

Planning Committee

Council Chamber, Town Hall
20 June 2013 at 6.00pm

This Committee deals with

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

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

Information for Members of the Public

Access to information and meetings

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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

20 June 2013 at 6:00pm

Members

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

Substitute Members

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

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

- (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

1 - 7

To confirm as a correct record the minutes of the meeting held on 23 May 2013.

7. Planning Applications

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

1. 130654 & 130655 - Unit 1, Tollgate Centre, Tollgate West, Stanway, Colchester
(Stanway)

8 - 20

Alterations to front and rear elevations including new entrance features and shop fronts and reconfiguration of car parking and installation of mezzanine floorspace.

Use of Units 1B and 2A as proposed to be amalgamated for the sale of an extended range of A1 non food retail goods.

2. 130794 - 1 Layer Road, Colchester
(Shrub End)

21 - 44

Erection of a single-storey rear extension, plant and bin store, external alterations (including provision of ATM and new glazed entrance), new vehicular access and associated hard standing for car park, service and delivery area and a 1.8 metre high boundary wall.

3. 130578 & 130579 - Town Hall, High Street, Colchester
(Castle)

45 - 54

Proposed change of use to restaurant, cafe and function rooms.

Listed building application for proposed change of use to restaurant, cafe and function rooms.

4. 130880 - 103 Old Heath Road, Colchester
(New Town)

55 - 62

Proposed rear extension.

8. Amendment Sheet

63 - 65

Please see attached Amendment Sheet.

9. Exclusion of the Public

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

PLANNING COMMITTEE
23 MAY 2013

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Peter Chillingworth*, Sonia Lewis*,
Cyril Liddy*, Jackie Maclean, Jon Manning and
Laura Sykes*

Substitute Members :- Councillor Nick Barlow for Councillor Helen Chuah
Councillor Dave Harris for Councillor Stephen Ford
Councillor Gerard Oxford for Councillor Philip Oxford

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

3. Minutes

The Minutes of the meetings held on 11 April 2013 and 25 April 2013 were confirmed as a correct record.

4. 130296 Akhurst Court, Melrose Road, West Mersea

The Committee considered a detailed application for an extension to provide five additional flats following the outline approval of application 121334. The Committee had before it a report and amendment sheet in which all the information was set out.

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

5. 112176 Layer Wood, Maldon Road, Layer Marney

Councillor Chillingworth (in respect of his membership of the Campaign to Protect Rural Essex) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for a proposed paintball facility, including reception building, paintball area and improved associated access. This application was a resubmission of application 101903. This application had been called in by Councillor Ellis. 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.

Mr James Ryan, Planning Officer, and Liam McKarry, Arboricultural Planning Officer, attended to assist the Committee in its deliberations. The Planning Officer drew the Committee's attention to a late letter of objection, which suggested the applicant's fall back position of 28 days paintballing was not viable and discussed the prospect of an

Article 4 Directive.

Mr Bertram Rope addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He highlighted the importance of protecting the wildlife in Layer Wood. He claimed that the only reason Essex Wildlife Trust had withdrawn their original objection to this development was because they believed that refusing this application would result in 28 days of unmanaged paintballing and were selecting the lesser of two evils.

Mr Andrew Wright addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He cited the successful running of paintball sites nationwide, drawing particular attention to a site in Hadleigh, which had the support of the local Council. He suggested that wildlife could co-exist and even prosper within a paintballing site as well as stating that all structures and obstacles used on the site would be wholly removable.

Councillor Ellis attended and, with the consent of the Chairman, addressed the Committee. He reiterated previous points regarding the true reason for Essex Wildlife Trust's lack of objection. The idea that biodiversity on the site should be protected and conserved was raised and he implored the Committee to refuse the application, or defer determination in order to seriously consider the option of an Article 4 Directive.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He suggested that even though activity would be kept within designated 'zones', impact would still be had on the surrounding area, especially in relation to the noise created by participants. He raised questions regarding potential toxins in the paint, traffic surveys and protected species. He requested that if the Committee did not refuse the application, they at least defer consideration, as the countryside was vital to the Borough.

It was explained by the Planning Officer that irrespective of the reason behind Essex Wildlife Trust's lack of objection, without such, any refusal on ecological grounds would be very weak. He also detailed the complex and uncertain route to an Article 4 Directive, which would have to be approved by the Secretary of State. It was suggested that with the amount of support this application had gleaned within the Borough, such approval may not be forthcoming. He explained that a speed test had been carried out and the Highways' Authority had not raised any objections.

The Arboricultural Planning Officer addressed the concerns about toxins from the paint, stating that as far as he could determine, the paintballs consisted of food dye and a water-soluble casing, which would not pose any harm to the surrounding ecology.

Members of the Committee emphasised the need to protect the local wildlife and any protected species in the vicinity. Members established that the equivalent of 5.5 jobs would be created and that the management plan, while approved by the Council, would be guided by Essex Wildlife Trust.

RESOLVED (EIGHT voted FOR and TWO voted AGAINST) that the application be approved, subject to the conditions set out in the report.

6. 130466 Weston Homes Community Stadium, United Way, Colchester

The Committee considered an application for the change of use of the Stadium car parks to mixed use car park and car boot venue. The Committee had before it a report in which all the information was set out.

Mr Peter Hill, Planning Officer, attended to assist the Committee in its deliberations.

Mr Malcolm Nicholson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He stated that, as a resident of Boxted Road, he had concerns over residential amenity. This specifically related to parking problems on residential streets, as the Stewards employed for events had no real authority. He suggested that a 9am set up time and a 10am start for buyers would be more appropriate. He also requested that, if the application were to be approved, the applicants use the following six months as a trial period to work with local residents.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He raised a few concerns about the lack of Steward authority for parking violations and parking in residential streets. He expressed support for the idea of temporary permission while working with the local community to ensure a workable parking scheme.

Members of the Committee were supportive of the proposal for a temporary approval, which offered a chance to trial the scheme. It was suggested that excessive noise would not be much of an issue so close to the A12. Concern was expressed over the potential confusion of new customers trying to gain access up Boxted Road and it was suggested that signage be erected to prevent this where possible.

Several points were raised by individual Members including the lack of disabled parking provided for in the scheme and the impact of conducting this event on the same day as the nearby Colchester Rugby Club match days.

It was explained by the Planning Officer that parking on residential streets was not expected to be as problematic as it had been during other events, as parking would be free. Regarding the starting times of the car boot sale, earlier start times were traditional and tended to result in earlier closing times. It was put forward that the current disabled parking bays could be retained for the event.

It was suggested that it would be more beneficial to trial a larger scheme for six months, rather than a scaled down scheme. This would garner more accurate results upon which to judge any permanent planning application.

Mr Vince Pearce, the Development Services Manager, also stated his willingness to meet residents and Ward Councillors on site one Sunday during the scheme to monitor behaviour and feedback to the operator.

RESOLVED (NINE voted FOR and ONE ABSTAINED) that that, subject to the

amendment of Condition 3 to allow for no more than 200 pitches and to require retention of disabled parking spaces in front of the West Stand for disabled parking and pitch areas to occupy the northern half of the site, the application be approved, subject to the conditions set out in the report.

7. 130505 Roman Barracks, Berechurch Hall Road, Colchester

The Committee considered an application for a proposed 48 dwellings with associated access, car parking and landscaping. 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.

Mr Alistair Day, Principal Planning Officer, and Liam McKarry, Arboricultural Planning Officer, attended to assist the Committee in its deliberations.

Ms Martine Dewit addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She clarified that her main objection was in relation to the development directly opposite her house, which she felt would have an overbearing effect on her property. She suggested that the development would restrict access to the rear garden of her property and cause additional drainage problems. She also objected to the loss of many trees in the surrounding area.

Mr Tony Middlebrook addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He thanked the Officers for their work and suggested that further revisions to the development plans had addressed all concerns raised in the consultation process. He asked for the Committee to approve the application as per the recommendation.

Members of the Committee raised several points. The loss of affordable housing in the development was lamented. Several Members expressed reservations about the ability of the infrastructure to cope with the high density of housing and the loss of employment land. Questions were asked in relation to the loss of trees and the specific amount of trees that would be removed. Parking provision in the development was queried as previous developments had been considerably underprovided.

It was explained by the Principal Planning Officer that occupiers of the existing properties did not have right of access over the application site. It was clarified that the majority of Category A and B trees would be kept, while Category C trees would be removed. Many of the Category C trees were located on land identified as public open space; these trees were considered to have a relatively short life expectancy and were likely to need ongoing maintenance. It is therefore considered prudent to seek their replacement as a part of the redevelopment of the site, thus avoiding the incurred expense of maintaining and replacing these trees. The infrastructure had been designed to support the development and all parking standards had been met.

The Committee's attention was drawn to the fact that the developer had agreed to provide five assisted purchase units under the Government's 'First Buy' initiative (or a similar scheme).

RESOLVED (SEVEN voted FOR and THREE voted AGAINST) that –

(a) subject to the completion of the Section 106 Legal Agreement within six months of the date of the Committee meeting to provide to following –

- Affordable housing (three units) and assisted purchase houses (5 units); and
- a commuted sum of £37,950 for Public Open Space,

authority be delegated to the Head of Commercial Services to approve the application, subject to the conditions set out in the report and the amendment of condition 2 to reflect the revisions to the drawing numbers.

(b) In the event that the Section 106 Legal Agreement is not signed within six months, authority be delegated to the Head of Commercial Services to refuse the application.

