - Both school sites shall be set aside for a maximum of [ten years] from commencement of development in which time Essex County Council must serve written notice within seven years that either / both part of the land are required to mitigate the primary and secondary educational impacts of development.
 - Once the notice is served and services land is transferred for £1.
 - Essex County Council have a further [3 years] from the date of completion of the transfer to construct the relevant school otherwise the relevant land is transferred back to the developer.
 - A community plan to be submitted setting out the arrangement for sharing the sports facilities.
 - If the school site is returned to the Developer the Developer may apply for a change of use on this part of the site but serviced land will be reserve [xxha] for indoor sports provision for the scheme and offered to the Council for £1 or pay financial contribution.
 - The requirement for the land to be appropriately serviced (including noise mitigation) and trigger points for the transfer / delivery of the schools to be subject to further discussion with the Education Authority and the Developer.

- To pay primary school contributions of £500,000 prior to the occupation of the 1,000th units and a further £500,000 prior to the occupation of the 1,150th unit
- Strategic Landscape Provision and Play Areas
 - The public realm shall be provided broadly in accordance with Landscape Framework Drawing with additional open space within the residential parcels.
 - The Developer will be able to either manage the open space via a suitable Management Company or may ask Colchester Borough Council or a 3rd party to adopt the land by paying a commuted maintenance sum of £40,000 per hectare. Colchester Borough Council will not adopt incidental open space which is less than [0.02ha] in size.
 - Sports pitches are to be laid out to an agreed specification and made available prior to [xxth unit]. Colchester Borough Council to be offered the sport pitches with a commuted sum of £87,700 per hectare. In the event Colchester Borough Council declines to adopt the sport pitches or the commuted sum offer is less than £87,700 per hectare a management company or other suitable organisation is to maintain them.
 - Allotments are to be laid out to an agreed specification and made available prior to [xxth unit]. Colchester Borough Council to be offered the allotments with a commuted sum of £6,700 per hectare. In the event Colchester Borough Council declines to adopt the allotments or the commuted sum offer is less than £6,700 per hectare a management company or other suitable organisation is to maintain them.
 - The developers' total obligation for the scheme with regard to equipped play area construction and their adoption is capped at £700,000. Colchester Borough Council to be offered the play areas. In the event that Colchester Borough Council declines to adopt the play areas a management company or other suitable organisation is to maintain them.
 - The public realm is to be available to all.
- Community Centre
 - By the 750th unit carry out a consultation with the local community to ascertain what type of building they would like within available parameters.
 - By the 950th unit gain reserved matters consent, construct and handover a community facility with a maximum size of [1,000m²] and a maximum all in cost of [£1,495,000].
 - Developer to provide evidence to show £1,495,000.00 Index Linked has been spent on community facility. If less then any balance shall be utilised on education or indoor sports facility as agreed by the Council.
- Employment and Training Plan
- Plaza Access and Management Plan

- Miscellaneous
 - Provision within the neighbourhood centre for a doctor's surgery.
 - Indexation will be applied to sums from the date of signing the S106 Agreement.
 - Mechanism for review of viability (including the reasonable costs of Colchester Borough Council seeking independent advice).
 - Pre-adoption management and maintenance scheme.
 - Monitoring and Legal fees.

(iii) On completion of the Legal Agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions and informatives outlined in the report and amendment sheet.



Application No: 131604
Location: Former ECC Offices, Park Road, Colchester, CO3 3UL
Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **24 April 2014**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Sue Jackson Due Date: 27/05/2014

MAJOR

Site: Former ECC Offices, Park Road, Colchester, CO3 3UL

Application No: 131604

Date Received: 15 August 2013

Agent: Barton Willmore

Applicant: Redrow Homes Ltd (South East Division)

Development: Erection of 31 dwellings, creation of a new vehicular access via park road and provision of an access road, refuse and bicycle store, landscaping, public open space and groundworks

Ward: Lexden

Summary of Recommendation: Conditional Approval subject to signing of Legal Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Lewis for the following reason "Poor design that does not adequately address the street scene, thus fails to comply with Local Plan policy"
- 1.2 As the application is a major and objections have been received it would have been reported to the Planning Committee irrespective of the call-in.

2.0 Synopsis

- 2.1 The key issues explored below are the proposed layout and design and their compatibility with the character of the area, impact on protected trees, ecology and archaeology, impact on neighbours amenity and finally viability and section106 issues.

3.0 Site Description and Context

- 3.1 The application site is located approximately 1 mile west of Colchester town centre. Park Road is accessed from the south side of Lexden Road. Lexden Road is one of the main routes to Colchester town centre from the west and is a bus route. The site is on the south side of Park Road with the existing site access approx 75 metres beyond a right angled bend in the road.
- 3.2 The site has an area of approx 1.57 hectares. The site was owned by Essex County Council and until recently contained a range of office buildings and other structures. These were demolished following a prior approval application. The majority of the buildings dated from the 1960's and were not in a good state of repair or of any architectural or historic merit.
- 3.3 The application site forms part of a larger area formerly owned and occupied by Essex County Council. The larger site has been divided into 2 parcels; the application site and a building known as Altnacealgach House. The house, which is on the local list, is within a parkland setting with some trees on both sites protected by a tree preservation order. The house and part of the park land are not included in this application. The application site includes part of the parkland and has mature trees along part of the rear and side boundaries.
- 3.4 Residential properties along Park Road are of varied architectural styles and a range of ages. The residential properties on the opposite side of Park Road are detached properties dating from the 1970s and include bungalows as well as houses; they are set back from the road. Cheviots Nursing home is also opposite the site a substantial Georgian style redbrick building. Properties in Mossfield Close back onto the western end of Park Road and their rear garden fences front Park Road. A pair of extended cottages abut the west boundary. This part of Park Road is characterised by the variety of building types and ages, the spaces between the buildings and the large mature trees in front of the dwellings. There is a grass verge on both sides of the road.
- 3.5 To the east of the site, at the point where there is a bend in Park Road there is footpath/cycleway which also provides access to Altnacealgach House.
- 3.6 To the rear of the site is Colchester County High School for Girls; a swimming pool and sports areas within the school grounds are close to the site boundaries
- 3.7 Park Road is unadopted and has the status of a Public bridleway.

4.0 Description of the Proposal

- 4.1 This full application submitted in August 2013 proposed the erection of 32 dwellings. Ten detached dwellings fronting Park Road each with its own access across the grass verge fronting the road. The existing access point relocated slightly to the east of its current position will serve the other dwellings. From Park Road 2 detached dwellings front the access road facing the area of public open space. The road then divides to serve a further 9 detached houses ending in a small private drive. The access then continued past the rear of Altnacealgach House to a pair of semidetached houses and a 3-storey building containing 9 flats.
- 4.2 The public open space contains a large number of the preserved trees within the site. Other protected trees are on part of the south and west boundaries. There are other trees on the site which are not protected. The majority of the preserved trees will be retained predominantly to the rear and side boundary of the flats and in the rear gardens of the semidetached houses. Non preserved trees will also be retained. Tree planting is proposed along the road to the front of the proposed houses to reflect the existing trees on the northern side of the road.
- 4.3 The Design and Access Statement indicates that the few trees which will be lost as part of the redevelopment of the site will be replaced on the site through the landscaping provision and therefore there will not be a net loss of trees.
- 4.4 Amended plans were received in February this year following meetings to discuss the concerns raised by consultees, in particular the Urban Design Officer and neighbours. The amended scheme proposes 31 dwellings. The most significant changes are to the Park Road frontage with the introduction of a wider variety of house styles, a greater variety of materials and chimneys plus other architectural features. Other amendments include a corner facing unit to plot 12, the reduction in the number of flats from 9-6 and a terrace of 4 units to replace a semidetached pair. The layout of the road and position of open space is unaltered.
- 4.5 The application documents include an Arboricultural Impact Assessment, Arboricultural Method Statement, Archaeological Excavation, Ecological Appraisal, Statement of Community Engagement, Design and Access Statement, Planning Statement, Flood Risk Assessment, Transport Statement, Environcheck, Tree Protection Plans, Statement for Provision of Waste, Landscape Plan

5.0 Land Use Allocation

- 5.1 Predominantly Residential
Areas of High Archaeological Potential
Tree Preservation Order

6.0 Relevant Planning History

- 6.1 Application 135948 Conversion of Altnacealgach House to Form 6 Residential Apartments, Demolition of Side Storage Wing and Erection of Extension to Create 1 Residential Apartment, Erection of Gatehouse, with Associated Access, Car Parking, Landscaping, and Related Works: application pending

7.0 Principal Policies

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

Also relevant is the National Planning Practice Guidance (NPPG) of 2014.

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

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

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

8.0 Consultations

8.1 The Urban Design Officer comment on original application

- proposal ignores the character of the area
- too many houses are of too similar appearance
- sense of place is poor.
- designs lack variation.
- spacing between many units is too regular and too small to give rhythm and character to the development.
- integral double garages dominate
- Many house types are poorly proportioned
- frontages to Park Road lack sympathy to the character of the street
- apartment block is unacceptably close to the LB and visually competes at three storeys.

8.2 The Highway Authority has no objection subject to conditions.

8.3 Environmental Control no objection subject to conditions.

8.4 Environmental Control Contaminated Land Officer - No objection subject to conditions.

8.5 Archaeology Officer - The applicant has submitted a desk based archaeological assessment and conducted an archaeological evaluation of this re-development site. Following discussions with the archaeological consultants CgMs Ltd we have agreed a suitable scheme of archaeological mitigation which involves a combination of excavation and watching briefs. Should consent be granted I would recommend that standard archaeological condition ZNL be imposed.

8.6 Landscape Planning Officer:

- The landscape element of the proposal be cross checked against the council's standard generic requirements.
- Type of paving for parking bays and surface treatment for the spine road
- Units face onto rather than back onto POS, this in order to offer greater passive surveillance of the space and avoid anti-social behaviour
- proposed hedge behind plots 1 to 4
- requirements for tree planting in rear gardens
- access point onto the POS for maintenance vehicle needs to be identified on plan

- the visitor parking bays be set outside the POS as they would only serve to dilute the informal character of this retained wooded block.
- the frontage treatment to plots 1 to 10 needs to be more eclectic to reflect the local character of Park Road, with for example low brick wall and railing to plots 4 & 5 to better define the entrance and perhaps also to plot 9, and 2 or 3, with differing types of evergreen hedging to the remainder.

8.7 Arboricultural Officer :

- Generally I am in agreement with the conclusions of the reports provided clarification required on protective fencing
- mitigation for loss of trees at entrance
- The position of plot 01 is very close to Limes within G1. This is likely to cause an immediate conflict between the tree and the built form. This tree species will drop sap and will be oppressive in a location
- Details of new service locations are required by condition
- Details of site monitoring are required.
- T51 must be retained. It is within a garden and forms part of an attractive group. Its removal has not been justified.

8.8 ECC Drainage:

Thank you for giving us the opportunity to provide comments in relation to this planning application. Until we become the SuDS Approval Body (SAB), expected to be in October 2014, we are providing informal comments on SuDS schemes on sites over 1ha, which are given without prejudice to any future application under the Flood and Water Management Act. The Environment Agency remains the statutory consultee on surface water. Comments on some aspects of the drainage proposals were made and these have been addressed by the applicants consultant

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

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 (12 letters of objection were received in respect of the original application and 4 regarding the amended plans submitted in 2014)

10.2 Councillor Lewis has submitted the following comments

“Social Housing.

The number of social houses on site I understand would be 9, which is the number of units in the Apartment block, taken into account the lack of facilities in Lexden, Cllr; Brian Jarvis joins me in asking for consideration to be given for an off site contribution towards a retirement village/ bungalows for the older person, West of Colchester and ask for the following reasons to be taken into consideration.

Lexden can not offer

Doctors Surgery (Creffield Rd Closed)

Community Centre or social facilities other than Local Church facilities. (where people tend to only support the church of their faith).

Play area for Children in comfortable walking distance.(nearest Castle Park and Shelley Road)

Dental Surgery.

Police Office.

Lexden has a total of 16 units for retired people in Nelson Road managed by Flagship Housing Association, a mixture of Apartments and Bungalows plus a bungalow built for a younger disabled person.

In Lexden there are 150 beds in four different Retirement Care Homes, which highlights the on going need to accommodate the older residents.

In line with most wards in the Borough, Lexden has under occupied family houses managed by Colchester Borough Homes with a single older person reluctant to move into a block of flats available to a wide age range, the mixture of young and old is a two way journey.

Officer comment: Following the submission of the viability appraisal there is no affordable housing proposed on site.

10.3 Residents objections

- insufficient variation in the house types
- over dominance of integral garages
- insufficient space between buildings out of character with predominantly arcadian character
- use of standard house types
- bespoke design solution needed
- The Site Plan indicates that the northern site boundary in Park Road has moved several metres north from the existing wooden fence to incorporate the grass verge. This is unacceptable as it moves the boundary of plots 9 & 10 closer to the rear of our property at 11 Mossfield Close. We would have no screening from this development along the south perimeter fence of our property and these properties will overlook directly into our rear garden and 1st floor south facing rooms. This will have a major impact on our privacy and will affect our enjoyment
- The proposal to remove two mature trees in plot 9 which could be retained if the area proposed for plots 9 & 10 was changed to a landscape area. This would result in a lesser impact from the development on Mossfield Close
- the verge does not form part of the applicants ownership applicant do not own the road and how can the council have a right to allow this to happen as the ownership of the road is unknown
- The Developer doesn't own the wide grass verge on the southern side of the East-West section of Park Road. It therefore needs to establish that it has the right to cut through it in 10 places to provide driveway access to 10 houses shown on the plan to have Park Road frontage. That wide verge is one of the distinctive features of Park Road and it would be a shame to spoil it so completely.
- access should be via the Altnacealgach House access properties shouldn't front Park Road but be like Mossfield Close
- Redrow has no right to breach the south boundary of Park Road additional traffic will lead to parking problems drainage of Park Road

- There is no provision for pedestrian access along this section of Park Road. Particularly as there are large numbers of school children using this road to and from the local schools. They use the grass verge which has been incorporated into the site plan. We feel that this should continue and the south side of Park Road needs to be utilised for pedestrian access and the boundary should remain in its original position.
- The existing fence should remain intact.
- Transport statement analysis
 1. This document does not sufficiently consider the peak loading of traffic expected from the development, particularly access from Park Road to Lexden Road in the morning and egress for Lexden Road in the school emptying period.
 2. The buildings floor plans clearly indicate at least 21 dwellings are of substantial size comprising 4 bedrooms and 3 living rooms. Target purchasers are thus professional and managerial families with children of school ages. From the site plan it is clear that such properties have Parking for at least 2 cars, and it likely that there will be 2/3 cars in the majority of households as is common throughout the country.
 3. Existing traffic flow to and from the existing site is overestimated in the peak periods
 4. The morning peak traffic flow from the proposed development is underestimated.
 5. Although there are several schools within walking or cycling distance, it is a clear possibility that parents will drive children to other schools,
 6. The traffic flow at school hours is not considered
 7. Traffic flow in peak hours in the new development is reversed compared to the existing flow. The report does not consider this.
- Sewerage is already at capacity
- At the public exhibition on 21st June we were asked to comment on the preferred option A (Some Affordable housing) or B (All private). Could you please advise why Option A has been chosen when the results published in the Statement of Community Engagement indicated that Option B was the preferred choice.
- The vehicle allocation for the development is 1.9 cars. We therefore feel that no consideration has been given for visitors parking to the houses, particularly at this end of Park Road. .
- The development will exacerbate vehicular & pedestrian (predominately school children) usage of Park Road during construction and when completed. We currently experience only minimal traffic at the western end of Park Road.

10.4 Colchester County High School for Girls

- the extensive planting opposite Plots 20 to 23, should be retained. If this does not happen, it will impact on the amenity and security of the School, especially as the swimming pool and tennis courts are immediately adjacent to these boundaries.
- barriers/fences should be provided around the car parking spaces outside Plots 24 to 32, to prevent vehicles encroaching on to the soft landscaping
- Plots 22-34 overlook the swimming pool. These units should have obscured glass in overlooking windows or be heavily screened by walls, fences and tall planting
- Plots 24-32 are 3 storey. This is the only part of the development that is greater than 2 storey and it has the biggest impact on the School in terms of overlooking potentially sensitive areas. We believe that consideration should be given to transposing Plots 1, 2 and possibly 3 with Plots 24-32, to minimise adverse amenity impact on the School

- On the Landscaping/Boundary Treatment Plan, it states that our shared boundary is “to be surveyed on site and where possible, retained and repaired and renewed.” We believe this is unacceptable. Because of the nature of the School, and the potential open aspect of parts of the development site, we believe that approval of any scheme should be conditional on the provision of a minimum 2 metre tall solid brick wall or close boarded fence along the boundary from the garden of Plot 18 to the extreme South East corner of the site by Plots 24-32 with extensive deterrent planting, (egpyracantha or similar), at low level and retained tree screen.
- The Landscaping Plan only allows for re-seeding against the School’s boundary opposite Plots 24-32. Having regard to the extensive undergrowth currently in this area, we believe to only propose re-seeding is both inappropriate and inadequate. The existing landscaping should be reinstated in this area; it is also consistent with the tree line that is being retained.

10.5 Mike Baker (acting chairman) Lexden Conservation Group Comment: Infrastructure:

Another 32 dwellings suggests another 64 vehicles; another 128 vehicle movements through the already overcrowded Lexden Road per day. Social housing and housing for the elderly: Casting the needy off to the ever more distant outskirts of the town seems a really good idea - the last thing we want in Lexden Road is a load of scruffs and the elderly clogging up the pavements where the Chelsea Tractors stop to drop off their children.