8. 130292 Mersea Court, High Street North, West Mersea

The Committee considered an application for the erection of six flats. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr Simon Osborn, Planning Officer, attended to assist the Committee in its deliberations.

Mr Andrew Lake addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He had previously spoken to the Committee in relation to the parking provision on this site. He stated that, according to Council Policy, a retirement home should have 20 spaces. The current proposal provided seven spaces at 2.4 metres each, which, he suggested, could not be accommodated on the development site. He commented that people over 65 did have use for cars and independent travel and urged the Committee to refuse the application.

Ms Mary Sparks of Mersea Island Trust addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She stated that changes had been made to the plans to provide a charging station for mobility scooters. She highlighted that this form of assisted accommodation was run by volunteers and, at this present time, had a waiting list of over 30.

Several Members of the Committee expressed concern regarding parking provision and the different standards required for residential care homes compared to a retirement development. Reference was also made to visitor parking and the need for independence for older people. The high demand for this type of accommodation was

recognised by the Committee.

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

9. 130631 Visitors Centre, Turner Road, Colchester

The amendment sheet reported that this application had been withdrawn from consideration at this meeting by the Head of Professional Services.

10. 130665 97 Lexden Road, Colchester

Councillor Lewis (in respect of her acquaintance with one of the objectors) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the erection of a single storey timber clad garden room, to be used as a hobby room. This application had been called in by Councillor Lewis. 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.

Mr James Ryan, Planning Officer, attended to assist the Committee in its deliberations.

A Member of the Committee expressed disappointment that none of the interested parties had attended and requested clarification on how noise could be conditioned.

The Planning Officer explained that condition four simply stated that noise could not exceed a level of 0dBA above background levels.

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

11. Amendment to the 229a Garrison Legal Agreement in Respect of the Provision of Affordable Housing on Area H and Area S2North

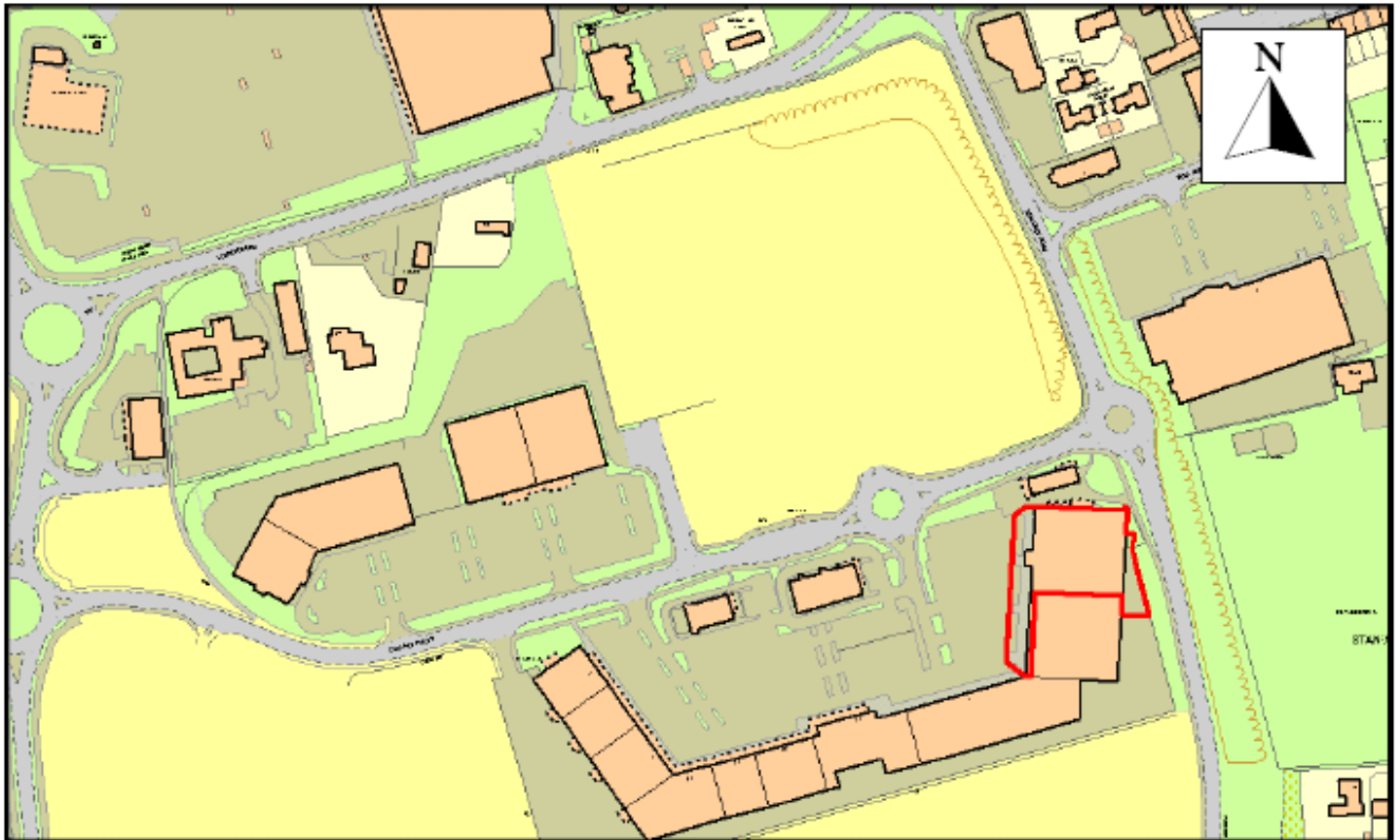
The Head of Commercial Services submitted a report seeking Members endorsement of a proposal to provide a reduced provision of affordable housing on the part of the Garrison Urban Village Development known as Area H and Area S2North.

Mr Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. He reported that two shared ownership houses were to be provided in addition to the affordable rent units.

Members of the Committee were saddened at the current situation, but accepted that the current economic climate meant that the previously agreed level of provision was no longer viable. The question was asked whether the developer could contribute funds to other Council schemes, rather than on their own development.

It was explained by the Principal Planning Officer that a review mechanism was proposed and that if the developer was to see an increase in profits (above the agreed amount) a commuted sum would be provided to the Council, which could be invested in such schemes.

RESOLVED (NINE voted FOR and ONE voted AGAINST) that the proposal to provide a reduced provision of affordable housing on the part of the Garrison Urban Village Development known as Area H and Area S2North be endorsed.



Application No: 130654/130655

Location: Unit 1, Tollgate Centre, Tollgate West, Stanway, Colchester, Colchester, CO3 8RG

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **20 June 2013**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Mark Russell

Due Date 11/07/2013

MAJOR

Site: Unit 1, Tollgate Centre, Tollgate West, Stanway, Colchester, CO3 8RG

Application No: 130654

Date Received: 11 April 2013

Agent: Mr Craig Blatchford

Applicant: British Land Retail Warehouses Ltd

Development: Alterations to front and rear elevations including new entrance features and shop fronts and reconfiguration of car parking and installation of mezzanine floorspace

Ward: Stanway

Summary of Recommendation: Conditional Approval

7.2 Case Officer: Mark Russell

Due Date 17/07/2013

MAJOR

Site: Unit 1, Tollgate Centre, Tollgate West, Stanway, Colchester, CO3 8RG

Application No: 130655

Date Received: 17 April 2013

Agent: Mr Craig Blatchford

Applicant: British Land Retail Warehouses Ltd

Development: Use of Units 1B and 2A as proposed to be amalgamated for the sale of an extended range of A1 non food retail goods.

Ward: Stanway

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

1.1 These applications are referred to the Planning Committee because objections have been received and they have been classified as major applications.

2.0 Synopsis

2.1 The key issues explored below are the fundamental principle of a use traditionally associated with a town centre operating in an out of town location classified as an "Urban District Centre."

2.2 Objections to the proposal are considered, including concerns over the effect on the town centre. Comments from Planning Policy, in reference to the National Planning Policy Framework, are then analysed, and it is concluded that the proposals are acceptable.

3.0 Site Description and Context

3.1 The site comprises two units.

4.0 Description of the Proposal

4.1 At the heart of these planning applications is a proposal to change the use of the former Comet store (Unit 1). The proposal is to change half of this (to be called "1A") to use by Wren Kitchens, and the other half to use by Next and to consolidate this with unit 2A (currently occupied by Next Home) to offer an enhanced range of goods (namely clothing, footwear, fashion accessories).

4.2 To achieve this physically, Unit 1 will need to be reconfigured. This will involve double height glazing, installation of a mezzanine and reconfigured car parking/servicing.