10.6 4 letters were received in respect of the amended plans many of comments reiterate those set out above

10.7 Director of Balkerne Gardens Trust owner of Cheviots

1. inadequate parking and turning
2. highway safety will be affected as park road is used extensively by school children
3. unnecessary and unacceptable additional traffic given existing congestion in Lexden Road
4. increase in noise and disruption during and after construction
5. potential for hazardous materials to be present on site
6. road access inappropriate alternative should be considered via the south corner of Park Road

- the site red line appears to have been moved approximately 3.5-4.5m northwards so that it now incorporate the existing grass verge on the south side of Park Road. This verge did not belong to ECC so was not included in the sale of the site the Developer. Development could be accomplished without taking possession of the verge. The front gardens of the houses with frontage would just be a bit shorter; The current character of this section of Park Road owes a lot to the wide grass verges, The loss of the verge on one side would ruin that character, children walking to and from the various schools at the west end of Park Road would end up walking in the road if the verge was lost. The development work is likely to wreck the road surface of Park Road. The Developer should be required to leave to road in a good condition.

10.8 Colchester County High School for Girls

Whilst Redrow has taken account of many of our concerns they have not been fully addressed and we consider the revised plans would still have a significantly adverse impact on the privacy and security of the school

- the 3 storey building still overlooks the tennis courts
- 4 properties now overlook the swimming pool
- a 2m wall should be provided on the boundaries not a 2m close boarded fence
- additional planting is required along the boundary with plots 20-25

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

11.0 Parking Provision

11.1 The proposal satisfies parking standards; the detached houses each have either a single or double garage and 2 parking spaces or a single space within their curtilage plus a visitor space; the 4 terraced units each have 2 spaces; 12 parking spaces plus 2 visitor spaces are provided for the 6 flats; in addition a further 5 visitor spaces are indicated.

12.0 Open Space Provisions

12.1 An area of public open space equating to 12% of the site area approx 1800sqm is proposed. This area fronts the main access road and is adjacent to Altnacealgach House. The POS contains several mature trees protected by TPO and is also an area where there are known to be archaeological remains. This POS will be maintained by a management company.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990 in respect of 20 affordable housing and education and open space, sport and recreation contributions

- 14.2 Following consideration by the Development Team a Viability Appraisal has been submitted which has been independently assessed by the Councils Estates Officer. The development has been shown to be unviable should all these contributions be adhered to. The Viability Appraisal has been vigorously scrutinised and as a result the original financial contribution to the Borough Council of £281,215 has been increased to £509,416.
- 14.3 The NPPF states that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
- 14.4 The development team has reconsidered the s106 obligations and has agreed that £509,416 be sought as developer contributions for the delivery of affordable housing in the Borough to meet the policy requirement for this site. If after the provision of affordable housing there is any of the contribution remaining the DT agreed this should be used by ECC for education provision.
- 14.5 A legal agreement will be attached to the decision that will secure a commuted sum of £509,416 to be provided to the Borough Council for the provision of affordable housing across the Borough to meet the policy requirements for this site. If following the provision there is any of the contribution remaining it will be passed to Essex County Education. The agreement will also require a revised viability assessment to be undertaken, should the development have not commenced within 1 year from the date of the grant of planning permission, through a review mechanism.

15.0 Report

Principle of development

- 15.2 The site is within an area allocated for predominantly residential purposes and the development is therefore acceptable in principle.

Design and Layout

- 15.3 The proposed development creates a layout of mainly detached houses plus a small terrace of 4 units and a building containing 6 flats. The arrangement is of frontage development to Park Road. The new access will serve a small road and drive of 9 units. The principle character of Park Road is derived from the range and variety of dwelling styles and ages, the spaces between the buildings and the established trees. The amendments to the application which have been achieved following several meetings include additional house types onto Park Road which including a house type which has a detached rather than an integral garage. The amendments also include more variation in the positions of buildings along this road which adds variety to the street scene. The space between buildings has also been increased. Chimneys have added to some units to add interest to the roofscape and other architectural features added. Whilst the amendments do not include all the elements discussed it is considered the Park Road frontage is now more reflective of the character of the

street. The units are set back from the frontage and will allow tree planting within the front gardens but outside the verge.

- 15.4 The architectural theme is traditional with hipped and gable roofs, house include bays and plinths. Materials include render, decorative hanging tiles, brick, and plain tiles. Whilst these materials are acceptable in principle the specific materials indicated are not acceptable. There is also an inconsistency between the materials plan and elevation plans in respect of the render, with the former showing all 4 elevations of the dwellings rendered whereas the elevation drawings show just the front and part side walls. This is not acceptable and a condition requires the render to reflect the materials plan.

Scale, Height and Massing

- 15.5 The houses are all two storey family houses. The flats are 3 storeys high this building is located at the rear of the site and is a similar height to Altnacealgach House.

Impact on the Surrounding Area

- 15.6 The demolition of the buildings has had a positive impact on the area; several were flat roofed 1960's buildings. The site has been rundown over several years. The removal of a commercial use and the traffic it generated in this predominantly residential area will also have a positive impact.

Impacts on Neighbouring Properties

- 15.7 There are generally no adverse affects on the neighbouring property. Objection has been received from residents of Mossfield Close these properties back onto the opposite side of Park Road. Plots 9 and 10 front Park Road opposite nos.11 and 13 Mossfield Close. The front of the house on plot 9 is approx 17 metres from the rear fence of no 11 and the front of the house on plot 10 is approx 15 metres from the rear fence of no 13 the front wall of these houses is approx 28 metres and 25 metres from the rear wall of no 11 and 13. These distances are considered acceptable. It has been suggested a more appropriate way of developing the site would be to reflect Mossfield Close and have rear gardens onto Park Road this form of layout would be totally unacceptable resulting in an attractive public realm
- 15.8 Objections have been received relating to the works proposed to Park Road and crossing the verge by the creation of driveways to serve the 10 frontage plots. Essex County Council has confirmed the ownership of this section of Park Road is unknown. However land ownership is not a planning matter. The applicant is aware of the comments made. It has also been suggested the site is assessed via an existing drive serving Altnacealgach House. This drive is accessed via a PROW/ cycleway and whilst it has had limited vehicular traffic the Highway Authority would object to the level of traffic generated by this development using this access.

15.9 Redrow Homes have provided the following clarification:-

“When submitting the planning application for the development of the site, Certificate D was completed as part of the application forms and a notice placed in the local press as required by Regulations. To our knowledge an owner of the land along the frontage of Park Road is unknown and has not come forward following the advertisement in the local press.

In response to your comment regarding the right of access over Park Road and additional access points, Redrow can confirm that this issue was investigated extensively at the time of acquisition by both Redrow Homes (including detailed legal advice) and the Vendor prior to marketing the site. Redrow Homes has confirmed that they have the right and their successors in title to have the right of access over the bridleway known as Park Road to provide access to the site.

In terms of the repairs to the stretch of Park Road adjacent to the application site, it is noted that works to the public footpath and bridleway can be undertaken by Redrow serving a Section 50 Notice on Essex County Highways detailing the nature of the works and timetable for their delivery and obtaining a licence from ECC Highways to undertake these. Therefore this is not an issue particularly given that the former occupier of the site, Essex County Council has previously undertaken such works to Park Road.”

15.10 Colchester County High School for Girls has raised objections relating to privacy issues. The case officer has visited the school to assess the impact. As a result the applicant has submitted a section drawing to show the viewpoints from the windows of plots 22-25 where the rear elevation faces towards the swimming pool. The pool has a roof but the pupils walk a short distance to the pool from changing rooms across the play ground. The section drawing demonstrates the pool building obscures any views of pupils between the changing rooms and swimming pool.

15.11 The applicant has commented “Redrow Homes has reconsidered the boundary treatments and proposes to put a 2 metre close boarded wooded fence along the southern and western boundary. The majority of the existing mature trees will be retained and where any undergrowth is lost, replacement planting will take place. This will maintain the school’s amenity and prevent future resident from looking directly into the school site. A knee high rail will also be installed around the boundary of the parking spaces for Plots 26-31 which will prevent vehicles from parking on the landscaped areas close to the boundary with the school. It must be noted that the school’s swimming pool is covered and the impact on the amenity of pupils and teachers will be limited. The Section Plans submitted as part of the revised package of information show the distance between Plots 22-25 and the swimming pool will be 26.4 metres. The distance between plots 26-31 and the school buildings will be 71.1 metres. The Section Plan demonstrates that there would be a significant distance between the proposed development and the school buildings and the retention of the existing mature trees on the site will further reduce views into the school grounds from the application site”.

Amenity Provisions

- 15.12 All the dwellings and flats have generous private gardens, which exceed the adopted minimum rear garden size. In addition an area of public open space is provided which exceeds the 10% site area minimum. The houses fronting Park Road are set back from the front boundary to allow tree planting this will reflect the north side of the road and will be a positive contribution to the amenity of the area.

Highway Issues

- 15.13 The Highway Authority has raised no objection to the application subject to conditions. The site when occupied by the County was used as offices and at one time use included a highways depot. When the site was used to capacity it would have generated a large number of vehicle movements including commercial vehicles. Objection has been received to the repositioning of the site access. The access is currently opposite the entrance to Cheviots and the proposal involves a new position between Cheviots entrance and exit. This new position is considered safer than the existing.
- 15.14 This section of Park Road is not an adopted highway and the roads serving the development will not be adopted. Maintenance will be the responsibility of a management company. Whilst the roads will not be adopted they are designed to appropriate standard to allow access for delivery vehicles including refuse freighters and include 2 size 3 turning areas. The parking provision meets the Councils adopted parking standards. The applicant proposes to tarmac the road where it bounds the site to the north once the development is substantially complete. The applicant states "whilst ECC Highways have confirmed that the road cannot be adopted, and therefore they will not maintain it, it is proposed that a management company will then be set up and residents of the development will pay a residents service charge fee to the long term management and maintenance of Park Road. Existing residents who currently use the road will also be asked to contribute as appropriate".

Impact on Ecology

- 15.15 The ecology appraisal concludes:
- No designated wildlife sites occur within or adjacent to the site. Where appropriate levels of open space are provided within the site it is unlikely that the ecological value of wildlife sites within the wider area will be impacted by the development
 - No bat roosts were identified within any building on site. Recommendations have been made with regard to lighting and landscaping at the site to protect bat foraging and dispersal opportunities at the site, including for those bats known to roost off-site within the locally listed building. A number of bat roosting features have been proposed across the site
 - A small population of grass snake is present within rough habitats to the northwest of the site. Mitigation measures have been proposed to avoid killing and injury of this species

- The majority of habitats at the site are considered to be of low nature conservation value. However, mature arboretum trees, rough grassland and scrub have the potential to provide opportunities for local wildlife. Naturalist habitats across the site have been largely retained with a range of new landscape planting of wildlife benefit proposed including trees, shrubs, hedging, native bulbs and wildflower grassland
- It is recommended that removal of mature vegetation occurs between September and February to minimise the potential for impacts to nesting birds. A number of bird nesting features have been proposed across the site. Subject to the agreement and implementation of mitigation measures for reptiles, and protection measures for bats, it is anticipated that the proposed development at site could proceed without significant ecological impact. In time, where proposed landscape planting and enhancements measures are well managed / maintained the development of the site is anticipated to be benefit to local wildlife

Archaeology

15.16 The available information indicates that the site is of significant archaeological potential, in particular, evidence of roman activity can be expected in the south-east, east and north-west of the site

Flood Risk

15.17 The submitted flood risk assessment indicates

- The site is in flood zone 1 as indicated by the environment agency flood map, i.e. in an area having a low annual probability of flooding from fluvial sources. Other flood sources have been considered – sewers, groundwater, overland flow and artificial. None were found to pose a significant risk to the site, but the site falls within the Environment Agency’s zone of ‘minor vulnerability - high’ of groundwater flooding. This is because the gravel drift stratum is an aquifer.
- Suds: to comply with NPPF surface water drainage systems must be designed with sustainability in mind. Permission to discharge into the sewerage network must be sought from Anglian Water, who owns this.
- Surface water from the units’ roofs and drives will discharge to soakaways in the garden areas
- All surface water from the access road will be routed to the site’s entrance.
- This development will not increase the flood risk either on this site or to neighbouring properties - and so complies with the 2012 NPPF

16.0 Conclusion

16.1 The application has been subject to lengthy negotiations and the revised scheme is a considerable improvement on the original submission. Whilst further improvement could be made to the design and additional architectural features included it is considered the proposal reaches a satisfactory standard which will overall reflect the character of the area and provide an attractive development.

17.0 Recommendation

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

- a commuted sum of £509,416 to be provided to the Borough Council for the provision of affordable housing across the Borough to meet the policy requirements for this site. If following the provision of affordable housing there is any of the contribution remaining it will be passed to Essex County Council for use as a contribution towards the provision of education
- a revised viability assessment to be undertaken, should the development have not commenced within 1 year from the date of the grant of planning permission, through a review mechanism.
- agreement to form a management company whereby the roads are maintained to a suitable level and retained as fit for purpose
- agreement to form a management company whereby the public open space is maintained to a suitable level and retained as public open space thereafter.

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

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - Non-Standard Condition/Reason

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the proposed bricks and roof tiles. No works shall take place until details of alternative materials have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out using these approved materials.

Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

3 - Non-Standard Condition/Reason

No works shall take place until evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the development is designed to be sustainable and will make efficient use of energy, water and materials.

4 - Non-Standard Condition/Reason

Within 3 months of the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that the dwelling has achieved a Code for Sustainable Homes rating of Code Level 3 or higher shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

5 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

6 - Non-Standard Condition/Reason

No works shall take place until details of surface water and foul water drainage have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water and foul water drainage has been fully installed and is available for use.

Reason: To minimise the risk of flooding and to ensure satisfactory provision is made for the disposal of surface water and foul water.

7 - Non-Standard Condition/Reason

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the south side elevation or roof slope of plot 18 or the rear elevation and rear roof slope of plot 19 unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent neighbours.

8 - Non-Standard Condition/Reason

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

9 - Non-Standard Condition/Reason

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

10 - Non-Standard Condition/Reason

Prior to the commencement of development other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved, unless otherwise agreed, in writing, by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11 - Non-Standard Condition/Reason

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 10.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12 - Non-Standard Condition/Reason

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 8-11.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13 - Scheme of Archaeological Investigation

No works shall take place until a scheme of archaeological investigation (including a programme of archaeological excavation, recording any finds and publishing the results) has been submitted and agreed, in writing, by the Local Planning Authority. The approved scheme of investigation shall be thereafter implemented in accordance with the details approved, unless otherwise subsequently agreed in writing by the Local Planning Authority.

Reason: To enable a proper archaeological investigation of the site and the identification and recording of any items of archaeological importance.

14 - *Full Landscape Proposals TBA

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

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

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

15 - Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

16 - Non-Standard Condition/Reason

Prior to the commencement of development a scheme for the laying out of the area of public open space indicated on the approved drawings shall be submitted to and agreed, in writing, by the Local Planning Authority. The public open space shall be made available for use within 12 months of the occupation of the first dwelling to which it relates. .

Reason: In order to ensure that the development provides an adequate provision of open space that are usable for public enjoyment after the development is completed.

17 - Tree and Natural Feature Protection: Protected Areas

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

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

18 - Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

19 - Non-Standard Condition/Reason

Prior to the commencement of development, additional drawings that show details, and proposed materials, of the windows, doors, eaves, cills, pentice boards, plinth, brick arches, verges, brackets, finials, reveals to windows, string courses, chimneys, stone lintels, decorative brick work and all other architectural details by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these important elements of the design.

20 - Non-Standard Condition/Reason

The render to plots 2, 6, 10, 11, 12, 19, 23, 24, and 26-31 shall be constructed on all the elevations of the buildings in accordance with the submitted materials plan drawing no 7654/08 revision A and not the elevation drawings which show the render on part elevations only. The elevation plans shall be submitted to accord with the materials plan prior to the commencement of development and the brick plinth to these units shall be amended accordingly.

Reason: To ensure the appropriate use of materials and to avoid doubt as there is a conflict between the materials plan and the elevation drawings. The elevation drawings are not acceptable in this respect.

21 - Non-Standard Condition/Reason

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

Reason: In order to ensure that suitable materials are used on the development as there are

insufficient details within the submitted planning application.

22 - Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for: the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

23 - Non-Standard Condition/Reason

Prior to occupation of the development, the road junction access with Park Road at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres to the east and 2.4 metres by 17 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public Bridleway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and condition ZID in Colchester Borough Council's Model Planning Conditions document dated July 2012.

24 - Non-Standard Condition/Reason

Prior to commencement/occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIC in Colchester Borough Council's Model Planning Conditions document dated July 2012.

25 - Non-Standard Condition/Reason

Prior to occupation of the development all vehicular parking and turning facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February

2011 and condition ZIE in Colchester Borough Council's Model Planning Conditions document dated July 2012.

26 - Non-Standard Condition/Reason

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIF in Colchester Borough Council's Model Planning Conditions document dated July 2012.

27 - Non-Standard Condition/Reason

The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.

Reason: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety in accordance with Policy DM7 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZJW in Colchester Borough Council's Model Planning Conditions document dated July 2012.

28 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIS in Colchester Borough Council's Model Planning Conditions document dated July 2012.

29 - Non-Standard Condition/Reason

All single garages should have a minimum internal measurement of 7m x 3m All double garages should have a minimum internal measurement of 7m x 5.5m All tandem garages should have minimum internal measurements of 12m x 3m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIW/X/Y in Colchester Borough Council's Model Planning Conditions document dated July 2012.

30 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and condition ZJD in Colchester Borough Council's Model Planning Conditions document dated July 2012

31 - Non-Standard Condition/Reason

Prior to occupation of any dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Plan including provision of a Travel Plan co-ordinator within the residential sales office to give advice to the new residents of the development. The plan is to be monitored annually, with all measures reviewed to ensure targets are met.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policy DM10.

32 - Non-Standard Condition/Reason

The development shall take place in accordance with the recommendations in the ecological appraisal.

Reason: To allow proper consideration and mitigation of the impact of the development on nature conservation interests.

33 - Cycle Parking (as approved plan)

Prior to the first OCCUPATION/USE of the development, the bicycle parking facilities indicated on the approved plans shall be provided and made available for use. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

34 - Non-Standard Condition/Reason

Prior to the commencement of development detailed plans and specification of all new service locations in relation to retained trees on and adjacent to the site shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

35 - Non-Standard Condition/Reason

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition 17 has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)

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

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

36 - Non-Standard Condition/Reason

Notwithstanding the details shown on the submitted plans the preserved tree T51 shall be retained.

Reason: The tree has significant group amenity value and no justification for its removal has been submitted.

20.0 Informatives

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

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

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

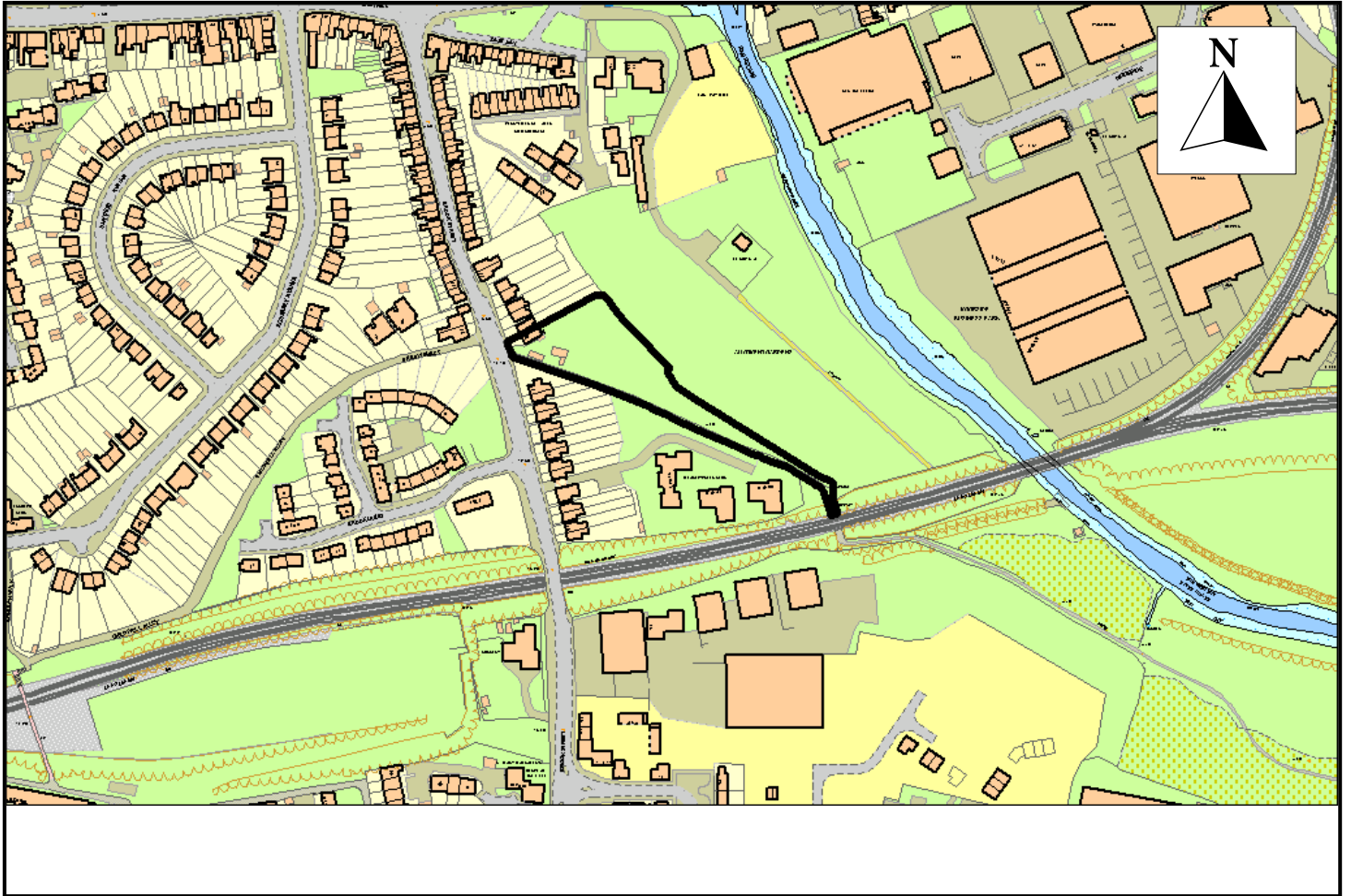
(4) It is understood that the internal road network of this development will remain private. This necessitates the applicant entering into a s106 agreement to form a management company whereby the roads are maintained to a suitable level and retained as fit for purpose.

(5) Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

(6) All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

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

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



Application No: 141087

Location: 62 Brook Street, Colchester, CO1 2UT

Scale (approx): 1:2500

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7.2 Case Officer: Sue Jackson Due Date: 20/05/2014

MAJOR

Site: **62 Brook Street, Colchester, CO1 2UT**

Application No: **141087**

Date Received: 18 February 2014

Agent: Grass Roots Planning Ltd

Applicant: Chelmer Housing Partnership Ltd

Development: Erection of 12 dwellings, provision of new access road, upgrading of right of way and other ancillary development.

Ward: Castle

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it has been called in to the Planning Committee by Councillor Frame for the following reasons;

This application is within an AQMA and will therefore add to the already polluted air quality in Brook Street by the addition of yet more traffic in the area. It is a backland development and will cause traffic issues regarding access and exit from the site. This site is an important green lung in an area that is already heavily polluted and should therefore be refused.

2.0 Synopsis

2.1 The key issues explored below are the proposed layout and design, site levels, highway issues, impact on residents' amenity, the detailed reports which have not been submitted required to allow proper assessment of the impact of the development on trees and ecology; contaminated land issues and planning obligations

3.0 Site Description and Context

3.1 The site is located on the east side of Brook Street Colchester. It currently forms part of the garden to no 62 Brook Street. There is a PROW along the whole of the south east boundary. To the north west are gardens of houses in Brook Street and to the rear, east, boundary are allotments. The site has an area of approx 0.34 hectares it is long and narrow with a width varying between 40m- 8m and tapering to approx 3 metres at its eastern corner. South of the PROW is further frontage development to Brook Street.

3.2 Brook Street rises from its junction with East Hill to its junction with Magdalen Street/Barrack Street and the houses adjacent to the north boundary are at a lower level than the site.

- 3.3 The site slopes E-W and also N-S. There is a bank down to the site along the PROW and the land then slopes down to the gardens of the houses along Brook Street. It slopes down from the road to rear but also contains some raised areas within the site.
- 3.4 The site contains a number of trees and where the site tapers at its eastern corner there are fallen trees and undergrowth this area is also damp.
- 3.5 Development on both sides of Brook Street from East Hill comprises terraced houses abutting the narrow footway. No 66 is part of a small group of semidetached houses set back at an angle from the road; semidetached houses continue on this side of Brook Street to the railway; whilst there is a more recent housing development on the opposite side of the road set back from the road and accessed via Brooklands.

4.0 Description of the Proposal

- 4.1 This full application proposes the erection of 12 dwellings. The site has a narrow frontage to the road and this area will provide an access road to the development. Due to constraints of the available frontage the access meets Brook Street at an angle. The access continues parallel to the PROW to serve a row of 7 houses a drive off the access serves 3 units and parking spaces to the rear of the frontage development. The road continues to serve a further 2 units. The dwellings comprise a terrace of 3 units semidetached pairs a detached unit and flats above garages.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 None

7.0 Principal Policies

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

Also relevant is the National Planning Practice Guidance (NPPG) of 2014.

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behavi
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

- SA H1 Housing Allocations
- SA EC1 Residential development in East Colchester
- SA EC2 Development in East Colchester
- SA EC8 Transportation in East Colchester
- SA GAR1 Development in the Garrison Area

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Backland and Infill
 - Community Facilities
 - Vehicle Parking Standards
 - Sustainable Construction
 - Open Space, Sport and Recreation
 - Extending Your House?
 - The Essex Design Guide
 - External Materials in New Developments
 - Affordable Housing

8.0 Consultations

8.1 Environmental Protection no objection subject to conditions

8.2 Environmental Protection in respect of the Air Quality Management Area:

Brook Street is included within the boroughs Central Corridors Air Quality Management Area (AQMA) due to exceedences of the pollutant Nitrogen Dioxide(NO₂).NO₂ is the pollutant most closely associated with stationary or slow moving traffic, however it should be noted, that as you move away from the edge of the road, NO₂ levels quickly fall to within normal range.

An Air Quality Impact Assessment (AQIA) was considered for this application, and discussed with the applicant. However, due to the size of the proposed development (12 houses) and as the development falls outside of the Brook Street AQMA, the application of the current requirements for an AQIA (CBC Planning Guidance for Air Quality). Assurances were given by the developer that the impact of the development on traffic flow in Brook Street would be considered within applicants Transport Statement.

The applicants' Transport Statement has indicated that the proposed development will have an 'immaterial' effect on the traffic volumes using Brook Street. Therefore consideration should be given as to whether the development impedes upon the smooth flow of traffic, as this in turn could affect air quality. Essex County Highways Department have considered this and have raised several concerns as to how vehicles entering and leaving development could cause additional traffic slowing and congestion within Brook Street.

8.3 Highway Authority raise an objection for the following reasons:

- The minor road joins the highway at an acute angle of 60 degrees. This raises operational visibility issues for both drivers and pedestrians alike. The acute angle will make it difficult for two vehicles to pass within the entrance of the site, causing driver delay and hesitation in Brook Street a busy local distributor Road. The acute entry angle could also lead to unacceptably high entry speeds into the estate road from vehicles travelling southbound on Brook Street.
- Persons entering or leaving the front door of No 62 Brook Street are potentially vulnerable to impact from manoeuvring vehicles.
- The vehicle tracking diagram reveals that large vehicles are required to substantially enter the opposing carriageway when exiting the site bringing them into conflict with existing highway users. Brook Street is already extremely

busy and further braking, turning, and manoeuvring in this road will lead to an increased risk of accidents.

- Due to the level crossing at East Gates, queues on Brook Street regularly extend past the site entrance, thus preventing egress from the site for larger vehicles. This could lead to vehicle conflict in the highway.
- There does not appear to be any visitor parking which should be measured at 0.25 spaces per unit. In this location this will lead to additional parking stress in Brook Street. The remainder of the spaces also have inefficiencies which would lead to them being unused further exacerbating the parking stress in Brook Street.
- Given the gradient of the road, and the shared surface turning head, and the slab levels of plots 11 and 12, these plots could be subjected to flooding from highway water.
- As shown there is no protection to prevent driving and parking on the PROW this would be detrimental to pedestrian safety.

For all the above reasons the proposal as shown will lead to both pedestrian and vehicle safety problems, additional turning and manoeuvring in Brook Street which is already very busy and as such it is contrary to policy.

8.4 Environment Agency:

The site lies at the very edge of Flood Zone 2/3 of the defended tidal River Colne. The submitted FRA gives you the information you need in order to assess this application in line with cell E% of our flood risk standing advice. The site is less than 1ha and surface water management is a matter for the LLFA.

8.5 Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be

interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

Green Infrastructure

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development..

Biodiversity Offsetting

The proposed development is within the Essex biodiversity offsetting pilot area. The pilot is testing a new, voluntary approach to offsetting the impacts of development on biodiversity through the planning system. When assessing the application if, after the usual avoidance and mitigation measures have been implemented, you consider that there will be residual impacts to biodiversity that require compensation, Natural England suggests that the applicant consider if biodiversity offsetting could provide a consistent approach to delivering the necessary compensation. .

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

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

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 16 letters of objection plus 1 in support

10.2 Councillor Hayes:

- The area is an Air Quality Management Area due to the excessively high air pollution from vehicle exhaust fumes and the Council has a duty under the Environment Act 1995 to mitigate this. The health hazard to existing residents must be brought down to legal levels before any more development is contemplated in this area.
- The new road will just add to traffic problems in the already very problematic Brook Street as vehicles entering and leaving the proposed development will increase traffic hazard in Brook Street.
- The proposed development will unduly harm the amenity of existing residents by altering the character of the green space at the rear of their properties. This is undue because of the importance to the existing residents of tranquillity, clean air, the thriving bird population and generally the green space at the rear of their properties, to compensate for the noise, pollution and hazards inflicted on them by the public using vehicles along Brook Street at the front of their properties.
- The proposed development will harm the value of the Colne river valley as a wildlife corridor.
- Part of the development land is on Flood Zone 2 or 3 (higher risk). The proposals are to deal with excess water runoff by means of a ditch. It is unclear whether the proposed homes are high enough above the flood plain to be out of danger if the River Colne were to flood. It is storing up trouble for future householders and for the Council to permit homes so near the river.
- I note that the sole comment in support appears to come from the owners of the site of the proposed development.

10.3 Sir Bob Russell MP

Following contact by residents in Brook Street I am writing on their behalf to raise an objection to this planning application for 12 dwellings off this very busy road. As you are aware Brook Street records the highest level of pollution in Colchester due to both its design and vehicular use as a key traffic route. There are already three large new housing areas either already constructed or in the process of being constructed off of Brook Street.

An additional housing site off this road, I feel is one too many. The existing pressure along with the pollution level is bringing this road to breaking point. I am also anxious that the connection point from this planned site into Brook Street is at a particularly hazardous location being just after an off road parking area which will obscure this entrance and exit. This is a narrower section of Brook Street than that serving the three other housing sites coming off the road.

It is rare for vehicles not be queued back from the bottom of Brook Street to the intended entrance site which will add to the hazardous nature of this planned development.

I also wish to raise the small allocated garden space for what are clearly predominately family housing. There is little to no facility for children within a design that contains limited green space.

The Area Manager from Sustrans, Mr Kris Radley, has also raised objections to this application which I fully endorse.

10.4 The letters from residents raise similar objections and are summarized below

- There is already way too much pollution in Brook Street with heavy traffic movement and central heating fumes. Since the changes to the Town Centre traffic system it has increased the number of vehicles using Brook Street to avoid the High Street. At rush hour now jams up both directions and crawls slowly for around an hour. Because of the high pollution levels we were promised no more developments will be allowed in Brook Street
- the ground works need to be checked as a previous owner of the house used to be chimney sweep and buried tons of soot in and around the proposed build area.
- proposed entrance and exit for traffic is dangerous for people coming in and out as there is no clear view of traffic coming up the hill
- The houses will over look the rear of our properties invading the only privacy and refuge we get to clean air away from the traffic out the front of the buildings
- the area to be built on was already on plans as listed as agricultural land
- Ground has flooded once before around 25 years ago when all the allotments and part of that ground were under water
- Removing the existing pavement to make an access road, may also impact on the number of existing car parking spaces.
- Felling trees which will affect the my privacy of my property
- The view to the east overlooks allotment gardens, a beautiful tree-lined stretch of the River Colne, and some charming historic buildings in the Green Bay area. It has a peaceful, semi-rural atmosphere, despite it's general location, and it's quiet, picturesque nature is of enormous amenity to the residents of Brook Street and Meadowbrook Court. The proposed development would have a devastating effect on this amenity. It would be obtrusive and offensive, severely altering the nature of this area
- The islands suggested at the entrance will reduce Brook Street parking by at least 2 spaces
- The footpath leading to the moors is a problem with vandals, drunks and drug users.
- What right has a developer to include a public footpath in their plans except to put them in a good light with the planners and use the land for their own gain. The best solution would be to keep the footpath open to the side of the site.
- The hedge along the footpath is going to be removed to widen the footpath this hedge has a number of mature trees including walnut. The hedge should be protected as it forms a haven for wildlife and valuable screen in summer. The Colne valley is a green corridor (perhaps in places not a pretty one) but it is crucial in providing an urban habitat for a wealth of animals birds and insects.

10.5 Sustrans OBJECTS to this application because it appears to make inadequate provision for cycle parking. It appears that insufficient cycle parking spaces are proposed: using the Essex County Council's parking standards there should be 'a garage or secure area provided within curtilage of each dwelling'. We would withdraw this objection if we can be convinced that adequate provision is being made. Ultimately, the provision of secure, well located cycling parking is fundamental if people are to change their mode of transport to a bicycle.

Such facilities enable cyclists to feel welcome and have the added benefit that they provide a warning to motorists that cyclists should be taken into consideration. In addition we have concerns that the Transport Statement indicates that Brook Street is only suitable for 'experienced' cyclists. We would therefore welcome provision within any S106 (or equivalent) arrangements for improved cycling provision on Brook Street allowing residents of the proposed development and workers at Brook Street Business Centre access to the wider Colchester cycling network.

We would also welcome amendments within the plans to show that the public footpath that runs along the southern boundary of the site, linking Brook Street with Timber Hill, some 700m to the south east is upgraded to a shared use route for walking and cycling linking with the off-road cycle route running alongside the River Colne. We would also like to see funding for general improvements for the Wivenhoe Trail to include improved surfacing.

10.6 Ramblers Association:

We are pleased to see efforts to tidy up and include the section of Public Footpath 137 which is adjacent to the planned estate. The route should be at least two metres wide and of such a nature that it will never get blocked by parked cars. Any planting next to the route should be easy maintenance so that the route will not need constant attention. Many (possibly most) walkers using the route need to cross Brook Street to continue their journey along Childwell Alley, difficult at present. Splays and safety of the egress need to take the crossing facilities into account. Closures and diversions during the construction works should be kept to a minimum.

10.7 Letter in support

- footpath that runs alongside the proposed development has been a constant issue because of personal safety and also cleanliness. The footpath is not currently lit and serves as a meeting place for people that as a resident I find intimidating. I feel that the current proposal would combat this, making the footpath a safer, cleaner and friendlier link to the moorlands, cycle networks and river walks
- The proposed development addresses the very real need for more affordable housing in Colchester; which are situated in a sustainable place, with good transport links (car, bus and train), schools and shops.
- Eighteen months ago, the main part of the land at the rear of 62 Brook Street was significantly over grown, full off rubbish, with evidence of fly tipping and alcohol and drug misuse. As I can see, this development would ensure that this portion of land would become, long term, a more pleasant place to be. The layout looks empathetic to the current surroundings with carefully considered planting. There is also provision of additional parking for the current property at this address.