5.0 Land Use Allocation

5.1 Urban District Centre

6.0 Relevant Planning History

6.1	86/0097	Details for the erection of non-food retail warehouses with car parking and loading/unloading areas	APPROVED	02.11.1987
6.2	91/0360	Amendment of Condition 06 of COL/0097/86 to enable development to be sub-divided into 10 units	APPROVED with conditions	07.10.1991
6.3	98/0473	Variation of Condition 01 of application COL/91/1709 to include textile goods within the range of goods permitted to be sold	REFUSED Allowed at Appeal	30.07.1998
6.4	F/COL/04/0013	Variation of Condition 6 of planning permission ref COL/97/86 to allow the sale of unrestricted non-food goods in 929 sq metres of the retail park	WITHDRAWN	16.3.2004
6.5	090012	Certificate of Lawfulness of existing use, installation of a mezzanine floor	GRANTED	27.2.2009
6.6	090565	Certificate of Lawful Development for proposed use as A1 retail unit	GRANTED	11.8.2009

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE2a - Town Centre
- CE2b - District Centres
- UR2 - Built Design and Character
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking

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
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP7 Local Centres and Individual Shops
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards

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 STA1 Appropriate Uses within the Stanway Growth Area
- SA STA3 Employment and Retail Uses in Stanway Growth Area

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

- Vehicle Parking Standards
- Sustainable Construction
- External Materials in New Developments
- Cycling Delivery Strategy
- Stanway Joint Design Statement and Parish Plan

8.0 Consultations

8.1 Planning Policy:

“The proposed site is located within the Tollgate Centre, which is designated as an Urban District Centre (UDCs) in Colchester’s adopted Core Strategy. Policy CE1a sets out the hierarchy of centres within the Borough with the Town Centre as the primary focus for retail and other commercial development, and Urban District Centres the next tier down in the sequential approach. Policy CE2b provisions include that new retail proposals (including change of use to retail) will not be supported, unless they meet identified local needs and do not compete with the Town Centre. Intensification within the Centre will be supported where the quality of the public realm and the built character is improved.

The explanatory text for the policy notes that expanding the retail components significantly could undermine the viability of the Town Centre, but also notes that it is important to increase the mix of uses and improve the public realm in these centres. The Council is accordingly seeking to support the continued viability of the centres through a degree of flexibility in uses as well as physical improvements while at the same time retaining a degree of control over uses to avoid a negative impact on the Town Centre. This is being achieved by careful scrutiny of proposals to vary the existing bulky goods restrictions on units within retail parks. The Council is considering applications for retail uses in UDCs on their individual merits and requiring applicants to satisfy criteria concerning sequential test, impact and conditions restricting use to that proposed. In Tollgate, a more flexible approach to uses has been accompanied by improvements to the public realm and the addition of a coffee shop, which has addressed the above policy aspirations to enhance Urban District Centres.

The proposal for the former Comet store includes one uncontentious user for the sale of kitchens (Wren Kitchens) which is consistent with other bulky goods occupiers of the centre. Next, however, is a fashion retailer which would normally be expected to be found in the Town Centre, so planning policy comments are focused on the issues raised by this user.

The application included a Planning and Retail Statement which provided information on how the sequential approach to development had been satisfied, notwithstanding the NPPF provides that impact assessments are only required for developments over 2,500 sqm gross. The increase in retail floorspace over and above the existing situation in this case is 1,004 sqm. (There is also a fallback position that would involve building a permitted increase to the mezzanine to provide 1,708 of bulky goods floorspace.)

Fashion retailing-only outlets are currently located exclusively in the Town Centre. Previous applications to vary conditions restricting the nature of goods to be sold in out of town centres have been for uses more closely related to previous bulky goods uses and retained a bulky goods element such as housewares, camping, sporting goods, etc. It was therefore a concern that the introduction of a store for a clear town centre use would run counter to the ‘town centre first’ principle which continues to be a feature of national planning policy. But while the National Planning Policy Framework (NPPF) requires application for main town centre uses to follow a sequential approach prioritising the town centre, it also highlights the need for flexibility on issues such as

format and scale and a proactive approach to economic development. Planning policy officers accordingly sought further advice from an outside consultant on how the proposal should be considered in light of the NPPF to ensure it reached an appropriate decision on this important decision for the Council.

The advice from Nathaniel Lichfield & Partners, attached as Appendix 1, reached the following conclusions based on the information contained in the applicant's planning application and Retail Assessment:

Impact – The proposals were not considered to have a significant adverse impact on Colchester or other town centres. However, appropriate planning conditions should be reattached to the new permission to restrict the Wren Kitchens unit to bulky goods and to ensure that non-bulky goods cannot be sold across the entire enlarged unit.

Sequential Approach – The application proposals lie within the centre boundary and therefore the proposals do not constitute an expansion of the district centre, although the policy criterion relating to local need and competition with the town centre still appear to be relevant. The introduction of clothing sales of the scale proposed will inevitably compete with the town centre, but whether this scale of development is harmful to the town centre would be a material consideration. The local need for this scale of clothing sales has not been clearly demonstrated by the applicant, but again the harm caused by the proposals and the ability to accommodate the proposed use within the town centre will be material considerations. The amount of floorspace proposed is below the NPPF impact threshold and this may make it difficult to argue the proposals are of more than local significance. The sequential approach set out in the Core Strategy is not entirely consistent with the NPPF, nor is the support for local needs only retail within district centres. This means that the requirements of these policies are unlikely to sustain a recommendation for refusal unless the proposed development does not meet a local need and the development can be accommodated within the town centre and/or would have a significant adverse impact on the town centre. The Council should consider sequential sites if the development does not only cater for local needs, but based on the information provided, there does not appear to be a suitable and available opportunity to accommodate the Next store within the town centre.

Next does not propose to close its town centre store if the Tollgate location is approved as it is seeking to expand its presence in Colchester rather than relocate the existing store. NLP did not consider it would be appropriate to expect Next to create a separate clothing-only store within the town centre of the size proposed for Unit 1B (up to 1708 sqm). If additional capacity was to be provided in the town centre, Next would require either a new store of around 3,400 sqm gross or an extension of the existing store to provide a store of at least 3,400 sqm. The Enterprise Officer was not aware of any suitable and available town centre sites beyond those considered in the Retail Assessment that would meet this specification.

Given the advice above, no planning policy objections to the proposed change of use to accommodate Next are raised, other than to note the requirement to re-attach conditions specifying the precise uses required for each site to ensure that the potential impact of future users could be evaluated for their impact on the town centre. The application for a town centre user in an Urban District Centre certainly raises concerns about how the vitality of the town centre can be protected against challenges from the Urban District Centres. In the post NPPF world, it highlights that this

challenge will need to be met primarily proactively through initiatives such as the Better Town Centre programme, with planning policies providing more flexibility to support overall economic vitality in all centres.”

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 Stanway Parish Council has not objected to the applications.

10.0 Representations

10.1 Four letters of representation were received: two in favour and two against.

10.2 In support of the applications were the following two letters:

1) “The NEXT unit in the High St is too small to do justice to their ranges and difficult for shoppers to get around in.

It is understandable that Next will want to have their home and fashion products alongside each other.

Their clients seek this retailer out as a destination. If they can't drive there easily, they will shop them online.

Many don't have the time for the town centre visit.

There are no suitable units in the Town Centre for them.

Most of the home product already sold is portable so the argument that clothing type products shouldn't be purchased out of town falls flat. Their home product is "fashion" for the home.

The committee allowed B and M to open selling low value home, clothing and food products. They have already opened the floodgates. That really has generated a lot of traffic. Far more than Next ever will per week.

However, I trust CBC will seek assurances that Next will continue to operate their High St store for some years to come.”

2) For those of us who don't go into our grim and miserable town centre to shop, this is a brilliant idea! Next Home is a lovely store, which I use often. The quality of their goods is really good and having an out-of-town clothes store would be really helpful. As for concerns about additional traffic and problems with cyclists/pedestrians - total nonsense! We had a Sainsburys supermarket opposite this site for many years and nothing was mentioned about such problems then. I sincerely hope that permission is given for this improvement to the Colchester area.

10.3 Against the proposals was a letter from the Colchester Retail Business Association as follows:

“Colchester Retail Business Assoc wish to object to this proposal:-

The application does not make clear as to the goods it intended to be sold from this newly created unit, so the council should seek assurances and clarity before it makes any decision.

In line with government guidelines the town centre must be protected and we expect the council to uphold this guidance when making its decision.

If it is intended to sell clothing or small goods then it will open the flood gates to general retail offerings being allowed at out of town complexes putting the town centre at risk.

The increase of traffic in the Stanway area will also have a detrimental affect on the surrounding residential developments, and the main road junctions which are prone to major congestion at times during the day.”

10.4 Also objecting was Colchester Cycling Campaign:

“Colchester Cycling Campaign objects to this scheme on the grounds that it will increase the amount of motor traffic in the Stanway area, leading to less subjective safety for cyclists and pedestrians in the immediate vicinity and beyond. This is particularly the case because the scheme involves a mezzanine (increasing retail floorspace). We are also concerned because this type of store should be located in a traditional town centre or an out-of-town retail centre remodelled along the lines of a traditional town centre with equivalent car-parking charges to Colchester town centre.

If this plan is approved, we request a substantial s106 contribution towards improving pedestrian and cycling facilities in the Stanway area.”

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

11.0 Parking Provision

11.1 418 parking spaces will remain on the overall Tollgate West site. There is no change proposed here.

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 These applications are classed as “Major” and therefore there was a requirement for them 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 Obligations that would be agreed as part of any planning permission would be:

- £5,000 contribution towards the £40,000 cost of Stanway Community Bus (operated by Colchester CVS)
- Membership of Business Travel Plan Club (£2,500)
- Cycle improvements between residential areas in Stanway to Tollgate Centre

15.0 Report

15.1 Principle: The proposed use of Wren Kitchens is not problematic. However, the proposal that Next clothing and fashion accessories be permitted raises fundamental issues of town centre Versus out of town retail use.

15.2 Planning Policy has sought advice from a consultant which confirms that the potential effect on the town centre is not critical in this instance, and the proposed use satisfies criteria concerning the sequential test and impact, and that conditions restricting the use to that proposed should be put in place.