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

11.0 Parking Provision

- 11.1 The parking provision does not meet the Councils adopted parking standards. The units are all 2 or 3-bed and 2 spaces is required per dwelling; a total of 24 spaces only 22 are shown, in addition there is no provision for visitor parking. Some of the spaces are below the recommended size and others are difficult to access.

12.0 Open Space Provisions

- 12.1 There is no provision for public open space and the amenity space for residents is below the Councils adopted minimum standard.

13.0 Air Quality

- 13.1 The site is within an Air Quality Management Area and this issue is addressed in the response from Environmental Protection above.

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Development Team was aware the proposal indicated 50% of the units would be affordable but there was no legal agreement . Obligations that would be agreed as part of any planning permission would be; 50% of the units to be affordable; plus an education contribution, open space, leisure and recreation contribution, community facilities contribution and footpath/cycleway improvements contribution related to the other 50% of the units

15.0 Report

Design and Layout

- 15.1 The design and fenestration of the units is poor, the units are over spanned and have no architectural detail or refinement. Render is proposed for all the units which does not reflect materials on houses in Brook Street which are predominantly red brick and slate. The layout involves a poor living environment for some units which are located behind the frontage units in an area dominated by vehicles. The private gardens areas are below the Councils adopted standard and due to the change in levels many have a narrow hard surfaced area immediately to the rear of the units then a step down to a main garden area. The layout is over dominated by parking spaces.

Impact on the Surrounding Area

- 15.2 Whilst residential development is acceptable in principle the development will have an adverse impact on the surrounding area due to the additional traffic generated on Brook Street a very busy road where traffic is often stationary

Impacts on Neighbouring Properties

- 15.3 The new dwellings, in particular those behind the access are close to the boundaries with neighbouring residential properties. These will overlook neighbouring gardens and due to their bulk the new properties will also appear overbearing. Neighbouring properties will also suffer an adverse impact due to the additional traffic.

Amenity Provisions

- 15.4 The proposal does not meet the Councils adopted standards for private amenity area. The development will appear cramped and the living environment for some of the new residents will be poor. Residents in Brook Street whose properties are at a lower level than the site will suffer a loss of amenity due to the overbearing nature of the properties and overlooking.

Highway Issues

- 15.5 The Highway Authority has objected to the application and their concerns are set out in the consultation response above.

Trees.

- 15.6 The application plans show existing trees all of which are to be removed. However there is no arboricultural impact assessment so it is not possible to assess the quality of the trees or whether they should be retained. There are two willow trees close to the PROW which have public amenity value.

Ecology/Habitat

- 15.7 The application information indicates the site is predominantly open garden land mainly laid to lawn with negligible habitat value for ecology. However the site contains a number of trees and in its eastern corner is an area of fallen trees, undergrowth and evidence of a spring or pond. An Ecological report is required to properly assess the ecological value of the whole site and this area in particular.

Contaminated Land Risk Assessment

- 15.8 The site is within a known fill area and the Contaminated Land Officer has indicated a phase 1 risk assessment is required to allow a proper assessment of the suitability of the site for residential development and appropriate mitigation if required.

16.0 Conclusion

- 16.1 Your officer is aware the provision of affordable housing is a key council objective. This application is submitted on the basis of 50% affordable housing but there is no legal agreement to secure these units or any financial contributions. The development proposed falls well below the Councils standards for residential development; the application is also deficient in information required to allow a proper assessment of its impact on trees and ecology.

17.0 Recommendation

- 17.1 Refuse planning permission for the reasons set out below

18.0 Positivity Statement

18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development through its Preliminary Enquiry service (please refer to the Council's website for details).

Reasons for Refusal

1 - Non-Standard Refusal Reason

The National Planning Policy Framework at paragraph 58 states: "Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping. "

Core Strategy Adopted December 2008 policy UR 2 – Built Design and Character states "The Borough Council will promote and secure high quality and inclusive design in all developments to make better places for both residents and visitors. The design of development should be informed by context appraisals and should create places that are locally distinctive, people-friendly, provide natural surveillance to design out crime, and which enhance the built character and public realm of the area. High-quality design should also create well-integrated places that are usable, accessible, durable and adaptable. Creative design will be encouraged to inject fresh visual interest into the public realm and to showcase innovative sustainable construction methods. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported. The Council is committed to enhancing Colchester's unique historic character which is highly valued by residents and an important tourist attraction. Buildings, Conservation Areas, archaeological sites, parklands, views, the river and other features that contribute positively to the character of the built environment shall be protected from demolition or inappropriate development".

Development Policies Adopted October 2010 Policy DP1: Design and Amenity states:

“All development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Development proposals must demonstrate that they, and any ancillary activities associated with them, will:

(i) Respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape and/or landscape setting, and detailed design features. Wherever possible development should remove existing unsightly features as part of the overall development proposal;

(ii) Provide a design and layout that takes into account the potential users of the site including giving priority to pedestrian, cycling and public transport access, and the provision of satisfactory access provision for disabled people and those with restricted mobility;

(iii) Protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight;

(iv) Create a safe and secure environment;

(v) Respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area; and

(vi) Incorporate any necessary infrastructure and services including recycling and waste facilities and, where appropriate, Sustainable Drainage Systems (SuDS), and undertake appropriate remediation of contaminated land.

For the purpose of this policy ancillary activities associated with development will be considered to include vehicle movement”.

In addition the Council has supplementary planning document Backland and Infill Development adopted September 2009 (revised December 2010) and External Materials Guide for New Development adopted as supplementary planning guidance 9 July 2004.

The proposal represents overdevelopment of the site the properties fail to meet the Council adopted minimum private garden sizes. Due to the site levels the garden areas proposed would, in several instances, be unusable. Due to the scale of the dwellings, the site levels and the proximity of some units to the site boundaries adjacent residents would suffer an unacceptable loss of amenity due to overlooking and the overbearing nature of the buildings. The proposed layout creates a poor sense of place. It is dominated by vehicle parking resulting in an unacceptable living environment for new residents. The detailed design of the dwellings does not reflect the appearance and character of existing dwellings and nor does it create its own sense of identity. Furthermore the proposal fails to take the opportunity to incorporate existing trees within the development or identify them as a key feature in the landscape or to incorporate features which are beneficial to wildlife.

The proposal is therefore contrary to the policies set out above.

2 - Non-Standard Refusal Reason

The application proposal would be detrimental to highway safety for the following reasons:-

- The minor road joins the highway at an acute angle of 60 degrees. This raises operational visibility issues for both drivers and pedestrians alike. The acute angle will make it difficult for two vehicles to pass within the entrance of the site, causing driver delay and hesitation in Brook Street a busy local distributor Road. The acute entry angle could also lead to unacceptably high entry speeds into the estate road from vehicles travelling southbound on Brook Street.

- Persons entering or leaving the front door of No 62 Brook Street are potentially vulnerable to impact from manoeuvring vehicles.
- The vehicle tracking diagram reveals that large vehicles are required to substantially enter the opposing carriageway when exiting the site bringing them into conflict with existing highway users. Brook Street is already extremely busy and further braking, turning, and manoeuvring in this road will lead to an increased risk of accidents.
- Due to the level crossing at East Gates, queues on Brook Street regularly extend past the site entrance, thus preventing egress from the site for larger vehicles. This could lead to vehicle conflict in the highway.
- The application fails to provide any visitor parking which should be measured at 0.25 spaces per unit. In this location this will lead to additional parking stress in Brook Street. The remainder of the spaces also have inefficiencies which would lead to them being unused further exacerbating the parking stress in Brook Street.
- Given the gradient of the road, and the shared surface turning head, and the slab levels of plots 11 and 12, these plots could be subjected to flooding from highway water.
- As shown there is no protection to prevent driving and parking on the PROW this would be detrimental to pedestrian safety.

For all the above reasons the proposal as shown will lead to both pedestrian and vehicle safety problems, additional turning and manoeuvring in Brook Street which is already very busy and as such it is contrary to policy

A) Safety - Policy DM1 of the Highway Authority's Development Management Policies February 2011

B) Efficiency/Capacity - Policy DM15 of the Highway Authority's Development Management Policies February 2011

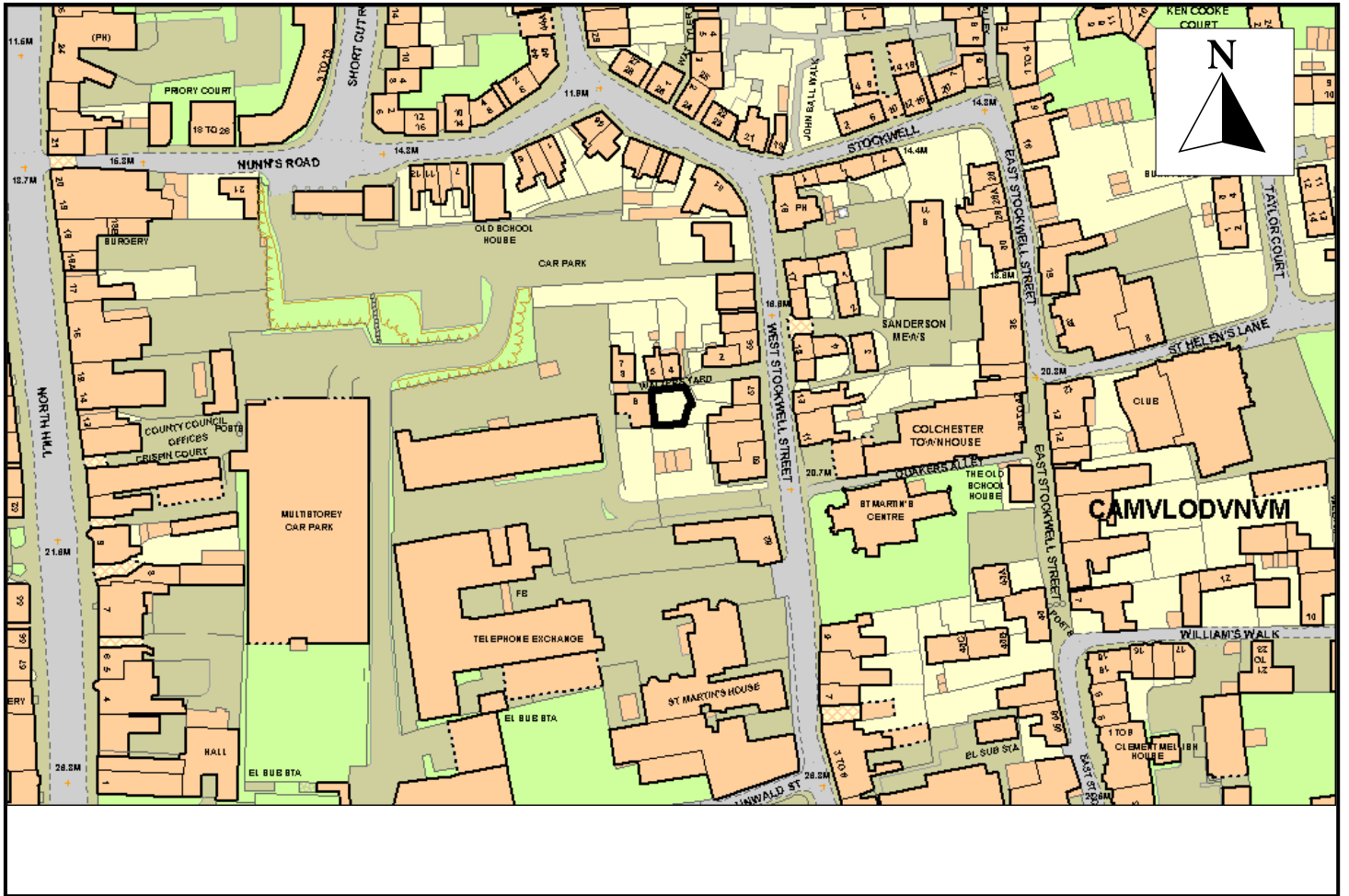
C) Parking Standards - Policy DM8 of the Highway Authority's Development Management Policies February 2011

3 - Non-Standard Refusal Reason

The application fails to include an ecology/habitat assessment or an arboricultural impact assessment and it is therefore not possible for the local planning authority to properly assess the impact of the development of these features acknowledged as material planning considerations. The application is therefore contrary to policy DP1 and DP12 in the Adopted Colchester Borough Development Policies (October 2010)

4 - Non-Standard Refusal Reason

The application fails to include an a phase 1 risk assessment and it is therefore not possible for the local planning authority to properly assess whether or not the site can be made suitable for residential use or the mitigation required; acknowledged as a material planning consideration. The application is therefore contrary to DP1 in the Adopted Colchester Borough Development Policies (October 2010).



Application No: 142128

Location: Land Adjacent, 9 Walters Yard, Colchester, CO1 1HD

Scale (approx): 1:1250

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7.3 Case Officer: Mark Russell Due Date: 29/04/2014

MINOR

Site: 9 Walters Yard, Colchester, CO1 1HD

Application No: 142128

Date Received: 4 March 2014

Agent: Arc Maison Architectural Services

Applicant: Ms Sarah Money

**Development: Erection of a new 1 bedroom detached dwelling with basement -
(Following approval under 090732 now expired).**

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because of a call-in by Councillor Frame for the following reasons:

“The proposed building is in a Conservation area and is totally out of keeping with the rest of the buildings. Potential damage to a Grade II listed wall. Overlooking issues with houses opposite and reduction of natural daylight.”

2.0 Synopsis

2.1 The report below describes the proposal for a new dwelling within Walters Yard in the Dutch Quarter. It is explained that permission has been granted twice previously, the most recent in 2010 being identical to this.

2.2 Objections from nine parties are detailed, based on the principle, design and residential amenity as well as concerns about the build phase amongst other matters. It is explained that the principle has already been accepted and that those matters relating to design and amenity are satisfactory.

2.3 Approval is recommended, as before, with a condition relating to the scheme of works to ensure that amenity is affected as little as possible.

3.0 Site Description and Context

3.1 The site comprises a small parcel of land currently laid out to grass on Walters Yard set behind Grade II Listed Buildings on West Stockwell Street within Colchester Conservation Area 1. Its dimensions are approximately 8 metres x 9 metres. An existing high red brick wall is located on the south boundary. The side elevation of No. 9 Walters Yard is to the west, with open frontage to the north and the garden wall of 57 West Stockwell Street to the east.

4.0 Description of the Proposal

- 4.1 The proposal is an identical submission to 090732, which follows previous outline permission for a stylish “cottage ornée” (application O/COL/05/1882) which proved difficult to build. The applicant at the time of that application described the proposal as “a modern folly” less flamboyant than the previously approved scheme, utilising copper, glass, timber and render in its construction. The current submission is as then.
- 4.2 The design of the building is unique and hard to place in any category, being made up of the individual twists and features which respond to the constraints of the site. These include an opaque glass boundary enclosure, a slanted pergola to add “transparent privacy” and a copper barrel roof to allow for storage and to avoid an overbearing effect on neighbouring property.
- 4.3 The property would also include a feature described as a “moat” which would be placed at the front and would assist in the cooling of the ground floor in the summer.
- 4.4 The plot would contain very limited amenity space and no parking provision. However, this is contextual for the Dutch Quarter specifically and the town centre in general.
- 4.5 Within the building itself, the master bedroom with en-suite would be situated in the first floor. An open staircase would lead down to the ground floor which would house a living room and kitchen/diner as well as bicycle and bin storage.
- 4.6 The finishing touch to the proposal is the basement which would feature a “hobby room/multi-use space” the applicant has shown this as housing a home cinema, plunge bath, sauna and store.
- 4.7 The highest point of the building would be six metres from ground level (but only 3.2 metres on the Walters yard frontage), with a further excavation below ground of approximately 2.8 metres.

5.0 Land Use Allocation

- 5.1 Predominantly residential in Colchester Conservation Area 1.

6.0 Relevant Planning History

- 6.1 O/COL/05/0036 – Proposed two bedroom dwelling. Withdrawn 3rd March 2005;
- 6.2 O/COL/05/1882 – Outline application for proposed single-storey cottage ornée (resubmission of O/COL/05/0036). Approved 8th February 2006;
- 6.3 072203 – Erection of 1 bedroom house. Withdrawn 31st October 2007;
- 6.4 090732 - Erection of 1 bedroom detached dwelling with basement. Approved 21st January 2010

7.0 Principal Policies

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

Also relevant is the National Planning Practice Guidance (NPPG) of 2014.

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

- SD1 - Sustainable Development Locations
- CE2a - Town Centre
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- UR2 - Built Design and Character
- TA2 - Walking and Cycling
- TA5 - Parking
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP6 Colchester Town Centre Uses
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP25 Renewable Energy

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

- SA CE1 Mixed Use Sites
- SA H1 Housing Allocations
- SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Backland and Infill
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 *Planning Project Team: This application relates to a modest backland site within a courtyard off West Stockwell Street within the Dutch Quarter. Planning permission has only lapsed recently for a similar scheme approved on 21.01.2010 under reference 090732. This remains a material consideration. The status/context of the site has not apparently changed in the intervening period and the Planning Practice Guidance to PPS5 remains extant despite the new Practice Guidance. The statutory tests remain the same and the primacy of these tests has been reiterated and clarified by the recent JR 2013 and Court of Appeal decision Feb 2014 in the case of East Northants (Lyveden New Bield Justice Lang). Whilst I have some contextual concerns regarding the scheme (including the use of sheet copper roofing) I believe that we have no grounds that could substantiate a refusal of planning permission.*

Please repeat all previous conditions with particular regard to levels and external materials/architectural detailing (including the removal of PD rights given the constrained nature of the site. The submitted drawings are less convincing than those approved under the previous consent and the need for large scale architectural drawings is even more justified for all of the key elements verges, eaves, fenestration reveals, all external joinery, sill and lintel details, all extract and flue terminals, rainwater goods. A sample panel of the self-coloured render is essential.

- 8.2 Highway Authority: No comments

- 8.3 Museum Resources: For application 090732 stated:

I would recommend that following the archaeological evaluation in May (2009) our standard archaeological condition C2.2 be imposed if consent is granted.

- 8.4 Environmental Control had commented on previous applications without objection, and requested that a standard demolition and construction advisory note be attached to any decision.

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

9.0 Parish Council Response

- 9.1 n/a

10.0 Representations

10.1 At the time of writing (4th April 2014) nine letters of representation had been received. Eight were from individual residents, one was from the Dutch Quarter Residents' Association. All of these were objections and covered the following points:

- Problems of access to properties during construction;
- Dust debris etc. during construction;
- Loss of light;
- The design is out of keeping;
- Views of the Listed garden wall will be lost;
- Stability of surrounding buildings/walls could be undermined;
- The space should remain open;
- Too close to the houses opposite;
- Loss of privacy;
- Does the applicant own the land/have right of access over it?
- The site could be of archaeological importance;
- The Committee resolution of 090732 did not properly consider these matters;
- Population density in Walters Yard would be too high;
- There is a medieval water-course beneath;
- Extra vehicles will exacerbate scarce parking provision;

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

11.0 Parking Provision

11.1 No parking is provided.

12.0 Open Space Provisions

12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990 other than the standard formula for Sports, Recreation and Open Space which is applicable to all new dwellings.

15.0 Report

- 15.1 The background to this application is the previous permission given under O/COL/05/1882. The principle of a dwelling – with access issues, loss of open space and all – was accepted at that point. It would be unreasonable to go back on that position. Issues of design, residential amenity, amenity space, archaeology, parking, highways and other are looked at below:
- 15.2 **Design:** The permitted scheme has proved costly and difficult to build. This led to application 072203, which was a far more prosaic affair, and was consequently withdrawn prior to any refusal.
- 15.3 Following this, a series of meetings between the applicants and their representatives, and your Officers led to the evolution of a new proposal, which began to take the form which is now being offered. Our Urban Designer gave a positive steer, stating:

Overall silhouette and elevations

The east elevation appears flat and needs stronger accentuation to read as a gable – this can be achieved either by extending the eaves to a sharp angle or extending the skylight to the roof edge with a steeper face. The sloping eaves line adds to the modern look and it appears well balanced in the overall composition. Although the building shapes and openings are well balanced, the use of too many different materials makes the overall composition too busy and unbalanced.

Materials palette

A simpler palette and an element of unity needs to be introduced to provide the balance - e.g. all the roofs and flues in copper can provide the unifying element, and a combination of render and timber cladding for the walls (as shown on the sketch) would define the different building forms well and provide unity and balance at the same time.

Glass screen

The use of a sand blasted glass to the north edge is welcome, it provides a light enclosure and complements the material palette (skylight and sand-blasted window on the gable end). Attention should be given to the finish at ground level, to provide a base for the glass to sit on and for water to drain, perhaps gravel or pebbles. The glass screen on the east side seems unnecessary, if the ground level of the new unit will drop from the current level (I assume). Anyway the scheme shows vegetation along this edge, which can in itself provide a screen for the private courtyard.

- 15.4 These changes were taken on board and form the basis of the current application – identical to that which was approved in 2010.
- 15.5 The design has moved away from the “quaint” cottage ornée, and instead has a more contemporary feel to it, which can be seen as innovative and refreshing, without jarring with the existing look and feel of the area.

- 15.6 In particular the scale, massing, and positioning of the building is held to comply with the relevant policies in our Local Plan, notably UEA2 (b) which states that a new building will be permitted only provided that: “.....its siting retains the existing street building line and the rhythm of the street, its mass is in scale and harmony with the adjoining buildings and the area as a whole, and the proportions of its parts relate to each other and to the adjoining buildings.”
- 15.7 The proposal building would respect the building line to the left hand side of Walters Yard, its parts also relating proportionately to each other and surrounding buildings. Notwithstanding the fact that it has a modern feel to it, in particular with its use of copper and glass, your Officers feel that this building would sit comfortably within, and would enhance, the Conservation Area.
- 15.8 For this reason, as in 2010, Members are asked to support the proposed design.
- 15.9 **Residential amenity:** It is accepted that the proposal is larger than the earlier permission from 2006, and that this could have additional effects which would not have been felt under that permission. The earlier authorised house would have measured 2.7 metres at the Walters Yard end, reaching up to 5.9 metres (as opposed to the 3.2 metres and 6 metres respectively being sought now, as in 2010), and the new proposal would fill the plot – thus taking it four metres closer to 57 West Stockwell Street than the authorised building.
- 15.10 This increase could potentially lead to the house being overbearing on existing dwellings, and could exacerbate loss of light.
- 15.11 In reference to this, our policies DP1 and DP13 seek to protect residential amenity and to prevent the unreasonable loss of natural daylight or sunlight to an adjoining dwelling or its curtilage. As to what exactly “unreasonable” would mean in this context, the Essex Design Guide (“Daylight and Sunlight” pages 30-31) suggests that “Acceptable daylight in interiors is achieved if a 25 degree vertical angle from a point two metres above the floor at the façade is not obstructed.” The proposal complies with this in relation to numbers 4 and 5 Walters Yard. Further, it states “It is not a reasonable requirement for all dwellings to have sunlit rooms.” Thus, although light would be lost (particularly with the new building being to the south-facing aspect of the affected properties), this does not fail guidance, and therefore is policy compliant.
- 15.12 It should be added that in the case of both numbers 57 and 58 West Stockwell Street, much of the light is already blocked by the existing high wall and surrounding buildings, particularly the buildings belonging to BT. There is, however, a small area of sunlight available in summer months in the south-western skies which will be affected. This is not seen as a reason for refusal.
- 15.13 The rear balcony to 9 Walters Yard would lose light from the east and south-east due to the positioning of the new building. This would be in part off-set by the glass section to the roof.
- 15.14 This scenario was previously held to be acceptable when permission was granted under O/COL/05/1882, albeit that this was 100mm lower than the current proposal and then again in 2006.

- 15.15 Regarding the issue of potential privacy loss, each possibility of this requires investigation:
- 15.16 The deep side window which spans the ground and first floors is to be obscured. The level and detail of this can be agreed by condition.
- 15.17 The door-shaped window which faces on to Walter Yard is in fact a fire escape which is to be obscure-glazed. This is at the front of a small “porch” promontory of over a metre in depth, and as such is set away from the bedroom itself. It could, however, still lead to some incidental invasion of privacy should it be opened at any time, and so a condition is proposed to agree details of the fire door such that its mechanism is inconvenient for common usage, yet still fit for purpose in case of emergency.
- 15.18 The ground floor glazing is to “sand-blasted” and therefore also obscured to protect mutual privacy.
- 15.19 Regarding potential noise transfer, this is covered by Part E of the Building Regulations, and is not, therefore, a Planning matter. Sewerage is also under the remit of the Building Regulations.
- 15.20 **Amenity Space:** As described, very little amenity space is offered with this proposal (approximately 12 metres square, in very enclosed conditions). Whilst no guidance exists to tell us that this is acceptable, it is an inevitable fact that this will occasionally occur in a tightly built central urban situation such as the Dutch Quarter. In mitigation, the proximity to town centre facilities, including the Castle Park, can be held to outweigh this concern.
- 15.21 **Archaeological matters:** A field survey was carried out, at the request of your Officer, to the satisfaction of our Museum Resources team, prior to submission of this application. This was carried out by the Colchester Archaeological Trust in line with its standard procedures and in liaison with Colchester Borough Council. It revealed that the Roman archaeological horizons were between 1 metre and 1.4 metres in depth below present ground-level and were “overlaid by a considerable depth of post-medieval and modern strata.”
- 15.22 A robber trench was discovered in the position of the wall of a Roman building, this appears to have been robbed out in the medieval period.
- 15.23 Some fragments of pottery, and a single tessera or floor-tile, were found.
- 15.24 The Borough Archaeological Officer has recommended that full excavation and recording is required in light of the results of the archaeological evaluation and the location of the proposed development within the historic town centre. The standard archaeological condition should be imposed to secure this recording if permission is granted.

- 15.25 **Parking:** No parking is provided, in line with previous permissions O/COL/05/1882 and 090732. It is noted that a few properties in the area have parking provision, notably there is some garaging which is accessible to the rear, however the vast majority of properties in this densely-built, town centre location have no parking and would not normally be expected to have any given the scarcity of space and the proximity to town centre facilities. The same is true of the application site and lack of parking should not be used as a reason for refusal.
- 15.26 **Highways issues:** The Highway Authority's concerns over intensification of use of an already substandard private drive were aired at the time of 090732 have not been replicated this time. It is worth repeating that, given the lack of any parking provision, it is improbable that any occupiers of the property would use vehicles in the narrow Walters Yard other than briefly for loading and unloading, as is currently the case for some existing users.
- 15.27 **Other Matters:** The other main issues which have been raised relate to access and potential nuisance during the proposed works.
- 15.28 Whilst obstruction of an access is outside the remit of Planning, it is noted that this could occur in relation to on site works including deliveries. This can be dealt with by a condition which asks the applicant to supply a full methodology of works, including a solution to access and delivery issues, which will need to be agreed in writing by Colchester Borough Council.
- 15.29 In addition, the applicants will be issued with a standard demolition and construction advice note which they should pay heed to. If activities on site become a statutory nuisance, our Environmental Control team may be in a position to take action, including the service of a notice.

16.0 Conclusion

- 16.1 The proposed scheme, as with 090732, is seen as a suitable alternative to the stylised "cottage ornée" which was earlier permitted. Issues of amenity have been dealt with, and those relating to access and working practices are noted, and it is felt that these can be tackled by use of conditions, as well as other legislation.
- 16.2 Members are, therefore, advised to approve this application.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - Non-Standard Condition/Reason

Before the development hereby permitted commences, the external materials and finishes to be used, shall be agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with agreed details.

Reason: To ensure that the development preserves and enhances the character and appearance of the Conservation Area.

3 - Non-Standard Condition/Reason

Prior to the commencement of development, including excavation, the applicant shall submit details of a scheme of works to the Local Planning Authority. These shall include details of access arrangements to Walters Yard, delivery and storage of materials, noise and dust control and storage of plant and vehicles needed in association with the works.

Reason: These details shall be agreed in writing and shall be adhered to at all times. In the interests of residential and Highway amenity in this densely populated, mainly residential, area.

4 - Non-Standard Condition/Reason

No development shall take place within the application site until the applicant, or their agents or successor in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason: To prevent risk of damage to archaeological remains of acknowledged importance.

5 - Non-Standard Condition/Reason

Windows and walls shown to be obscured/sand-blasted on the drawings hereby approved shall be so obscured to a level equivalent to level 4 or more of the Pilkington scale prior to development and shall remain as such at all times thereafter.

Reason: In the interests of visual amenity.

6 - Non-Standard Condition/Reason

Prior to the installation of any fire escape, the applicant shall provide details in writing that the fire escape, including fire door is as detailed on the drawings hereby approved. The development shall then take place as approved.

Reason: These details shall be agreed in writing by the Local Planning Authority and shall be implemented and remain as such at all times. In the interests of residential amenity.

7 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, (or any order revoking and re-enacting that Order with or without modification) no development within Classes A to Hof Part 1 of Schedule 2 of the Order (i.e. any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the local planning authority.

Reason: Notwithstanding the limited scope for such development within this small plot, the Local Planning Authority would wish to avoid any minor accretions and additions which could produce a visually unsatisfactory form of development within this Conservation Area setting in proximity to Listed Buildings.

8 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, (or any order revoking and re-enacting that Order with or without modification) no fences, gates or walls, shall be erected within the curtilage of the dwellinghouse.

Reason: In the interests of visual amenity in this Conservation Area.

9 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, (or any order revoking and re-enacting that Order with or without modification) no new windows or doors, other than those hereby approved, shall be inserted in to any part of the dwelling hereby approved.

Reason: In the interests of residential amenity and visual amenity in this Conservation Area.

10 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, (or any order revoking and re-enacting that Order with or without modification) no solar panels/photovoltaic cells shall be added to the building hereby approved.

Reason: In the interests of residential amenity and visual amenity in this Conservation Area.

11 - Non-Standard Condition/Reason

Prior to the dwelling hereby permitted being brought in to use, provision shall be made for the bin-store as indicated, and shall be maintained as such at all times.

Reason: In the interests of satisfactory bin-store provision.

12 - Non-Standard Condition/Reason

No external lighting fixtures for any purpose shall be constructed or installed until details of all external lighting proposals have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: In the interests of residential and visual amenity in this Conservation Area.

13 - Non-Standard Condition/Reason

No light fittings shall be placed within the glass section of the roof in the dwelling hereby approved without the prior written permission of the Local Planning Authority.

Reason: In the interests of residential and visual amenity in this Conservation Area.

14 - Non-Standard Condition/Reason

No construction work relating to this permission shall be carried out on any Sunday or Public Holidays nor before 0730 hours or after 1800 hours on any weekday or before 0800 hours or after 1300 on Saturdays.

Reason: In the interests of residential amenity.

20.0 Informatives

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

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

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



Application No: 142481

Location: Queens Head Public House, 5 Queen's Road, West Bergholt, Colchester, CO6 3HE

Scale (approx): 1:1250

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7.4 Case Officer: Peter Hill

Due Date: 28/04/2014

MINOR

Site: 5 Queen's Road, West Bergholt, Colchester, CO6 3HE

Application No: 142481

Date Received: 3 March 2014

Agent: Mr Ozlem Ipek

Applicant: Mr Morat Kokcu

Development: Stationing of a mobile trailer for hot food takeaway sales.

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application is before the Planning Committee because it has been referred by Council Marcus Harrington for the following reason;

"This application has created a division in West Bergholt between some residents, especially some living in the immediate vicinity of the site, who object to the application on the grounds of unacceptable noise and smell and such an enterprise being out of place in West Bergholt, and the wide village community who largely support the application on the grounds of provision of an important stimulus to the local economy which creates minimal noise or smell, minimal light pollution and is in an unobtrusive position. It is appropriate that a representative from both sides of the division will be able to address the committee. I believe at least one petition will be presented to the chairman. The call in is not conditional."

2.0 Synopsis

2.1 The key issues explored below are;

- Employment and economic benefits
- Community Benefits
- Appearance and Character
- Impact on neighbours' amenities.
- Parking and highway safety
- Other matters – matters that are not pertinent to the determination of this application.

2.2 It is set out that the proposal offers positive planning benefits in the employment and economic contribution made by the business as well as through the service it provides for its customers. However, it is concluded that such benefits are outweighed by the noise and disturbance and odour pollution caused to the occupiers of nearby residential properties and by the harm caused to the appearance and character of the site and the wider area. The application is therefore recommended for refusal.

3.0 Site Description and Context

3.1 The Queens Head is an attractive public house, opposite a large pond and area of public open space that infills the corner of Queens Road and Chapel Road. The pub has its vehicular access and car park to the side (North). The car park is an unmarked area of hard surfacing.

3.2 The hot food trailer subject of this application is already in situ towards the front of the car park and adjacent to the access. It is not situated in the position suggested in the application drawings. The trailer appears to be connected into the ground floor utilities and has an advertising panel attached to it that touches the ground. Whilst it could clearly be relatively easily re-adapted to be mobile, it evidently is not mobile or intended to be mobile.

3.3 The car park (and trailer) are partially screened from the road to the west by a hedge. To the north (beyond a further hedge) is the access to the residential property 'Willows', beyond which is 1 Queens Road. 1 Queens Road is the nearest dwelling-house to the trailer, being 10 metres away. The dwelling house of 'Willows' is 30 metres from the trailer and 10 metres from the car park. Behind the car park (east) are further residential dwellinghouses, the closest of which is in a similar proximity to the trailer and car park as 'Willows'.

4.0 Description of the Proposal

4.1 The development is described by the applicant as "stationing of a mobile trailer for hot food take away sales". The application is retrospective, with the mobile trailer already in situ.

4.2 Opening hours are stated as being 15:00-23:00, 7 days a week.

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits and has no specific allocation

6.0 Relevant Planning History

6.1 None relevant

7.0 Principal Policies

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

Also relevant is the National Planning Practice Guidance (NPPG) of 2014.

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

SD1 - Sustainable Development Locations

CE2c - Local Centres

UR2 - Built Design and Character

TA1 - Accessibility and Changing Travel Behaviour

ENV1 - Environment

ENV2 - Rural Communities

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

DP1 Design and Amenity

DP17 Accessibility and Access

DP19 Parking Standards

DP21 Nature Conservation and Protected Lanes

7.4 Regard should also be given to the following adopted Supplementary Planning

- Guidance/Documents:
- Vehicle Parking Standards

8.0 Consultations

8.1 Environmental Protection objects to the proposal for the following reasons;

“A mobile trailer for hot food take away has been stationed at this location and we have received a complaint from a non adjacent resident about odour from cooking. The mobile trailer is less than 10 metres from the nearest domestic garden and 13 metres from the house. Mobile trailers are not able to have odour extraction and odour abatement technology that would lessen or prevent the cooking fumes from being a nuisance.

The clients of the mobile trailer are likely to cause some noise and again due to close proximity to domestic properties are likely to cause annoyance and/or nuisance.”

- 8.2 Environmental Protection Officers have expanded upon these comments by email as follows;

“Further to our conversation I am writing to confirm my reasons for objecting to the above application.

Firstly I am concerned about cooking odours affecting neighbouring properties. We have historically had complaints regarding cooking odours from the Queens Head Indian Restaurant and Takeaway. The kitchen is fitted with comprehensive odour abatement equipment and is within an enclosed kitchen. There are limits to the type of abatement technology that can be fitted to a mobile trailer and by its nature it is not enclosed and odours can escape out the serving area and is likely to affect neighbouring properties. Prior to the application being received we had received complaints regarding odour from the mobile trailer.

Secondly I am concerned about noise from the extraction system and noise from customers. Again as the trailer is out doors there is no solid structure to insulate against noise transmission. The very close proximity of the mobile trailer to residential properties means noise from customers talking, laughing etc is likely to cause disturbance and this is uncontrollable.”

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

9.0 Parish Council Response

- 9.1 West Bergholt Parish Council objected to the proposal for the following reasons;

“The proposed mobile trailer is sited in an attractive part of the village with its pleasing pub frontage and opposite the village duck pond. The presence of the trailer does not enhance the environment in this sensitive location and runs contrary to VDS Policy DG34 and is not an acceptable proposition for this reason.”