15.3 Sustainability: The issues of car generation and sustainable means of travel have been raised by objectors. It is noted that Tollgate is already a destination in its own right, all the more so now that it is designated as a “Urban District Centre”. However, the proposal is logically in place to increase footfall and therefore it is presumed that there will be more traffic generated.

15.4 As a response to this, and to the concerns raised by Colchester Cycling Campaign and the Colchester Retail Business Association, Colchester Borough Council has requested details of cycle parking and also asked for contributions towards the Community Bus, Cycle improvements and Membership of the Business Travel Plan Club.

15.5 Design: The proposed design is sympathetic to the general look and feel of the Tollgate Centre. However, the full-drop glazing is a deviation from what has traditionally been allowed. Given that the use of the Site is changing from uniquely bulky retail to a mix of uses including more general retail, it is held to be acceptable to move away from the warehouse design of curtain walling which has held sway until now. The design, therefore, is acceptable.

15.6 Employment: The applicants have advised that the existing Next Home store has the equivalent of 17 Full-time employees, whilst the new store would have the equivalent of 40 full-time (19 full-time, 91 part-time). This is a material consideration.

16.0 Conclusion

16.1 In conclusion, given the Planning Policy view that the proposal is acceptable, that cycle parking and improvements are being requested and given the employment creation, this application is recommended for approval.

17.0 Recommendation

In respect of Planning application 130654

APPROVE subject to the following conditions

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 approved shall comply in all respects with the approved plan numbers 01095-U1-P32-A, 01095-U1-P33-A.

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

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.

In respect of Planning application 130655:-

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 Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- £5,000 contribution towards the £40,000 cost of Stanway Community Bus (operated by Colchester CVS)
- Membership of Business Travel Plan Club (£2,500)
- Cycle improvements between residential areas in Stanway to Tollgate Centre

On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

(1) ZAA - Time Limit for Full Permissions

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

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

(2) The development hereby approved shall comply in all respects with the approved plan numbers 01095-U1-P32-A, 01095-U1-P33-A.

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

(3) Unit 1A shall be used for the display and sale of furniture, carpets, electrical white goods, home improvement products, D.I.Y. goods and materials, garden and associated products, home textiles, soft and hard furnishings and accessories, or such similar goods as may be agreed by the local planning authority in writing that are of a weight and bulk which would impose inconvenience to the public if located in conventional centres and which do not represent a threat to the viability of such centres and for no other purpose including any other purpose in Class A1 of the schedule of the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: For the avoidance of doubt as to the scope of this permission as general retail use may not be acceptable in this out of town location.

(4) Unit 1B/2A shall be used for the display and sale of furniture, carpets, electrical white goods, home improvement products, D.I.Y. goods and materials, garden and associated products, home textiles, soft and hard furnishings and accessories, or such similar goods as may be agreed by the local planning authority in writing that are of a weight and bulk which would impose inconvenience to the public if located in conventional centres and which do not represent a threat to the viability of such centres and for no other purpose including any other purpose in Class A1 of the schedule of the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification. Notwithstanding, no more than 1,195 sqm of net sales area within Units 1B/2A as combined may be used for the sale of clothing, footwear and fashion accessories.

Reason: For the avoidance of doubt as to the scope of this permission as general retail use may not be acceptable in this out of town location.

(5) Prior to either of the units hereby permitted being brought into use, details of cycle parking shall be submitted to, and agreed in writing by, the Local Planning Authority. Such provision shall be put in place prior to use commencing and shall be retained at all times thereafter.

Reason: In the interests of encouraging non car-based modes of travel.

(6) Prior to either of the units hereby permitted being brought into use, details of a Travel Plan shall be submitted to, and agreed in writing by, the Local Planning Authority. Such provision shall be put in place prior to use commencing and shall be retained at all times thereafter.

Reason: In the interests of encouraging non car-based modes of travel.

18.0 Recommended Reasons for the Decision

18.1 The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application.

19.0 Informatives

19.1 ZTF - Informative on Unilateral Undertaking

PLEASE NOTE: This application is the subject of a Unilateral Undertaking legal agreement and this decision should only be read in conjunction with this agreement.

20.0 Positivity Statement

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



Application No: 130794

Location: The Drury Arms, 1 Layer Road, Colchester, CO2 7HN

Scale (approx): 1:1250

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7.3 Case Officer: Lucy Mondon**MINOR****Site:** 1 Layer Road, Colchester, CO2 7HN**Application No:** 130794**Date Received:** 24 April 2013**Agent:** Mr David Pickford**Applicant:** Portfolio Property Ventures Ltd**Development:** Erection of a single-storey rear extension, plant and bin store, external alterations (including provision of ATM and new glazed entrance), new vehicular access and associated hard standing for car park, service and delivery area, and a 1.8 metre high boundary wall.**Ward:** Shrub End**Summary of Recommendation:** Conditional Approval**1.0 Reason for Referral to the Planning Committee**

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

‘Over development of building and site, revised development is inconsistent with local list protection. I believe the junction is unable to sustain parking, hgv’s and deliveries.’

2.0 Synopsis

2.1 The application seeks planning permission for the erection of a single-storey rear extension, plant and bin store, external alterations, new vehicular access and associated hardstanding for car park, service and delivery area, and a 1.8 metre high boundary wall. Following consultation, revised drawings were submitted on 3rd June 2013. These drawings have amended the design of the single-storey rear extension and the external alterations to the building, as well as some minor amendments to the layout and landscaping of the car park.

2.2 The following report sets out that the main planning consideration in this case is that of the design of the proposed extension. Matters of residential amenity, traffic generation and highway safety, and impact upon existing businesses have already been determined as part of a previous planning application (ref: 112443) and subsequent appeal. The appeal decision is attached as an appendix to this report: noise matters are discussed at paragraphs 13-18; highway matters at paragraphs 22-26; and impact on local shops at paragraphs 19-21.

2.3 The planning merits of the case will be assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The Drury Arms is a detached building situated within a large plot on a prominent corner at the junction between Layer Road and Drury Road. The site is located within an area identified as predominantly residential within the Colchester Borough Council Local Development Framework (LDF). The property is locally listed and is described as ‘a good example of pub architecture, occupying a prominent corner site; by a well-known local architect [T.H. Baker] for a well-known local brewery [Daniell & Sons] in 1913’. The property is brick at ground floor, with a plastered first floor, beneath a slate roof. The front of the property has two projecting gables with decorative plasterwork. The fenestration is narrow module and constructed in white painted timber.
- 3.2 The building was, very briefly, occupied by a furniture shop and was previously a public house.
- 3.3 There is an existing car park to the south of the property, which provides approximately 20 parking spaces, although these are not marked out on the ground. To the west and north of the property is a grassed area that served as the beer garden to the public house.
- 3.4 Boundary treatment consists of a low brick wall to the south-east boundary, a brick wall and temporary hoarding and conifer trees to the north boundary, and boarded fencing to the west boundary. At the time that the property was operating as a public house, the boundary treatment to the northern boundary was a low wall with picket fencing above.
- 3.5 The surrounding area is predominantly residential in character, with 1930/40s detached and semi-detached housing in the main. Surrounding properties are constructed in brick or render and have either gabled or hipped slate roofs. To the east of the site is some open space, with housing beyond. There is a small group of shops to the north-west of the site, on the corner of Drury Road and St Helena Road.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the erection of a single-storey rear extension, plant and bin store, external alterations, new vehicular access and associated hardstanding for car park, service and delivery area, and a 1.8 metre high boundary wall. The first-floor of the building (previously a managers flat) would be used for storage. The proposed site plan submitted with the application shows that the existing car park is to be sub-divided, with an area to the south of the car park to remain undeveloped. It is not clear what this future development may be as no details are provided with the application.
- 4.2 The single-storey rear extension would run along the rear of the property and would project 5.8 metres from the rear wall. The part of the extension closest to the car park would have a hipped roof and would be 3.8 metres high. The remainder of the extension would have a flat roof and would be 3.1 metres high. The extension would be constructed in brick to match the main building, with a tiled and asphalt roof. The extension would facilitate the use of the building as a convenience store. The store would employ the equivalent of 30 staff and would be open 7am – 11pm Monday-Sunday (including Bank Holidays).

- 4.3 The plant area and bin store would be a brick and mesh enclosure attached to the side of the flat roof extension and would measure two metres high.
- 4.4 An ATM is proposed to the car park side of the building and the glazed front entrance would be replaced with a new glazed entrance.
- 4.5 The new vehicular access would be moved further to the south of the site, away from the existing traffic lights. A keep clear box and right hand turn is proposed to aid access and egress (this requires a Section 278 agreement with the Highway Authority).
- 4.6 The proposed hardstanding would create an extended car park, service, and delivery area. In total, the car park would provide: 22 car parking spaces (including 2 disabled spaces), 2 motorcycle bays, and 4 cycle racks.
- 4.7 The boundary wall would run along the Drury Road (northern) side of the site and would be 1.8 metres high. Planting is also proposed within the site.
- 4.8 Following negotiations with the Agent, revised drawings were submitted on 3rd June 2013. These drawings amended the design of the single-storey rear extension and the external alterations to the building, as well as some minor amendments to the layout and landscaping of the car park.