- 9.2 The Chair of the Parish Council then elaborated as follows in a separate email;

Through this submission my Parish Council provides its perspective on this application in terms of the threat it possesses and the negative impact it has for nearby residents and the village as a whole. The Parish Council actively encourages village-based businesses providing they operate as ‘good neighbours’ and when they are set up in a respectful and caring manner from a wider community perspective. To grant planning approval in this instance would jeopardise the very foundation of village life not for what this planning application intends to provide but for the manner in which it is being implemented. Granting planning permission in this case would set a dangerous precedence, potentially affecting the nature and activities of the three other village pub car parks.

This kebab business could and should have been set up entirely within the building fabric of the Queens Head public house alongside the existing food outlet already provided. In our opinion the owners of the Queens Head pub have demonstrated scant regard to work in harmony with the community by allowing the Kebab unit to be placed in their car park, seemingly only to be interested in boosting their income by whatever means they hope to get away with.

The Queens Head pub occupies a prominent and attractive position within the village and lies opposite the village pond. Our Parish Council uses this location within the photo collage in its letterhead to highlight some of the many charms of our village. West Bergholt has won the Essex Best Kept Village competition on more than one occasion and part of this success is because village facilities are appropriately located and in a manner that helps to positively enhance the look and feel of our thriving village community.

Should CBC Planning Committee be mindful to allow this planning application it would openly encourage further occupation of this car park for any number of possibly inappropriate business ventures. The consequences of agreeing to such a blatant 'try it and see' initiative would be to jeopardise village well being with residents living in trepidation as to what may suddenly appear next on the car park.

We respectfully request that CBC Planning Committee reject this planning application and thereby give a clear message to the owners that it is not what they are offering that is a problem but the entirely inappropriate manner in which they intend providing their Kebab food services."

10.0 Representations

10.1 28 letters of objection have been received, plus a petition containing 77 names. Objections raised are summarised as follows;

1. Visual intrusion spoiling a classic view. Out of character
2. Would set precedent for further takeaways in other shop and pub car parks
3. Litter and vermin and harm to wildlife from litter
4. Noise and disturbance to nearby residential properties
5. Congregation of people around pond area, causing disruption
6. Alternative takeaway facilities already available – new one not needed
7. Inaccuracies in the application form
8. Congestion with vehicles coming and going - highway safety hazard.
9. Health and safety and legality – propane bottles may get tampered with
10. No provision for dirty water and food waste
11. Increase traffic and parking
12. Existing problem from pub and Indian restaurant / takeaway above it.
13. Encourages unhealthy eating amongst school children

10.2 57 Letters of support have been received, plus a petition containing 166 names. Reasons for support are summarised as follows;

1. No smell, no litter
2. Cannot be seen from road
3. Useful facility
4. Very nice food, good service, friendly staff, good prices etc
5. Social hub
6. Good service to disabled people who have meals delivered to them
7. Supports the pub and makes this business more viable
8. Local service reduces carbon footprint as reduces the need for travel

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

11.0 Parking Provision

- 11.1 The trailer would not be a planning unit in its own right, but would form part of a mixed use of the wider pub site. It would utilise the access and parking facilities of that pub. Parking bays are not marked and with no plan annotating bays, it is difficult to give a precise number of bays. However, it is estimated by officers that without the trailer, the car park affords parking for up to 19 cars, but with the trailer utilising some of those spaces, potential parking is reduced to approximately 15 cars.

12.0 Open Space Provisions

- 12.1 N/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 Employment and economic benefits

- 15.1.1 This proposal would generate the equivalent of 2 full-time posts. It will furthermore generate economic activity of benefit to the local economy. These factors are material planning considerations that carry weight.

15.2 Community Benefits

- 15.2.1 The proposal clearly meets a local demand and is well thought of by many members of the local community. By meeting such local demand, the development furthermore reduces the need to travel. These factors are material planning considerations that carry weight.

- 15.2.2 It may be speculated that the business benefits to the Queens Head pub (both from inter-connected business, and from rental incomes) may lead to increased viability for that pub and therefore an increased chance of survival for that community facility. However, no information has been provided that would allow such a conclusion to be drawn and so such arguments can be given little weight.

15.3 Appearance and Character

15.3.1 Whilst described by the applicant as a mobile trailer, this is clearly not intended to be mobile. It is not therefore comparable with fish and chip vans that drive between sites and are not stationed in any one location for longer than a day at a time. Mobile fast food trailers as more permanent features are sometimes found in industrial estates and within large urban car parks, but not commonly in village locations or in the car parks of public houses. The trailer, therefore, appears incongruous in its setting adjacent to a village public house, opposite an attractive village pond that affords a semi-rural character, in an otherwise residential area. The trailer has neither a residential character nor a semi-rural character and so the distinct local character is harmed.

15.3.2 The physical appearance of this trailer is not attractive. It is bland, unsubstantial and wholly utilitarian in appearance, offering nothing positive to the appearance of the site or surroundings and harming the setting of the pond and attractive public house. It is hard to imagine a similarly designed structure being acceptable in this location were it to fully meet the definition of a new building and so officers see no reason why reduced standards of appearance should be acceptable merely because the trailer is theoretically movable.

15.3.3 Whilst partially screened by the hedge, the trailer is publicly visible.

15.4 Impact on neighbours' amenities.

15.4.1 The cooking of food generates smells and it is evident from colleagues in Environmental Protection that such smells cannot be adequately mitigated against in a trailer, as they could be within a building. Furthermore, the trailer will generate increased noise and disturbance from people queuing for their food and eating their food in the vicinity. Due to the proximity of the trailer to residential properties, such smells, noise and disturbance is likely to harm the amenities of the occupiers of those dwellings. Further details about these concerns are set out by Environmental Protection in paragraph 8.1 of this report. Planning Officers fully share these concerns.

15.5 Parking and highway safety

15.5.1 There are no adopted minimum parking standards for takeaway uses. The site is sustainably located, and the business likely to serve mostly the local village and so is not dependent on car travel. Local roads do not have parking restrictions. It is not therefore considered that an inadequacy of parking is grounds for refusal. Planning Officers do not consider that the trailer interferes with the safe access of the pub. There is already pedestrian activity in the area from the pub and associated with the pond/green. Cars turning into the car park will be doing so slowly. Increased activity in the area is, if anything, likely to slow cars down further. The Highway Authority has not been formally consulted on the proposal but informally advises it has no concerns.

15.6 Other matters.

- 15.6.1 Both objectors and supporters of the proposal raise other issues that are not planning matters and so are not addressed within this report. The impact on children's dietary health can in extreme situations be considered to be a planning matter (for example where a takeaway is located close to a school and its business is clearly reliant upon the custom of pupils), but arguments that takeaway food per se is unhealthy can be given no weight. Claimed inaccuracies in the application form have been highlighted by objectors, but none of these are pertinent to the planning merits of the case, except where already addressed.
- 15.6.2 Claims that the proposal may cause litter are not considered to present a reason for refusal. It is a criminal offence to drop litter and, it is noted that the Council can require businesses to clear litter from the footway and adjacent land within 100 metres of their premises. Planning should not seek to replicate what can be achieved under other legislation. Appropriate storage and disposal of waste from the business could be required by condition and in some cases enforced under environmental health legislation, so do not constitute a reason for refusal. There is no reason why, managed properly, this development should harm wildlife.
- 15.6.3 Finally, objectors have highlighted that this development would set precedent for other car parks in West Bergholt to be developed. Each development must be considered on its own merits, however clear differences would need to be identified by the Council were such proposals to come forward and a different outcome reached.

16.0 **Conclusion**

- 16.1 In determining this application, Members must weigh the employment, economic, social/community benefits of this proposal with the identified harm to the character and appearance of the area and the amenities of nearby residents.
- 16.2 In officers' opinion, there is no planning reason why the identified benefits of the takeaway service should not be achievable without causing the harm that has been identified. A takeaway service in West Bergholt could be located within an appropriate existing building or within a new building, appropriately designed and located. This limits the weight that can be given to the planning benefits of the scheme. Even were it demonstrated that this specific proposal was the only way to achieve such planning benefits, planning officers are of the opinion that the identified harm would still outweigh such benefits.
- 16.3 Whilst Core Strategy policies such as SD1 and SD2 are broadly supporting of economic development and new services / facilities in sustainable locations, they do require such development to achieve a high standard of design and compatibility with local character. This proposal has not achieved that objective and consequently, the application is recommended for refusal.

17.0 Recommendation

Refuse planning permission for the reasons set out below:-

1 - Non-Standard Refusal Reason

The National Planning Policy Framework (NPPF) requires that developments "establish a strong sense of place...(and) are visually attractive as a result of good architecture and appropriate landscaping". It goes on to state that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area...". These objectives are reflected in Colchester Borough Council's Local Development Framework, through Policy UR2 of the Core Strategy (December 2008) and Policy DP1 of the Development Policies (October 2010), both of which require a high standard of design, an appropriate architectural approach and an enhancement in the character of an area.

The proposed trailer appears incongruous in its setting adjacent to a village public house, within what is otherwise a residential close to the rural edge of the village. The proximity to an attractive village pond that affords a semi-rural character further adds to this incongruous appearance and harms the distinct local character.

The use of a structure designed as a mobile and transient facility for what, to all intents and purposes, is a permanent building, is an inappropriate form of development. As a permanent or semi-permanent feature, it is bland, unsubstantial and wholly utilitarian in appearance, offering nothing positive to the appearance of the site or surroundings and harming the setting of the pond and attractive public house. For these reasons, the proposal is harmful to the character and appearance of the site and the surrounding area. As such, it conflicts with the requirements of the afore-mentioned policies.

2 - Non-Standard Refusal Reason

The National Planning Policy Framework (NPPF) further requires that planning decisions should ensure "a good standard of amenity for all existing and future occupants of land". New Development should avoid noise from giving rise to significant adverse impacts on health and quality of life. Policy DP1 of Colchester Borough Council's Local Development Framework Development Policies (October 2010) makes similar requirements, stating that development should protect existing public and residential amenity, particularly with regard to noise, disturbance and odour pollution (amongst others).

In this case, the development would cause cooking smells, noise and disturbance that would result in unacceptable harm to the amenities of the occupiers of nearby residential properties. As such, it conflicts with the requirements of the afore-mentioned policies.

18.0 Positivity Statement

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application in a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.



Application No: 142947

Location: Hill Farm, School Lane, Great Wigborough, Colchester, CO5 7RJ

Scale (approx): 1:2500

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7.5 Case Officer: Nadine Calder Due Date: 14/05/2014

OTHER

Site: Hill Farm, School Lane, Great Wigborough, Colchester, CO5 7RJ

Application No: 142947

Date Received: 19 March 2014

Agent: Edward Gittins & Associates

Applicant: Mr C. Baines

Development: Replacement Dwelling. Resubmission of 131529.

Ward: Birch & Winstree

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee at the request of Cllr Ellis and for the following reason:

'Building design is subjective. I accept that this building is set in a prominent position, however I believe it would sit comfortably in the landscape so long as the building materials are carefully selected. The building is of an appropriate scale and design for the site and will have the appearance of having evolved over time. As already mentioned, materials are key, and the use of those with an aged appearance will go a long way to helping this building blend in. The design of the building is not dissimilar to a property just down the road in Layer Breton so one can't argue that it doesn't suit the local vernacular. As with the previous application, the Parish Council have raised no objections, nor have any of those consulted, nor indeed has it drawn any objections from those living in the area.'

2.0 Synopsis

2.1 The key issues explored below are the design of the replacement dwelling and its impact on the countryside. It is considered that the proposal, due to its uncharacteristic design and excessive scale, bulk and height would cause visual and material harm to the countryside, thus failing to comply with national and local policy requirements. The application is therefore recommended for refusal.

3.0 Site Description and Context

3.1 The application site is located outside of the defined development boundary of Great Wigborough and within the countryside. It consists of a detached residential dwelling located behind existing farm buildings and is accessed via a private access road off School Lane which also serves the adjacent residential dwelling Hillcrest. The entire holding extends to 49 hectares.

3.2 There are footpaths that run along the eastern and northern boundaries of the site, with one footpath crossing the north-west corner of the site. Although the site is reasonably flat, there are wider views of the site from the road, particularly from the north-west, and the Public Footpaths surrounding and cutting through the site.

4.0 Description of the Proposal

4.1 Planning permission is sought for the replacement of the existing farmhouse on the application site. It is proposed to site the dwelling to the south of the existing property so that the applicant can continue to live in the existing property until the replacement dwelling is complete.

4.2 The replacement dwelling would be a maximum of 7.3 metres wide, approximately 6.3 metres deep and have a maximum ridge height of approximately 9.3 metres. At ground floor, the dwelling would provide a hall, dining room, living room, kitchen, study, utility room and bathroom. At first floor there would be four bedrooms (two with en-suites) and a family bathroom while at second floor it is proposed to provide a play room.

4.3 The materials to be used for the construction of the property include red bricks for the walls, clay pegtiles for the roof, custom made wooden casements with sliding sashes for the windows and a wooden classical front door and wooden stable doors.

5.0 Land Use Allocation

5.1 Unallocated

6.0 Relevant Planning History

6.1 Planning permission for a replacement dwelling was sought in 2013 (reference 131529), however, this was refused in September 2013 as the proposal was considered to represent an inappropriate form of development in the countryside that, due to its excessive scale, bulk and height would neither respect nor enhance the character and quality of the area.

6.2 Limited informal discussions have since taken place during the applicant was that the second floor accommodation would have to be lost and the height of the roof would need to be reduced in order for the proposal to be acceptable. The Council's in house Urban Design Officer suggested that an acceptable design may be achieved by providing a double pile roof, however, no further discussions were held after this.

6.3 In addition to the above, the original property has been extended and altered in the past by way of single and two storey extensions (reference 81/0837).

7.0 Principal Policies

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

Also relevant is the National Planning Practice Guidance (NPPG) of 2014.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Vehicle Parking Standards
Sustainable Construction
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

8.1 No consultation responses were received at the time of writing this report other than the Highway Authority stating that it did not wish to submit a recommendation.

9.0 Parish Council Response

9.1 The Parish Council has stated that they it has no objection to this application.

10.0 Representations

10.1 The consultation exercises have not resulted in any letters of representation.

11.0 Parking Provision

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

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 The application site is located within the countryside which has implications in terms of the landscape impact of development of this nature. Development Policy DP13 specifically requires replacement dwellings to be of a satisfactory design that is appropriate to the rural area and does not significantly increase the scale, height and form of the original dwelling, and to provide satisfactory landscape value to integrate the new dwelling into the wider rural context with no greater adverse impacts than the existing dwelling.
- 15.2 In addition to the above, Core Strategy Policy UR2 states that the Borough Council promotes and secures high quality and inclusive design in all developments to make better places for both residents and visitors. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported. Similarly, Development Policy DP1 requires all development to respect the character of the site, its context and surroundings.
- 15.3 In this instance, the proposed development appears to be a disproportionate pastiche that is generally attempting an overly large amount of accommodation which makes the proportions of the house untraditional and the architectural style contrived. The result is a poor design that does not accurately reflect the traditional scale of the style it is attempting to replicate.
- 15.4 The roof is visually over-complicated with an excessive array of dormer windows. The height of the roof is also excessive when compared to the scale of the rest of the building. The different styles of porch and bay windows visually compete and appear unrelated to the simple fenestration above. The fascia is a weak element given the height of the wall needed to gain the accommodation in the roof.
- 15.5 The current application has made attempts to reduce the impact of the building on the wider area by reducing the height of the property by 0.6 metres. This is achieved by lowering the ground level by 0.3 metres and the maximum ridge height by another 0.3 metres. All other alterations that have been made since the refusal of the previous application are internal. The only alterations in order to address the concerns that have been raised through the previously refused application are therefore the 300mm reduction in height and the lowering of the ground level by another 300mm. On this basis, Officers remain of the opinion that the proposed development would have an adverse impact on the surrounding area. The alterations do little to reduce the impact

of the proposed development within the wider area and it is therefore considered that these alterations do not justify an approval.

- 15.6 Following the refusal of the previous application, the applicant has been advised that the depth of the side elevations, which in fact is considered to be unrelated to the style of the pastiche, thereby adding to the disproportionate and contrived appearance of the proposed dwelling, would require the loss of the second floor accommodation and a double pile roof in order to be an appropriately designed pastiche. The current application has not followed this advice and instead submitted a design that has in no way addressed the reasons for refusal of the previous application.
- 15.7 It has been established through the previous application that the proposed room sizes are all very generous and it would therefore without doubt be possible to scale down the proposed accommodation to create a building of better proportion. This would also create a building that would not contradict policies regarding the size of replacement dwellings in the countryside.
- 15.8 It is acknowledged that the NPPF sets out that planning decisions should not attempt to impose architectural styles or particular tastes or stifle innovation, originally or initiative through unsubstantiated requirements to conform to certain development forms or styles. However, at its core the NPPF requires planning to always seek to secure high quality design as this is a key aspect of sustainable development which is indivisible from good planning. The NPPF further advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. For the reasons set out above, it is considered that this would be the case with the proposal subject of this application.

16.0 Conclusion

- 16.1 Having regard to the above, it is concluded that the proposed development would represent a poorly designed dwelling with a more dominant appearance than the existing dwelling and as such, the replacement dwelling would be out of character with the surrounding area. Given its location within the open countryside, the proposed development would cause material and visual harm to the character and appearance of the area. The proposed development is therefore contrary to Policies UR2, DP1 and DP13 which require high quality design that respects and enhances the character of the site and its context. On this basis, the proposed development also fails to comply with the requirement for good design as set out within the NPPF.

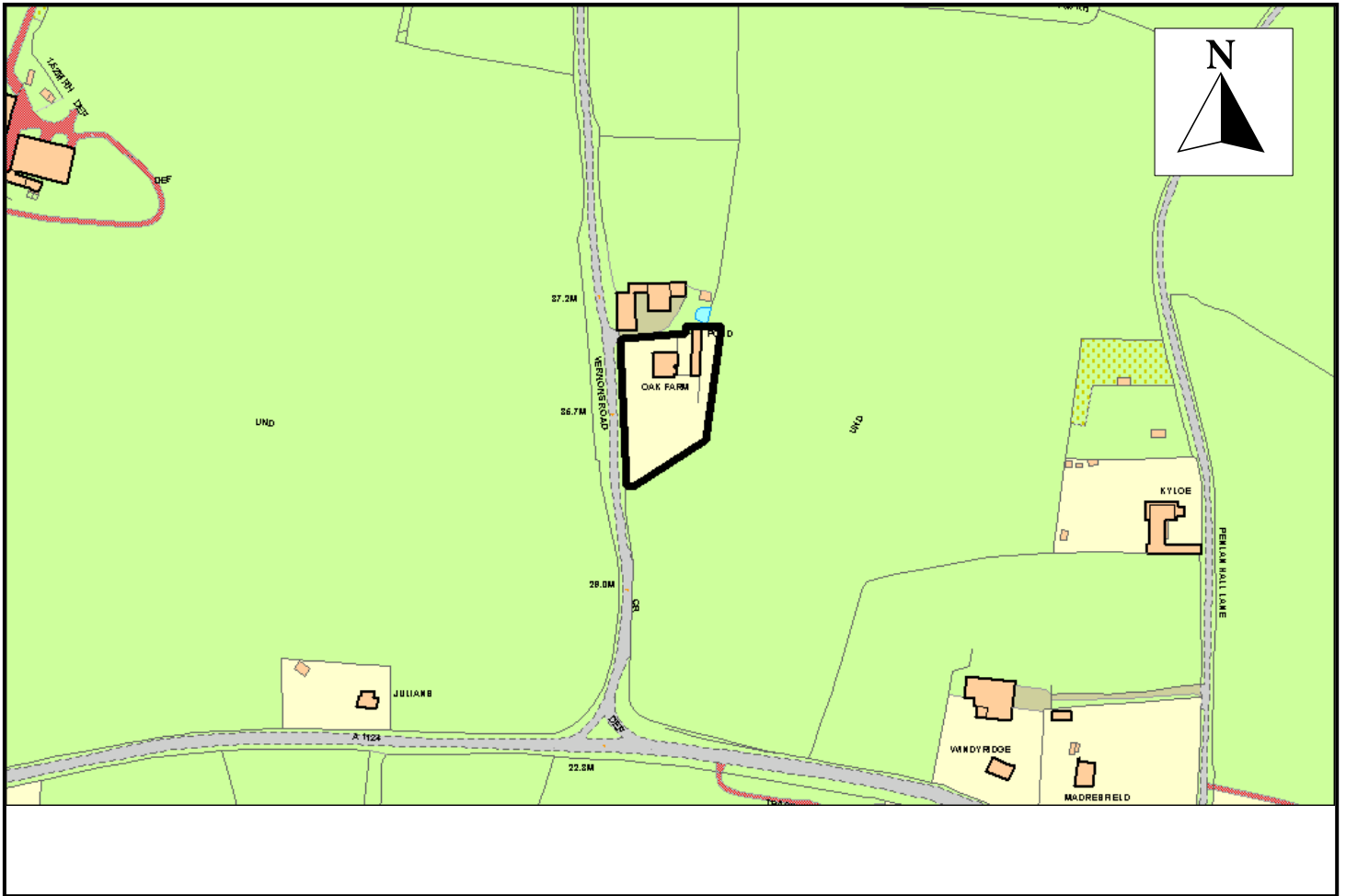
17.0 Positivity Statement

- 17.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development through its Preliminary Enquiry service (please refer to the Council's website for details).

18.0 Reasons for Refusal

1 - Non-Standard Refusal Reason

The proposed development, by virtue of its uncharacteristic design would represent an inappropriate form of development that would cause visual and material harm to the countryside, contrary to the requirements of Policy DP13. Furthermore, by virtue of its excessive scale, bulk and height the proposed development also conflicts with Core Strategy Policy UR2 and Development Policy DP1 which promote high quality design and seek to ensure that development respects and enhances the character of the area. These policies are consistent with paragraph 64 of the NPPF which indicates that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. Therefore, as well as being contrary to the Development Plan and Core Strategy, the proposal further fails to comply with the requirement for good design as set out within the NPPF.



Application No: 142146

Location: Oak Farm, Vernons Road, Wakes Colne, CO6 2AH

Scale (approx): 1:2500

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7.6 Case Officer: Libby Kirkby-Taylor

Due Date: 30/04/2014 LISTED BUILDING

Site: Oak Farm, Vernons Road, Wakes Colne, CO6 2AH

Application No: 142146

Date Received: 5 March 2014

Applicant: Mr Peter Chillingworth

Development: Rebuild and alter the porch to the annex at Oak Farm

Ward: Great Tey

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the applicant is a serving Colchester Borough Council Councillor.

2.0 Synopsis

2.1 The proposal is for the demolition and replacement of a porch. The key issue explored below is how the proposal affects the special character of the listed building. The historic character and appearance of the building is assessed, with the conclusion that the proposal would be an improvement to the building, as it would replace an existing porch that is inappropriate in terms of its design and materials.

3.0 Site Description and Context

3.1 Oak Farmhouse is a grade II listed building located within the countryside. The site is an extremely exposed one with the prevailing wind often directed at the front elevation of the building. There is an annexe to the eastern side of the site, which is the subject of this application. The annexe is a converted brick built agricultural building.

3.2 Oak Farmhouse was listed at grade II on 22 March 1988. At the time of listing it was undergoing a series of renovation works, some of which are not described in the listing, an indication of the time lapse between the listing survey work and date of designation.

3.3 The building is identified as follows:

Farmhouse including probable 'standing' or 'Hunting Lodge'. Early C19 and Late C16. Front range is of red brick with low pitched slate roof and rear range is timber-framed and part brick, part rendered. Front range has wide overhanging eaves and bargeboards and a stack at each gable end. The front elevation has a central, simple doorcase with pilasters, 6 panel door with rectangular fanlight over. Above and either side are contemporary double hung

sash windows with plastered, flat arches and squarish panes. There is a string band between the floors.

The rear range is composed of two peg tile roofed timber-framed structures, with their roofs abutting at right angles. That to the south has a large single bay on each floor and is of good timber framing with an elegant arch braced, side purlin roof. It is 'open framed' against the northern block and has a large, early C17 stack with offsets against its rear(east) wall. The other block was also a single bay on each floor and was formerly jettied on its front (jetty substantially intact against back wall of front block). The front, formerly gabled, elevation of this block has remains of 'T pattern' windows with moulded mullions. The roof is again side purlin with wind braces of a similar style but differing in detail. The earlier block appears to have been an independent, non-residential structure, slightly later enlarged to form a dwelling. The hill top location with an excellent prospect would suggest a 'standing' or 'hunting lodge'.

- 3.4 The annexe building, although detached from the main farmhouse, is listed as a curtilage structure and listed building consent is required for the porch.

4.0 Description of the Proposal

- 4.1 The proposal is for the demolition of an existing porch and its replacement with a timber porch. The porch is located on the western elevation of the annexe building, behind Oak Farmhouse. The replacement porch would be constructed on the same footprint as the existing porch, using the same concrete base, and would be finished in black weatherboarding and a slate roof.

5.0 Land Use Allocation

- 5.1 N/A

6.0 Relevant Planning History

- 6.1 There is little relevant planning history for the building. Planning permission was granted for the conversion of the building for an 'elderly person' in 1987, with a condition that the accommodation shall only be occupied as ancillary living accommodation in connection with the main dwelling, Oak Farm. The permission included proposals for a link between the annexe and the main house, but this has not been built.
- 6.2 The application follows a preliminary enquiry at which the principle of rebuilding the porch was established.

7.0 Principal Policies

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

Also relevant is the National Planning Practice Guidance (NPPG) of 2014.

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

ENV1 - Environment
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP14 Historic Environment Assets

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

External Materials in New Developments

8.0 Consultations

8.1 No consultation comments have been received.

9.0 Parish Council Response

9.1 The Parish Council has confirmed that they have no objections to the proposal.

10.0 Representations

10.1 No representations have been received.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 N/A

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 The application seeks consent for the demolition and replacement of a front porch to a curtilage listed building. The main planning consideration is the effect that the proposed works would have on the the special interest of the listed building. Development Policy DP14 states that development will not be permitted that will adversely affect a listed building and that, in all cases, there will be an expectation that any new development will enhance the historic environment in the first instance, unless there are no identifiable opportunities available.
- 15.2 The annexe is a converted outbuilding and retains some of its agricultural character. It is not unusual for agricultural buildings to have small single storey extensions, and they tend to take the form of simple lean-tos. However, the existing porch is a heavily glazed conservatory with a plastic roof that has no architectural merit and gives the outbuilding an inappropriately domestic character. In contrast, the replacement porch would be a weatherboarded lean-to structure that would be more akin with the agricultural appearance of the barn. The proposal is, therefore, considered to be an improvement to the character and appearance of the building in accordance with the expectations of Development Policy DP14. The appearance of the porch could be improved by lowering the eaves height to create a greater pitch on the roof. This matter has been discussed with the Applicant who has agreed to the amendment and intends to submit revised drawings to that effect. However the precise pitch will need to be determined on site with the builder so the applicant would prefer to submit revised drawings, by condition, after the application has been determined.
- 15.3 There is no objection to reuse of the concrete plinth because it is utilitarian and unpretentious in the manner of an agricultural building.
- 15.4 Conditions are proposed to ensure that the external materials, joinery details, and rainwater goods are appropriate and to revise the pitch of the roof.

16.0 Conclusion

- 16.1 The proposed porch would not have an adverse impact on the historic fabric of the building and is considered to enhance the building as it would replace an existing structure that currently detracts from the agricultural appearance of the barn. It is therefore recommended that consent be given, subject to conditions including an amendment to the eaves height of the porch.

17.0 Recommendation

- 17.1 That listed building consent be granted subject to the following conditions.

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for LBCs

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

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

2 - Non-Standard Condition/Reason

No works shall take place until revised drawings at a scale between 1:1 and 1:50 as appropriate showing an increase to the pitch of the roof of the porch have been submitted to and approved in writing by the local planning authority. Works shall be undertaken in accordance with the revised plans and henceforth so maintained.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building.

3 - Non-Standard Condition/Reason

No works shall take place until samples of the external facing and roofing materials to be used in construction of the porch have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be implemented using the agreed materials.

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

4 - *External Joinery Details

No works shall commence on site until details of all new external window and door joinery have been submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.

5 - Non-Standard Condition/Reason

All external joinery shall be of painted timber (painted black), unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.

6 - Rainwater Goods to be Coloured Black

All new rainwater goods or other external pipework shall be coloured black.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.

20.0 Informatives

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

(2) This consent contains conditions that have to be discharged before the work is commenced. If you do not comply with the condition precedent you could invalidate this consent and unauthorised works to a Listed Building constitute a criminal offence under the Planning (Listed Building and Conservation Areas) Act 1990. A condition precedent cannot legally be complied with retrospectively and a new application could be required. There is no charge applicable to discharge a condition of a Listed Building Consent. The applicant/developer is advised to submit relevant details for all conditions in a single request.

(3) In the interests of clarity the applicant is herewith advised that the drawings/plans which form the subject of this consent are those received on the 11th March 2014.



Application No: 142633

Location: Briar Cottage, Mill Lane, Colchester, Essex, CO2 0NH

Scale (approx): 1:1250

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7.7 Case Officer: Nadine Calder Due Date: 09/05/2014

OTHER

Site: **Briar Cottage, Mill Lane, Birch, Essex, CO2 0NH**

Application No: **142633**

Date Received: 14 March 2014

Agent: Mark Perkins Partnership

Applicant: Ms Justine Musk

Development: Application for a Lawful Development Certificate for a proposed conversion of existing attached garage into Bedroom and Store.

Ward: Birch & Winstree

Summary of Application: Certificate of Lawfulness approved

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the property on the application site is jointly owned by a member of staff of Colchester Borough Council.

2.0 Synopsis

2.1 This application has been made by the applicant in order to request a formal legal determination as to whether or not the proposed development requires a planning application or can be undertaken via the planning permission granted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 and is therefore 'permitted development'. The detailed assessment of this proposal has resulted in the conclusion that the proposed development complies with the criteria set out in Schedule 2 Part 1 Class A of the aforementioned order and therefore constitutes permitted development.

3.0 Site Description and Context

3.1 The application site is located at the end of Mill Lane within the defined development boundary of Birch and is accessed via a private track that serves the property on the application site as well as five other properties to the south west of the site. This track is also a designated public footpath. The site abuts open countryside to the north and north west and is not located in a conservation area. The site comprises a detached bungalow with an attached garage to its south western elevation.

4.0 Description of the Proposal

4.1 This application is for a Certificate of Lawfulness for a Proposed Development which proposes to convert the existing attached garage into additional living accommodation and a store. As part of this development, two thirds of the garage would be converted into a bedroom while the remaining area to the front of the garage would be retained for the purposes of storage. Additionally, it is proposed to provide patio style doors from the new bedroom into the rear garden of the site. These doors would be inserted into an existing garage door opening which is along the side elevation of the garage to the rear of the existing house. With the exception of this, the proposal does not include any other external works.

5.0 Land Use Allocation

5.1 N/A.

6.0 Relevant Planning History

6.1 In 1983 planning permission was granted for a replacement garage on this site (reference 83/0237), however, this permission was granted without any conditions.

7.0 Principal Policies

7.1 As the proposed development is for householder operations, the relevant consideration is the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 Schedule 2, Article 3, Part 1, Class A which sets out the criteria for permitted development applicable to 'Development Within The Curtilage Of A Dwellinghouse'.

8.0 Consultations

8.1 No consultation letters were sent out for this proposal given that this is an application for a Certificate of Lawfulness for a Proposed Development.

9.0 Parish Council Response

9.1 The Parish Council has not been consulted for this proposal given that this is an application for a Certificate of Lawfulness for a Proposed Development.

10.0 Representations

10.1 No neighbour notification letters have been sent out for this proposal given that this is an application for a Certificate of Lawfulness for a Proposed Development.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 N/A

14.0 Development Team and Planning Obligations

14.1 N/A

15.0 Report

15.1 Planning permission for the conversion of a garage into additional living accommodation is not usually required, providing the work is internal and does not involve enlarging the building. Similarly, changing the garage door to a flush window/door will not usually require permission, whereas a bay window might.

15.2 As stated above, the property on the application site benefits from permitted development rights and the principle of converting the garage into additional living accommodation is therefore acceptable.

15.3 The proposed works consist of approximately two thirds of the existing garage being converted into living accommodation while the remaining area to the front of the garage would be retained as storage. For this purpose, the existing garage door on the front elevation would be retained while patio style doors would be installed in the side elevation of the proposed new bedroom to the rear of the existing garage where there is an existing garage door opening.

15.4 On the basis of the above, the proposed conversion of the existing garage into additional living accommodation as well as the provision of patio style doors would not result in the enlargement of the building and the proposed development therefore constitutes permitted development.

16.0 Conclusion

16.1 The development is permitted by Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, Schedule 2, Article 3, Part 1, Class A.

17.0 Recommendation

COLCHESTER BOROUGH COUNCIL hereby certifies that on 14th March 2014 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in red on the plan attached to this Certificate, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The proposed Application for a Lawful Development Certificate for the proposed conversion of the existing attached garage into a bedroom and store is development permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, Schedule 2, Article 3, Part 1, Class A (Development Within The Curtilage Of A Dwellinghouse), in that the Council considers the development would not fall within that described in paragraphs A.1 of the aforementioned Order, subject to compliance with the conditions listed in paragraph A.3.

FIRST SCHEDULE

Application for a Lawful Development Certificate for a proposed conversion of existing attached garage into bedroom and store as shown on Drawing Numbers 1019/01 Rev A and 1019/02.