5.0 Land Use Allocation

- 5.1 Predominantly residential

6.0 Relevant Planning History

- 6.1 Planning Permission was refused and dismissed at appeal for a similar proposal in 2012 (ref: 112443). The proposal was for the “erection of a single storey extension and external alterations to extend the existing former pub providing back of house storage facilities with a refurbished larger retail sales area. Provision of car parking and servicing and associated works (change of use from public house (A4) to retail (A1) is permitted without needing planning permission).”
- 6.2 The proposal was dismissed at appeal (informal hearing), the Inspector concluding that:

“The proposed extension would harm the character and appearance of the area including the locally listed host building but, subject to conditions, the use of the parking and servicing area and the proposed plant would not harm the living conditions of adjoining residential occupiers at 2 Drury Road. None of the other matters raised add to the harm identified but neither are there any other material considerations of sufficient strength to outweigh that harm or the conflict with the development plan. As such, the proposal is unacceptable and the appeal should not succeed.”
- 6.3 The current application seeks to address the previous reasons for refusal set out in the appeal decision. The appeal decision is attached as an appendix to this report for reference and will be considered within the main body of this report.

6.4 Planning decisions also of relevance are:

A single-storey rear extension was granted planning permission for the Drury Arms in 1995 (ref: 95/0538). This permission relates to the existing flat roof extension; and

Retrospective Planning Permission was refused for the roller shutters to the front of the building in February 2013 (ref: 122165). This matter is being dealt with by the Council's Enforcement Team.

7.0 Principal Policies

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

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

CE1 - Centres and Employment Classification and Hierarchy
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP7 Local Centres and Individual Shops
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals
DP19 Parking Standards

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 Urban Designer: Comments that the amendments are largely satisfactory. The rear elevations are suitably screened from the public realm. The fencing proposed around the communication systems appears weak and vulnerable to vandalism. A condition is recommended for this to be a more secure brick wall. Conditions are also recommended to retain the heritage elements of the original pub décor which will provide suitable reflection of the heritage of a locally listed building.
- 8.2 Highway Authority: No comments received at the time of writing.
- 8.3 Environmental Protection: No objections subject to conditions relating to hours of work during construction, hours of operation and delivery, noise levels, delivery management plan, lighting, reporting any unexpected contamination, surface water treatment and grease traps.

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 Twelve letters of objection, one letter of support, and two letters of comment have been received.
- 10.2 The objection comments are summarised as follows:
- Should protect the heritage of the building: the size of the extension would transform the site to the detriment of the building;
 - A 6ft acoustic fence would be inadequate and unsightly and offers little protection against impact. A brick wall would be more aesthetically pleasing and offer better security and protection;
 - There would be increased noise (delivery vehicles and visitors) to the residential properties nearby;
 - The refrigeration plant has no sound proofing;
 - There would be light pollution;
 - The area/community is already well-served by three local shops and does not need another;
 - There are too many shops: existing stores, plus the Tesco on Butt Road;
 - Objection to anything other than a Public House;
 - The identity of the applicant is hidden: likely to be a national chain which will affect smaller stores in the area;
 - The building would be better used as offices, a dentist's, or a physiotherapy clinic;
 - The building would be better used as a restaurant;
 - This is an already busy and congested road junction;
 - Traffic has already increased from the adjacent Garrison site: the retail unit, as well as the proposed Tesco, will increase traffic in the area;

- There would be risks to the safety of children walking to and from Hamilton Primary School: the traffic lights currently do not allow sufficient time to cross the road (eight seconds), cars do not stop at the lights and the crossing patrol has been removed;
- The entrance to the car park would be across an existing pavement;
- Delivery lorries would pose a risk to school children;
- The pathway on the Drury Road side is very narrow and should be widened;
- Disagree with the transport department and believe that the space allowed for delivery/refuse vehicles to safely access the site is inadequate;
- Buses and lorries already have difficulty in negotiating the junction.

10.3 The letter of support is summarised as follows:

- The proposal will increase business in the area;
- Will provide jobs;
- Will generate tax revenue;
- Services local demand (especially to meet increased population in Colchester);
- The Drury Arms is currently an eyesore and needs to be renovated or redeveloped.

10.4 Comments have been received regarding errors and misconceptions in application, summarised as follows:

- The application states that there would be no loss of residential unit, but there is a first-floor flat;
- The trading hours would be longer than those of a public house: a public house would be busy at lunchtimes and at evenings and weekends; a shop would be busier at different times;
- Acoustic report – older photograph used
- There would be a conflict between vehicles and delivery vehicles
- How would the new road infrastructure be of benefit?
- Cannot see ATM on plans
- There would be additional lighting
- The building was not used as a furniture store
- The design and access statement does not mention the existing businesses nearby
- Drivers will ignore the keep clear box
- The tracking would work differently in practice
- Motorists will pull out in front of buses at the bus stop

10.5 A comment has been received from Colchester Cycling Campaign requesting contribution towards local cycling facilities and requesting secure covered cycling parking in accordance with the Essex Design Guide.

10.6 Cllr Pauline Hazell has objected to the application on the following grounds:

- The Drury Arms is an iconic building in the area. The previous application for a convenience store was not granted due to the importance of the building on the local list;
- This application will alter significantly the shape, outline, and architectural design and merit of the building. Such a change will fall foul of the local list. It will alter the ambience of this residential area;

- Noise pollution from delivery lorries will have a serious impact on the well-being of local residents, as will the estimated nearly 400 car movements daily in and out of the site;
- Delivery lorries and customers accessing the site will also exacerbate and disrupt the traffic flow at this 3-way junction, which causes problems and issues of safety for pedestrians, especially schoolchildren on their way to and from local schools.

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 Standards SPD requires A1 food stores to have a maximum of 1 car parking spaces per 14 sqm; a minimum of 2 cycle spaces per 400 sqm, a minimum of 1 motorcycle space plus 1 per 20 car parking spaces, and a minimum of 3 disabled bays. The use of the building as a food store does not require planning permission. However, the increase in size of the building would require the following: a maximum of 26 car parking spaces, a minimum of 2 cycle spaces, a minimum of 3 motorcycle spaces, and a minimum of 3 disabled bays.
- 11.2 The proposal provides: 22 car parking spaces, 8 cycle spaces, 2 motorcycle spaces, and 2 disabled bays. The proposal would, therefore, fail to meet the minimum requirements for motorcycle spaces and disabled bays. However, due to the sustainable location of the building, where visitors are likely to walk to the store as well as travel by car or motorcycle, plus the fact that four times the required amount of cycle parking is provided, the parking arrangements are considered to be acceptable. There is no objection to the proposal on the grounds of parking provision.

12.0 Open Space Provisions

- 12.1 There is no requirement for open space provision.

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 has been submitted following an appeal decision on an earlier scheme (reference: 112443). An Informal Hearing took place as part of the appeal where the application was discussed at length, local residents and councillors were given the opportunity to express their concerns regarding the proposals, and a site visit was undertaken. Following the Informal Hearing, the appeal was dismissed on the grounds of the extension being an inappropriate addition to the host property as it would not

maintain the integrity of the locally listed building, which would, in turn, be of significant harm to the wider locality. The Inspector considered the objections raised regarding the impact on residential amenity and highway safety, concluding that the proposal would not have a significant impact upon residential amenity or highway safety, subject to conditions. In considering the proposals in the context of the existing shops in the vicinity the Inspector commented that: 'whilst the proximity to the proposed Tescos may seem "incredible" it is not the function of the planning system to determine whether another convenience shop is needed. Furthermore, neither is its purpose to protect individual traders. The [National Planning Policy] Framework does not seek to prevent competition. Local consumer choice is also referred to and in seeking to build a strong economy the Framework does not distinguish between small, locally-run businesses and national companies... The appellant indicates that the extension is required to make a store of this kind viable so the proposal could be viewed as facilitating it. That said, there is no good planning reason to oppose the proposed development because of its consequences for retail provision in the locality.' The full appeal decision is attached as an appendix to this report for reference and consideration. For ease of reference, noise matters are discussed at paragraphs 13-18, highway matters at paragraphs 22-26, and impact on local shops at paragraphs 19-21.

- 15.2 The conditions considered by the Inspector to be necessary to mitigate any impact upon residential amenity and highway safety, are included as part of the recommended conditions in paragraph 19 of this report. These include, inter alia, conditions regarding noise levels and noise mitigation, opening hours and delivery times, and a requirement to widen the footpath adjacent to the site on Drury Road.
- 15.3 As the appeal was dismissed on the grounds of design only, the main planning consideration is, therefore, whether the design of the current proposal is acceptable. The main design issues identified by the Inspector are summarised as follows:
- The proposed 'L' shaped addition would be at odds with the generally regular form of the main building.
 - The 'false' pitch around the extension would be wholly inconsistent with the full pitched roofs that are an intrinsic part of The Drury Arms.
 - The proposal would be subservient in terms of its height but due to a combination of its depth, form and design it would 'swamp' this part of the building and seriously detract from its character. It would be a significant additional built element that would bear little relation to the structure it is attached to.
 - The side extension would obscure the termination of the existing catslide with its bargeboard, which would be seen from public vantage points.
 - From Butt Road the squat and truncated appearance of the side addition would be apparent.
 - There would be views across the proposed car park from Layer Road where the poor relationship between the shallow perimeter 'mansard' and the proposed new gable would be obvious. Users of the proposed car park would also be able to see the unsatisfactory juxtaposition of old and new.
- 15.4 The revised proposals are considered to be acceptable in design terms as the extension would not significantly detract from the original form of the building, projecting from existing extensions only and not wrapping around the building or disrupting the original catslide roof. The hipped roof extension would be articulated

from the main building when viewed from the car park which would make the extension appear more subservient to the main building. Given the height of the proposed boundary wall, as well as the distance between the building and the road, the extensions would not appear overly prominent within the street scene and the public character of the building would be maintained.

- 15.5 The position of the ATM, to the side of the building, is not considered to have a significant impact on the character of the building. The proposal to replace the existing glazed entrance with a new glazed entrance is considered to maintain the character of the building.
- 15.6 It is considered necessary to condition the materials for the extension and brick walls in order to respect the character of the building. It is also considered necessary to make clear by condition that the external features of the building (i.e. the decorative pargetting) should not be removed or painted over (other than redecorated to match the existing).
- 15.7 The proposal is therefore considered to maintain the heritage value of the building, subject to conditions.

16.0 Conclusion

- 16.1 The proposal is considered to satisfactorily address the previous reasons for refusal, as set out in the preceding appeal decision. The scale, form, and design of the extension has been improved so that it would not, subject to conditions, have a significant or harmful impact on the character or appearance of the building when viewed from public vantage points and, as a result, the heritage value of the building, as well as the appearance of the surrounding area, is maintained. Approval is, therefore, recommended.

17.0 Recommendation

APPROVE subject to the following conditions

18.0 Recommended Reasons for the Decision

The proposal accords with the relevant policies in the Statutory Development Plan (as set out above) and those of the National Planning Policy Framework. Having also had regard to all material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged planning importance. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely:

A number of objections have been received with regards to residential amenity, highway safety, and impact upon existing businesses. However, these matters were considered as part of the preceding appeal and it was concluded that the proposal is acceptable in terms of its impact upon residential amenity and highway safety and that the impact upon existing businesses would not justify refusal of planning permission. It is not, therefore, considered that the proposal would have a negative impact on residential amenity, traffic generation or road safety, or the surrounding area so as to justify the refusal of planning permission.

19.0 Conditions

1 - Non-Standard Condition/Reason

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 the landscaping of the site, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 11.0058.PL01 Rev L and 11.0058.PL02 Rev N, received on 3rd June 2013.

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

3 - Non-Standard Condition/Reason

No works shall take place until samples of the materials to be used in the construction of the external surfaces of the works hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

Reason: To ensure that the development harmonises with and does not detract from the appearance of the existing building and the character of the area.

4 - Non-Standard Condition/Reason

Notwithstanding the submitted details, no development shall commence until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority. 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:

- Existing and proposed finished contours and levels.
- Means of enclosure.
- Car parking layout (including means to prevent indiscriminate parking on the north-east corner of the site).
- 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, signage, lighting etc).
- Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).
- Retained historic landscape features and proposals for restoration.
- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant size and proposed numbers/densities.
- Planting area protection or decompaction proposals.
- Implementation timetables.

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.

5 - Non-Standard Condition/Reason

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.

6 - Non-Standard Condition/Reason

The rating level of the noise emitted from the fixed plant shall not exceed the existing background noise climate or 35 dB whichever is the higher at any time. The noise levels shall be determined by measurement or calculation at the nearest noise sensitive premises. The measurements and assessment shall be made according to BS 4142:1997. Any mitigation measures to achieve this condition shall be submitted to and approved, in writing, by the local planning authority and then implemented in accordance with this approval.

Reason: In the interests of neighbouring amenity.

7 -Non-Standard Condition/Reason

No deliveries shall be made to the site outside the hours of: 0800 to 2000 Monday to Saturday 0900 to 1700 on Sundays 0800 to 1700 on Public Holidays

Reason: In the interests of neighbouring amenity.

8 - Non-Standard Condition/Reason

The use of the building shall not be open to customers outside of the following times: 0700 to 2300 Monday to Sunday (including Public Holidays).

Reason: In the interests of residential amenity as the proposal facilitates the use of the building as a convenience and food store that would bring associated noise and activity closer to residential properties than the previous use of the site.

9 - Non-Standard Condition/Reason

Prior to occupation of the development, an acoustic fence of not less than 2.0 metres in height shall be installed along the boundary of the site with No. 2 Drury Road. The fence shall thereafter be retained.

Reason: In the interests of neighbouring amenity.

10 - Non-Standard Condition/Reason

Prior to the commencement of development, a Delivery Management Plan which shall set out procedures for undertaking deliveries with the objective of minimising the generation of noise, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be operated in accordance with the approved Delivery Management Plan.

Reason: In the interests of neighbouring amenity.

11 - Non-Standard Condition/Reason

Any kitchen and/or cooking area shall not come into beneficial use until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to the kitchen and/or cooking area coming into beneficial use and thereafter be retained and maintained to the agreed specification and working order.

Reason: In the interests of neighbouring amenity.

12 - Non-Standard Condition/Reason

Prior to the first use of the development hereby permitted, any foul water drains serving a kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions. Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

13 - Non-Standard Condition/Reason

Notwithstanding the submitted details, no external lighting shall be installed at the site except in accordance with details (to include position, height, aiming points, lighting levels, and a polar luminous diagram) which shall have been previously submitted to and agreed in writing by the Local Planning Authority. The lighting shall then be installed and retained as approved. The approved lighting shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E3. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance.

Reason: In the interests of neighbouring amenity and to prevent harmful levels of light pollution.

14 - Non-Standard Condition/Reason

Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plans 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.

15 - Non-Standard Condition/Reason

Prior to occupation of the development the areas within the site identified for the purpose of loading/unloading and manoeuvring shall be provided and retained at all times for that sole purpose as approved in writing by the Local Planning Authority.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety.

16 - Non-Standard Condition/Reason

Prior to the commencement of the development the details of the number, location and design of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient and covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

17 - Non-Standard Condition/Reason

No development shall commence until details of the widening of the pavement adjacent to the northern boundary of the site have been submitted to and agreed, in writing, by the Local Planning Authority. The agreed details shall then be implemented prior to first occupation or use of the development.

Reason: In the interests of highway safety.

18 - Non-Standard Condition/Reason

Prior to the development being first used, the Keep Clear and Right Hand Turn road markings shall have been completed in their entirety.

Reason: In the interests of highway safety.

19 - Non-Standard Condition/Reason

In the event that contamination is found at any time when carrying out the approved development 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 the Local Planning Authority and, where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of, and 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 the approved remediation scheme.

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.

20 - Non-Standard Condition/Reason

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

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) 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.

(5) 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.

(6) Having regard to the proximity of this site to the traffic signalised junction of Drury Road and Layer Road and the weight of traffic these roads are subject to, the Highway Authority expects that, at a future time when the plot noted as being for further development on the submitted plans is brought forward, and in the interests of highway safety and efficiency, any scheme proposed will accord with current parking standards and will utilise the access which forms part of this application.

(7) The applicant, agent, or developer is advised that any advertisements or signage may require Advertisement Consent by virtue of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

(8) The applicant, agent, or developer is advised to introduce signage to discourage the use of parking at spaces 17-22 to the rear of the store after 9pm in the interests of residential amenity.

(9) With regards to condition 10 it is expected that the path used for movement of delivery trollies shall be rubberised and any ramps shall be of solid, smooth construction with no ridges or sharp changes in level. All refrigerated vehicles shall turn the refrigeration off whilst on site.

(10) It is advisable that the footpath referred to in condition 16 is widened to 2 metres wide.

21.0 Positivity Statement

WA2 - Application Approved Following Revisions

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.



Appeal Decision

Hearing held on 26 June 2012

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 August 2012

Appeal Ref: APP/A1530/A/12/2171827

The Drury Arms, 1 Layer Road, Colchester, Essex, CO2 7HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Property Portfolio Ltd against the decision of Colchester Borough Council.
 - The application Ref 112443, dated 21 December 2011, was refused by notice dated 28 February 2012.
 - The development proposed is a single storey extension to extend the existing former pub providing back of house storage facilities with a refurbished larger retail sales area within the existing public house and also provision of car parking and servicing and associated works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area including the locally listed host building and on the living conditions of adjoining residential occupiers at 2 Drury Road with particular regard to noise and disturbance.

Reasons

Character and appearance

3. The Drury Arms is now closed but is located in a prominent position at the junction of Layer Road, Drury Road and Butt Road. It is described in the local list as a "good example of pub architecture" from 1913 and is a pleasing, balanced composition with gables at either end of the front elevation. The rear is also attractive with a catslide roof and twin gables divided by a central valley. Materials are a mixture of brick, render and a tiled roof with decorative plasterwork and mouldings. Although altered at the front and at the rear by a flat roof extension these works have not compromised its status as a building of local historic value which is well proportioned and distinctive.
4. According to the National Planning Policy Framework the former public house is a non-designated heritage asset. One of the core principles of the Framework is to conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations. Whilst lower down the hierarchy than designated heritage assets neither this factor nor the existence of about 600 locally listed buildings in the Borough changes its importance to the area.