SECOND SCHEDULE

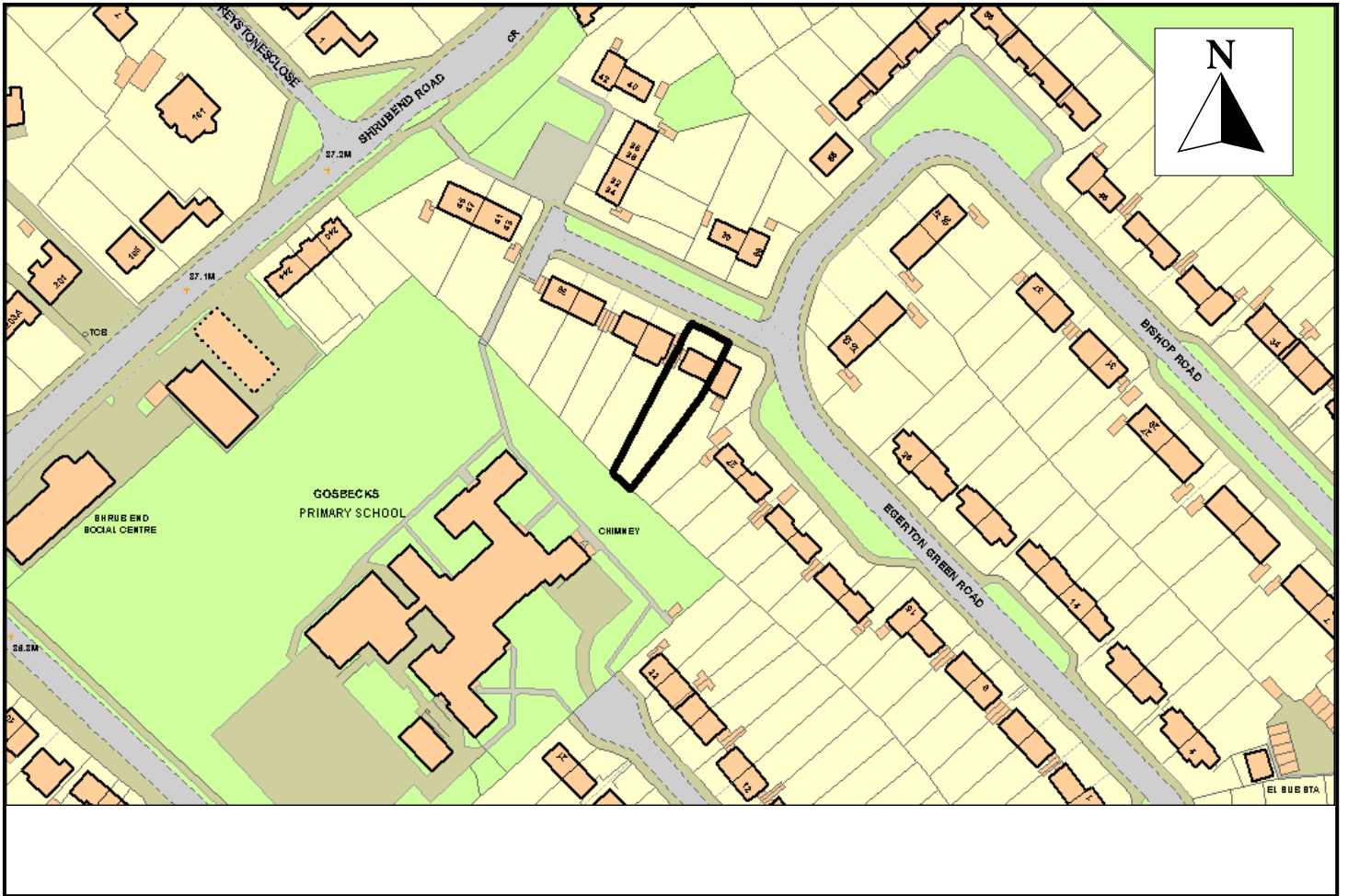
Briar Cottage Mill Lane Colchester Essex CO2 0NH

18.0 Conditions

18.1 N/A

19.0 Informatives

19.1 N/A



Application No: 142929

Location: 31 Egerton Green Road, Colchester, CO2 9DL

Scale (approx): 1:1250

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7.8 Case Officer: Mr David Whybrow Due Date: 13/05/2014 HOUSEHOLDER

Site: **31 Egerton Green Road, Colchester, CO2 9DL**

Application No: **142929**

Date Received: 18 March 2014

Agent: Mr P Tyler

Applicant: Mr & Mrs Hammet

Development: Single storey front extension.

Ward: Shrub End

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application, which is of a type that would ordinarily have been dealt with under delegated powers, is referred to the Planning Committee because the agent is a former employee of Colchester Borough Council within the then Environmental & Protective Services team.

2.0 Synopsis

2.1 The key issues explored below are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy.

3.0 Site Description and Context

3.1 This is a semi detached dwelling served by a short length of cul de sac off of the main stretch of Egerton Green Road. Its external finishes are red brick and concrete pantiles. The adjoining semi, 29, projects forward of 31 and its front garden is enclosed by privet hedges. By contrast the application site has an open plan front garden and provides a parking space for one vehicle.

4.0 Description of the Proposal

4.1 It is proposed to erect a front addition, comprising porch and WC. The dimensions are 3.30 x 2.13 metres, materials are to match the house and the roof would be hipped.

5.0 Land Use Allocation

5.1 Within settlement boundary.

6.0 Relevant Planning History

6.1 N/A

7.0 Principal Policies

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

Also relevant is the National Planning Practice Guidance (NPPG) of 2014.

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

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

TA5 - Parking

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

DP1 Design and Amenity

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP19 Parking Standards

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

Vehicle Parking Standards

Extending Your House?

The Essex Design Guide

External Materials in New Developments

8.0 Consultations

8.1 None received.

9.0 Parish Council comments

9.1 N/A

10.0 Representations

10.1 The owner of no 33 has written to confirm "I have no objections at all to this proposal".

11.0 Parking Provision

- 11.1 The plans show that a single car parking space will be provided to replace that infringed by the siting of the proposed extension.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 The most significant planning issues are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy.
- 15.2 The design of the proposed development is considered satisfactory on its own merits. The development is visually acceptable and would not detract from the appearance of the original building. Matching materials are to be used and the hipped roof form reflects that of the adjoining two-storey forward projection of the adjacent semi while this projection, coupled with hedges in its front garden, provide partial screening from much of Egerton Green Road. Consequently the design and layout do not harm the surrounding area either.
- 15.3 It is unfortunate that the width of the extension results in its two side elevations butting up to the lounge and hall windows on either side and the agent has been asked to slim down the structure to provide space to these windows. It is hoped that revised drawings will be submitted before the meeting, but, if not, this is not considered to result in sufficient harm to visual amenity to justify the refusal of planning permission.
- 15.4 The proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement being comfortably removed from any such fenestration. Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council’s standards for assessing this issue as set out in the Essex Design Guide and the “Extending Your House” SPD.

15.5 Finally, in terms of other planning considerations (e.g. loss of privacy, damage to trees or highway matters), the proposed development does not raise any concerns, particularly as the application provides for the replacement of the single car parking space currently available.

16.0 Conclusion

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

17.0 Recommendation

17.1 Approve subject to conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 242 – 1, 3 and 4.

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

3 - Materials to Match

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

4 - Non-Standard Condition/Reason

Prior to the completion of the development hereby permitted the alternative parking space illustrated on drawing no 242 – 1 shall be properly hardened and made available for use and thereafter maintained as such at all times.

Reason: In order to maintain an on-site parking facility and protect highway safety.

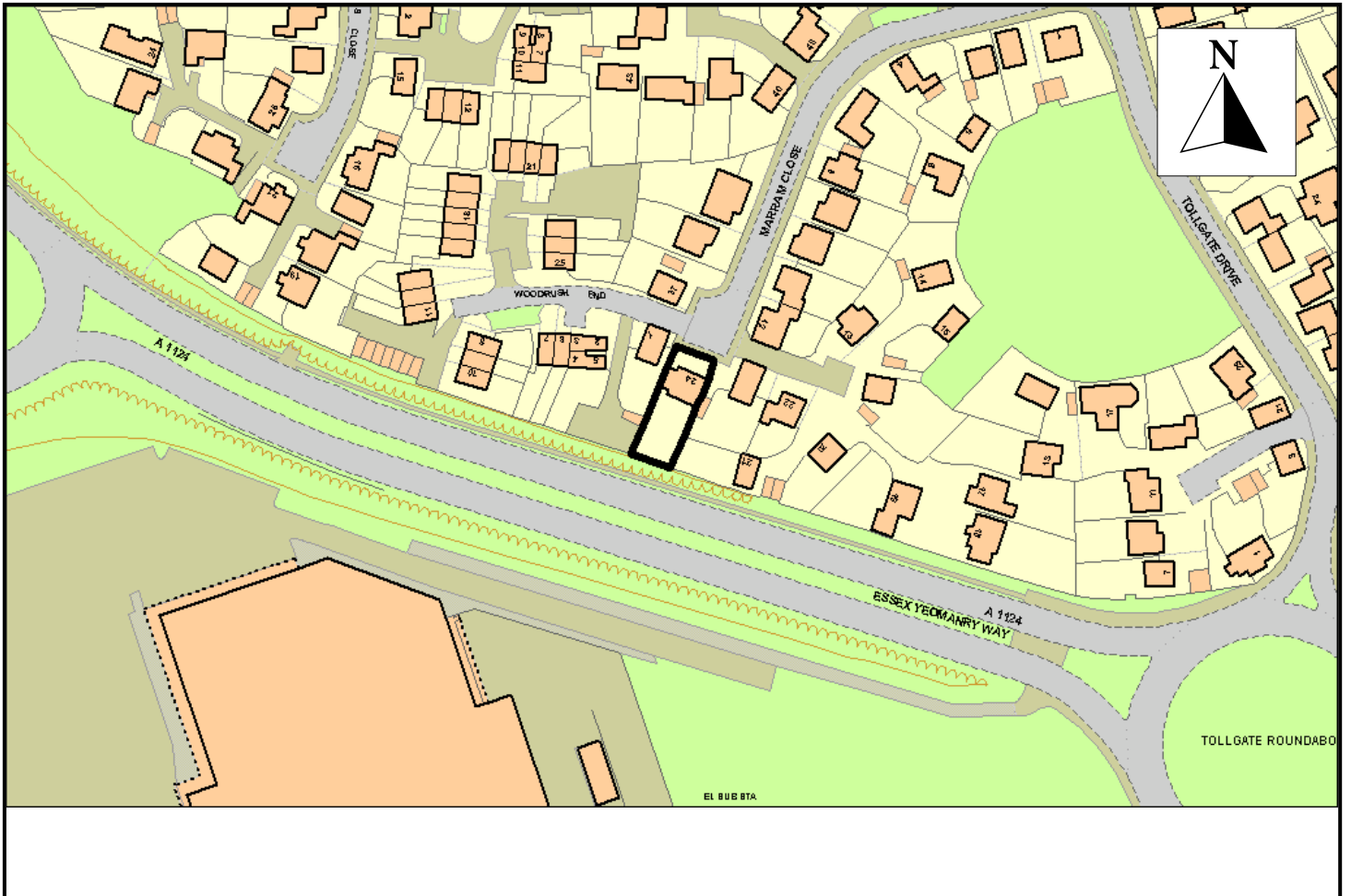
5 - Non-Standard Condition/Reason

The parking space required by condition 4 shall be surfaced in porous materials or alternatively provision shall be made to direct run-off water from the hard surface to a permeable or porous surface within the curtilage of the dwellinghouse.

Reason: To prevent the flooding of the adjacent public highway in the interests of highway safety.

20.0 Informatives

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



Application No: 142419

Location: 24 Marram Close, Stanway, Colchester, CO3 0PJ

Scale (approx): 1:1250

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7.9 Case Officer: Peter Hill

HOUSEHOLDER

Site: 24 Marram Close, Stanway, Colchester, CO3 0PJ

Application No: 142419

Date Received: 27 February 2014

Agent: Russ Payne Construction Ltd

Applicant: Mr D Thomason

Development: Single storey rear extension.

Ward: Stanway

Summary of Recommendation: Approved without conditions

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee at the request of Councillor Laura Sykes, for the following reasons;

- “1. Scale of extension when viewed from garden of immediate neighbour at 1 Woodrush End.
2. Protection of Residential Amenity takes light in morning due to height of extension.
3. Common boundary wall between gardens, partially removed where extension built, the pergola in garden of 1 Woodrush End was removed by builder? To enable the extension to be built. Because the boundary wall was removed, the pergola cannot be re-established, unless attached to extension which is all in garden of 24 Marram Close – again loss of Residential Amenity.”

2.0 Synopsis

2.1 The key issues explored below are the design of the proposal and its impacts on light and outlook to neighbours' amenities. It is concluded that in these respects the proposal is acceptable. It is set out that boundary disputes and claims of damage to property are not a matter for the Local Planning Authority to rule upon, or consider in the determination of a planning application.

3.0 Site Description and Context

3.1 24 Marram Close is a two-storey detached house situated at the head of the cul-de-sac. It has a single-story attached garage to its west side with a mono-pitched roof. Rear of the dwelling, straddling the garage element and the main part of the house has been built a single-storey rear extension that is the subject of this application. The extension is substantially complete.

3.2 Rear of the site is Essex Yeomanry Way. To the east is a detached dwelling set forward of 24 Marram Close, with its garage forming part of the side boundary. To the west is the detached dwelling of 1 Woodrush End. This dwelling is also set forward of 24 Marram Close, the existing garage of 24 Marram Close enclosing the part of the garden to 1 Woodrush End immediately to the rear of that dwelling. The new extension continues that enclosure deeper into the garden. Beyond it, a pre-existing wall of approximately two metres in height completes the enclosure on the western side of 24 Marram Close.

4.0 Description of the Proposal

4.1 This application is for the retention and completion of a single-storey rear extension that provides for a dining room and utility room.

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits and has no specific allocation

6.0 Relevant Planning History

6.1 None relevant.

7.0 Principal Policies

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

Also relevant is the National Planning Practice Guidance (NPPG) of 2014.

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

UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development

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

- Extending Your House?
- The Essex Design Guide

8.0 Consultations

8.1 None

9.0 Parish Council Response

9.1 *“Stanway Parish Council OBJECTS to this proposal as it is retrospective and has been built without planning permission. The Committee has severe reservations as to whether the extension has been inspected by a Buildings Control Officer and there has been considerable damage to the neighbours fencing.”*

10.0 Representations

10.1 One objection has been received from the occupier of 1 Woodrush End. Objections are summarised as follows;

1. Work was started before any approval was sought or gained
2. Development is visible from the public highway
3. Request dividing wall be reinstated as this is a party wall
4. Damage to property of 1 Woodrush End during construction process

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

11.0 Parking Provision

11.1 Not applicable

12.0 Open Space Provisions

12.1 Not applicable

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 Material Planning Considerations

- 15.1.1 There is evidently some difference of opinion between the occupiers of 24 Marram Close and the occupier of 1 Woodrush End as to the precise position of the boundary between those two properties. The occupier of 24 Marram Close considers the pre-existing wall to present that boundary. The applicants maintain that this wall was wholly within their property and the actual boundary follows the line of the gable end to the garage of 1 Woodrush End. This is not a matter on which the Borough Council is in a position to rule, is required to rule, or is able to rule. It is a civil matter for resolution between the respective parties. Should such private legal investigations determine that this development has encroached upon a neighbour's property, the consequences for the applicant may of course be severe.
- 15.1.2 The applicant has declared that no part of the development site is outside of the area defined by their red line, and the Local Planning Authority must take this assertion at face value. The rest of this report therefore assumes the site boundary to be as stated by the applicant. Damage to property is similarly not a planning consideration.
- 15.1.3 Concerns expressed by the Parish Council that the development has not been inspected by Building Control Officers are without base (the Council's Building Control officers confirm that it has been inspected) and are in any case of no relevance in the determination of this planning application.
- 15.1.4 Finally, the fact that this is a retrospective application and that the development has been substantially completed without first applying for planning permission can be given no weight in its determination.

15.2 Design

- 15.2.1 The manner in which this extension straddles two separate elements of the original dwelling (the single-storey garage and the two-storey house) is not ideal in design terms, but neither is it especially harmful. The building is single-storey with a slack-pitched roof minimising its prominence. It will not be publicly visible from Marram Close. Whilst small parts of it may be visible at distance from Essex Yeomanry Way, it will have no material impact on the appearance or character of the street scene. In design and character terms, the proposal is therefore acceptable.

15.3 Light

- 15.3.1 Adopted Supplementary Planning Document 'Extending Your House' includes guidance on assessing the impacts of development on light. It states that "Proposals for extensions or new buildings should not result in the centre of the main window of a habitable room being within a combined plan and section 45 degree overshadowing zone."

15.3.2 This proposal does not conflict with that ‘test’, although it must be acknowledged that the ‘test’ does not directly reference impacts of light on garden areas. In this case, the eaves are 2.6 metres high – not much higher than the pre-existing wall or a replacement 2 metre high wall/fence that could be erected under permitted development rights. The roof then slopes away from the boundary at a shallow pitch, meaning that the ridge is some 3.3 metres further away from the garden of 1 Woodrush End. It is observed that the impacts on light (such as they are) will be morning sunlight, close to the boundary, towards the bottom half of the garden. With all this in mind, it is concluded that the impact of the proposal on light to the garden of 1 Woodrush End would not be so significant as to justify a refusal on that basis.

15.3.3 It is further noted that a 4 metre deep extension could be built as permitted development, not requiring a planning application. Such an extension could be flat-roofed, built directly on the boundary and 3 metres high. This ‘fall-back’ position adds further weight to officer conclusions that this proposal is acceptable in terms of its impacts on light. At 4.5 metres in depth, the extension that has been built only extends 0.5 metres further to the rear than the 4 metres allowed as permitted development.

15.3.4 The distances involved and the intervening garage of the property to the east mean there is no potential for harm to the light received to that property.

15.4 Outlook

15.4.1 “Extending Your House” also includes guidance relating to the impacts of single-storey extensions on outlook. It states that single-storey extensions “should not exceed three metres beyond the main rear wall of the adjoining property, plus one metre for each metre of isolation from the boundary.”

15.4.2 This ‘test’ is of limited relevance to the application proposal as the pre-existing house of 24 Marram Close already protruded 5 metres beyond the rear of 1 Woodrush End. It imagines a scenario where adjacent houses are similarly aligned and where rear extensions can seriously impact on outlook to the rear-facing windows of neighbours’ houses and to parts of garden areas immediately rear of the dwellinghouse. In your Officer’s opinion, this proposal is too small in scale and distant from the rear elevation of 1 Woodrush End to be considered to be an oppressive form of development and so a refusal based on a loss of outlook would not be justified.

15.4.3 This opinion is given greater weight because of the alternative development that could lawfully be erected without the need for express planning permission, as has been discussed in the previous section on daylight. Indeed, were planning enforcement action to be taken, only the last 0.5 metres of the extension would need to be removed for the extension to be of equivalent size to that which is allowed under permitted development rights. Such a minor reduction in depth would seem to serve very little purpose.

16.0 Conclusion

- 16.1 In conclusion, this proposal has some impact on daylight and outlook, but such impact is small and does not justify a refusal. Such impact is furthermore no worse than that which would occur through a scheme built using permitted development rights and would not be materially improved were enforcement action be taken to reduce the depth of extension so as to comply with permitted development rights tolerances. The design is acceptable and other matters of concern expressed by the Parish, Ward Member and neighbour are not material planning considerations and so can be given no weight. With this in mind, officers recommend that this application be approved.

No conditions are proposed, as the time limit and plans conditions are of no relevance to a retrospective application and no other conditions are considered necessary.

17.0 Recommendation

- 17.1 APPROVE without conditions

18.0 Positivity Statement

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

19.0 Conditions

None

20.0 Informatives

None



Colchester Borough Council Development Control

Advisory Note on Parking Standards

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

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

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

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
- (b) for research and development of products or processes, or
- (c) for any industrial process,

being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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