5. The extension would wrap around almost all of the rear elevation and part of the side elevation to an overall depth of about 5.5m. Using the appellant's figures the footprint of the original building would be virtually doubled on a cumulative basis. More to the point the proposed 'L' shaped addition would be at odds with the generally regular form of the main building. Furthermore, the 'false' pitch around it would be wholly inconsistent with the full pitched roofs that are an intrinsic part of The Drury Arms. Because it is single storey the proposal would be subservient in terms of its height but due to a combination of its depth, form and design it would 'swamp' this part of the building and seriously detract from its character. It would be a significant additional built element that would bear little relation to the structure it is attached to.
6. The proposal would be particularly visible from outside the site from Drury Road and St Helena Road. Notwithstanding the proposed boundary treatment and landscaping strip the impact of the extension would be fully appreciated from this direction at fairly close quarters. The side extension would obscure the termination of the existing catslide with its bargeboard and this detailed drawback would also be seen. From Butt Road the squat and truncated appearance of the side addition would be apparent. There would also be views across the proposed car park from Layer Road where the poor relationship between the shallow perimeter 'mansard' and the proposed new gable would be obvious. Moreover, users of the proposed car park would also be able to see the unsatisfactory juxtaposition of old and new.
7. The extension has been designed so that it is set back and in from the existing front and side facades in order to allow for a better 'join'. The decorative plasterwork has also been avoided. The incorporation of a full or steeper pitch roof would increase the bulk of any addition but no such option has been presented. In any case, the objections to the scheme are not simply limited to this aspect of the design. Overall the extension would not maintain the integrity of the locally listed building as it would not be well integrated with it. There would therefore be significant harm to the qualities of The Drury Arms and, in turn, to the wider locality.
8. The Council also criticised the proposed new entrance doors in terms of positioning and materials. Disabled access is required but there is scope for them to be adjusted in order to maintain the symmetry of the building. A minor modification to this aspect of the scheme could be covered by condition.
9. The Framework indicates that in weighing applications that directly affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm and the significance of the heritage asset. The effect of the proposal has been addressed above resulting in a finding that significant harm would arise. However, paragraph 131 indicates other factors that should be taken into account. There are also other material considerations within the Framework. In particular it confirms the commitment to securing economic growth and that significant weight should be placed on the need to support it.
10. The intended use of the building is as a Sainsbury's Local. The Framework indicates that the approach should be to plan positively for local shops and Policy CE1 of the Core Strategy supports small shops providing for the daily needs of a local residential catchment. Its location means that some residents would be able to travel there by means other than the car. The proposed convenience store would put the public house back into a viable use. Economic vitality would also be achieved by re-using the building and jobs would be

created. The proposal would also secure the retention and long-term maintenance of The Drury Arms. The works to the car park, new boundary treatments and landscaping would make a positive contribution to its setting.

11. The proposal is the only one 'on the table' but there is no evidence to indicate that other potential uses (such as a shop, offices, café or restaurant) would not be feasible. Furthermore, there is also nothing to show that it is essential for the building to be extended in the manner proposed in order to ensure that it is occupied. These points reduce the weight to be given to the economic and other factors set out above. So whilst there is no certainty that other users would come forward the adverse impact on the building is too high a price to pay. Indeed, paragraph 131 indicates that heritage assets should be put to viable uses "consistent with their conservation".
12. Therefore the large projection proposed would spoil the character and appearance of The Drury Arms and the surrounding area. Since it would not be respectful in terms of some of the matters in criterion (i) there would be a conflict with Policy DP1 of the Development Policies Development Plan Document (DPD). As a building of particular local importance which it is desirable to keep would not be protected the proposal would also be contrary to Policy DP14. Although there are considerations in favour these do not outweigh the significant harm that would occur if the development went ahead.

Living conditions

13. In connection with the appeal a further environmental noise assessment was produced. Its findings, assumptions and methodologies are not disputed by the Council. Indeed, subject to conditions regarding the sound attenuation of fixed plant; delivery times; the provision of an acoustic fence along the boundary with 2 Drury Road and a Delivery Management Plan no major objections are now raised on this score. However, local residents still have concerns. As well as mechanical plant potential sources of noise and disturbance are use of the car park by customers and deliveries.
14. The proposed extracts would be on the northern flank elevation facing away from the side of No 2 and separated by the parking and delivery area. Having regard to BS4142:1997 *Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas* a condition could be devised to limit noise to either the existing background noise climate or 35 dB whichever is the higher. At certain times of the day and night the L_{A90} survey reading is below this level. With this safeguard in place the impact of plant noise on neighbouring properties would be negligible.
15. Although it is planned that the store would be open daily from 0700 to 2300 hours deliveries are proposed to take place only between 0800 to 2000 hours Mondays to Saturdays and 0800 to 1700 hours on Sundays and Public Holidays. Although others take a different view the appellant suggests that typically there would be 5 deliveries a day. Much would depend on how supplies were organised and whether separate or bulk deliveries were made. This aspect cannot be controlled but in the absence of definite evidence about the way that national retailers operate this figure offers a reasonable guide. Based on the Transport Statement it is predicted that 982 car movements would be made each day although this calculation omits trips after 2100 hours.

16. Briefly, the latest assessment establishes that noise emanating from the car park and deliveries would be below relevant World Health Organisation (WHO) guideline values and also below the existing ambient noise climate. However, because of the way the averaging is undertaken this approach tends to 'smooth out' peaks and troughs. Therefore infrequent noises would be audible to those nearby. This includes things like roll cages, voices, reversing beepers, refrigeration units, car radios and doors slamming. However, some of these could be addressed by a Delivery Management Plan and delivery and opening times would be within what is treated as 'daytime' by the WHO guidelines. So whilst there would be a change in the level and nature of activity close to No 2 this would be within acceptable limits.
17. The Council did argue that no deliveries should be allowed on Sundays to provide a respite for those living nearby. However, there is little material difference in the existing ambient noise climate between Saturdays and Sundays. As a result there is no objective technical noise reason to prevent Sunday deliveries. That said, it would be reasonable to expect that adjoining occupiers might wish to enjoy a later start to their day on a Sunday and so the earliest delivery time could be limited to 0900 hours.
18. On that basis the proposal would not harm the living conditions of adjoining residential occupiers at 2 Drury Road. As this is the closest property it is reasonable to assume that the consequences for other nearby residential accommodation, including that above the pub which is to be retained, would be no worse. The house at 3 Layer Road is divided from the proposed car park by a piece of land which is being left for future development. External lighting could also be controlled by condition. As such there would be no conflict with Policy DP1 of the DPD which seeks to protect residential amenity.

Other Matters

19. Irrespective of the nature of the short-lived furniture shop business the use of the existing public house for retail purposes does not require planning permission having regard to the provisions of the General Permitted Development Order. Indeed, its use as a shop is not part of the proposal. In any case, the sales area of 285 sq m is well below the threshold of 2,500 sq m referred to in the Framework. Consequently, in terms of planning policy, the effect of a retail development in this location would be insignificant.
20. This part of Colchester is already served by 3 convenience stores within about 500m of the site. In addition, there is an extant planning permission for a food store and 3 shops on the former PSA site in Butt Road. A further application for a Tesco store of 2,700 sq m, 6 shops and affordable housing units has been deferred. There is no technical evidence about the capacity of the area to accommodate all of these outlets taking into account the additional expenditure arising from new residential developments. Nevertheless, whilst the proximity to the proposed Tescos may seem "incredible" it is not the function of the planning system to determine whether another convenience shop is needed.
21. Furthermore, neither is its purpose to protect individual traders. The Framework does not seek to prevent competition. Local consumer choice is also referred to and in seeking to build a strong economy the Framework does not distinguish between small, locally-run businesses and national companies. The appellant indicates that the extension is required to make a store of this kind viable so the proposal could be viewed as facilitating it. That said, there is

- no good planning reason to oppose the proposed development because of its consequences for retail provision in the locality.
22. There is much local objection to the traffic implications perceived to result from the proposal. The Ward Councillor described this at the hearing as the most important aspect of the development. However, the Highway Authority raises no objections and there is no technical evidence to contradict the findings of the appellant's Transport Statement. It should also be borne in mind that even if the pub was low-key any future commercial use would be bound to generate vehicular movements to and from the site including servicing. Consequently the proposal should be assessed on this basis rather than in a 'vacuum'.
23. Various matters were raised including difficulties in negotiating the newly signalled junction; the congestion at peak times; the short pedestrian phase; potential hazards to pedestrians including children going to and from Hamilton Primary School; the narrow pavement around the northern side of the site and the use of Hamilton Road, Errington Road and Gladwin Road as 'cut-throughs'. All of this in the context of a general increase in traffic and in developing the nearby Garrison site an acceptance that this junction should be avoided. Of course, all of these concerns would remain whatever the appeal's outcome.
24. Notwithstanding the comments made at the hearing the track diagrams show that it would be feasible for a 12m rigid vehicle to enter and leave in forward gear provided that staff parking spaces were unoccupied. This could be achieved by management of the site. It would also be in the interests of any operator to ensure that the practicalities of making deliveries worked effectively. Furthermore, as well as moving the existing entrance away from the traffic signals, it is envisaged that a right turn lane and 'Keep Clear' markings would be provided in order to prevent vehicles moving in or out of the site from being obstructed.
25. It was suggested that customers would prefer to travel to the site by car. Even if that is the case it is also likely that some people would be on the highway network anyway and would stop at the appeal site on their way to or from another destination. In view of this and the fact that any re-use of The Drury Arms would produce traffic the impact of the proposal on this busy junction would not be as great in practice as suggested by the figures in paragraph 15. Indeed, there is no firm evidence to indicate that the extra vehicles would lead to a deterioration in safety or overload the capacity of the local network.
26. Both customer and delivery vehicles would be likely to be moving in and out of the site at times when children are on the footway either on their way to and from the nearby school. However, everyone needs to take care when crossing the road. Furthermore, the entrance to the proposed store would have no obvious hazards with pedestrians and drivers able to see one another and is typical of such arrangements in urban areas.
27. Policy DP1 refers to protecting public amenity but the additional traffic that would result is not of such a magnitude that this aim would be prejudiced. The Framework sets out how the Government's planning policies are to be applied. Nowhere does the Framework state that decision-making should be undertaken on the basis that the level of objections is a reason to withhold permission in itself. So although the strength and nature of local opposition has been taken into account this has not been a decisive factor in determining the appeal.

Conclusions

28. The proposed extension would harm the character and appearance of the area including the locally listed host building but, subject to conditions, the use of the parking and servicing area and the proposed plant would not harm the living conditions of adjoining residential occupiers at 2 Drury Road. None of the other matters raised add to the harm identified but neither are there any other material considerations of sufficient strength to outweigh that harm or the conflict with the development plan. As such, the proposal is unacceptable and the appeal should not succeed.

David Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr D Onions Associate, Pegasus Planning Group
BA (Hons) DipTP MRTPI

Mr K Metcalfe Sharps Redmore Partnership
BSc (Hons) MIOA

FOR COLCHESTER BOROUGH COUNCIL:

Ms L Mondon Planning Officer

Ms L Newman Environmental Protection Officer

COUNCILLORS AND LOCAL RESIDENTS:

Cllr Offen Shrub End Ward

Cllr Hazell Shrub End Ward

Cllr Cope Christ Church Ward

Cllr Lissimore Prettygate Ward

Mr R Buston
TD LLB TEP FCMI

Miss S Beard

Mr R Martin

Mr W Groves

Ms B Golmstone

Mrs A-M Stringer

Mr B Ramplin

Ms T Clark

Ms S Rodwell

Mr Harper

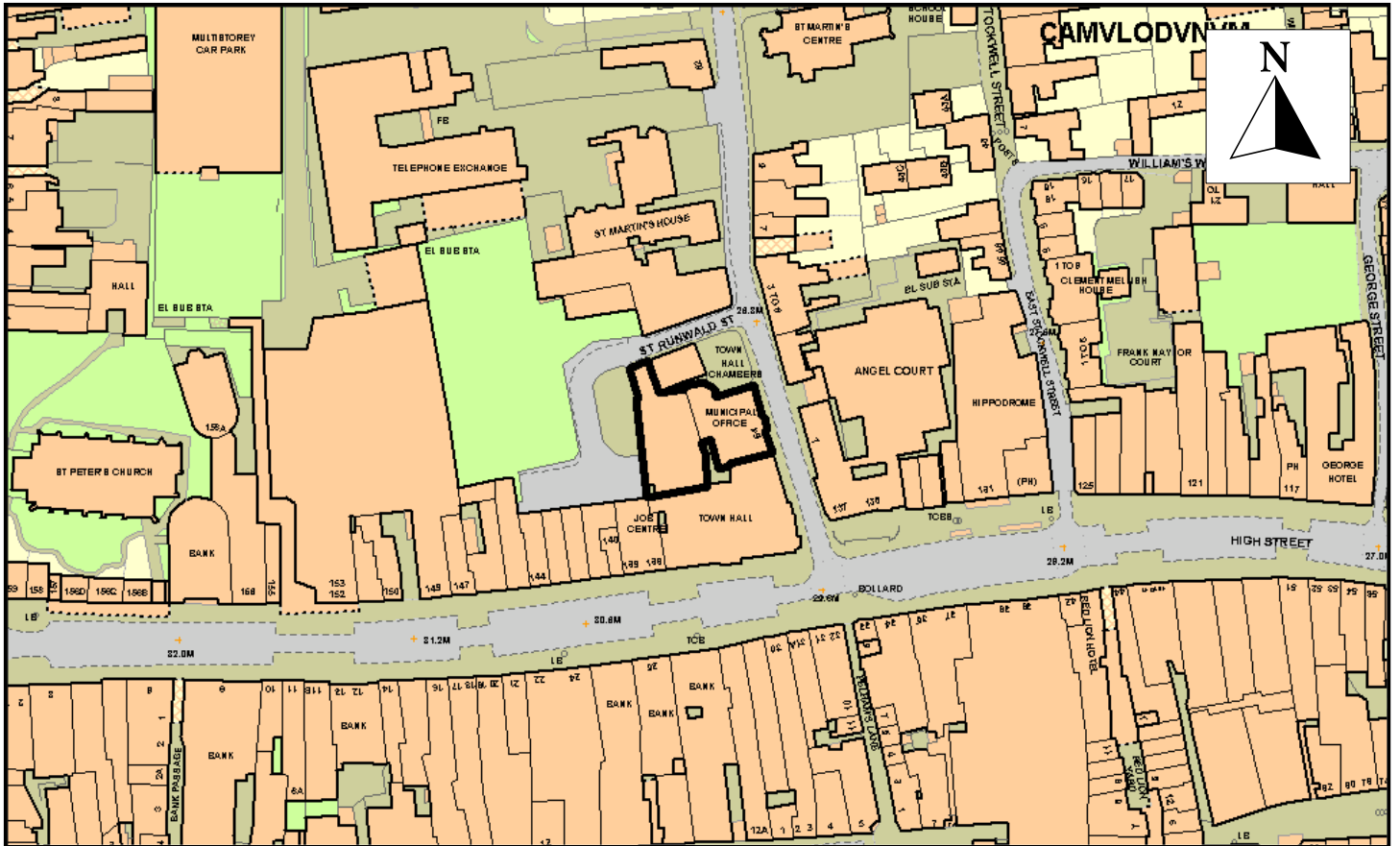
Mr I Davies

Mr H Lake

Mr Gray

DOCUMENTS

- 1 Plan of Tesco's site, Butt Road
- 2 Written speaking notes of Mr Buston, Mr Martin and Miss Beard



Application No: 130578/130579

Location: Colchester Borough Council, Town Hall, High Street, Colchester, CO1 1PJ

Scale (approx): 1:1250

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7.4 Case Officer: James Ryan	Due Date: 24/06/2013	OTHER
Site:	Town Hall, High Street, Colchester, CO1 1PJ	
Application No:	130578	
Date Received:	25 March 2013	
Agent:	Mr Stuart Davis	
Applicant:	Mr Bob Bettis	
Development:	Proposed change of use to restaurant, café and function rooms	
Ward:	Castle	
Summary of Recommendation: Conditional Approval		

7.5 Case Officer: James Ryan	Due Date: 20/05/2013	OTHER
Site:	Town Hall, High Street, Colchester, CO1 1PJ	
Application No:	130579	
Date Received:	25 March 2013	
Agent:	Mr Stuart Davis	
Applicant:	Mr Bob Bettis	
Development:	Listed building application for proposed change of use to restaurant, café and function rooms	
Ward:	Castle	
Summary of Recommendation: Listed Building Consent		

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a Major application that has received representations.

2.0 Synopsis

2.1 The key issues explored below are the local policy context, the impact on neighboring amenity and the impact on the listed building.

3.0 Site Description and Context

3.1 This planning application concerns the Old Library and Court Rooms in West Stockwell Street. They are connected to, and sit behind the Town Hall. The site is a complicated building made up of a number of rooms and corridors. The building contains the Old Library, the now disused Magistrates Court and below these, the cells. There are three separate entrances independent of the main Town Hall entrance located on West Stockwell Street, one serves the Magistrates Court, one serves the Old Library and one is a ramped access to the rear of the Old Library. The Town Hall is a Grade I Listed Building (the highest category). Whilst not specifically listed in its own right, the Old Library is, effectively, listed as a curtilage structure. The site lies within Colchester Conservation Area No.1.

4.0 Description of the Proposal

4.1 This scheme proposes the change of use of the Old Library, the Magistrates Court and the Cells to a restaurant, café and function rooms. An external flue serving the Cells Kitchen is also proposed. This report will also deal with the accompanying Listed Building Consent application (130579) which technically is not required to be determined by Members. The Listed Building Consent application deals with the minor internal changes required to facilitate the change of use and also the external flue.

4.2 The Old Library will become 'V3', a fine dining establishment and a cocktail bar. The Magistrates Court will become drinking and dining areas and will also be used for occasional functions. The Cells will become 'Porridge', a theme dining experience. The Office and Meeting Room will remain as is. The existing Labour and Conservative Rooms will become function rooms 2 and 3. The Conservative Group Room and the Labour Group Room will become a coffee lounge. Basement stores 1 and 3 will remain as storage. Basement store 3 will be used as a staff room.

5.0 Land Use Allocation

5.1 The site is located in the Outer Core area of Policy DP6 as defined on the Local Development Framework Policy Maps Document.

6.0 Relevant Planning History

6.1 There is no planning history that is particularly relevant to this application.

7.0 Principal Policies

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

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
 SD1 - Sustainable Development Locations
 CE1 - Centres and Employment Classification and Hierarchy
 CE2 - Mixed Use Centres
 CE2a - Town Centre
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
 DP1 Design and Amenity
 DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
 DP6 Colchester Town Centre Uses
 DP14 Historic Environment Assets
- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
 Vehicle Parking Standards
 Air Quality Management Area Guidance

8.0 Consultations

- 8.1 Environmental Protection has no objection to the scheme subject to conditions which will be imposed.
- 8.2 The Licensing Team has already granted a license for the use.
- 8.3 English Heritage has commented on the LBC application (130579) and has no objections.
- 8.4 The Council's in-house Design and Heritage Unit has no objection to the scheme.

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 Two representations have been received, one from a local resident and one from the Dutch Quarter Association (DQA).

The full text of the representations can be read online, however they both object to the scheme on the basis of harm to neighbouring amenity by virtue of the noise and disturbance and also share concerns regarding the opening hours. The representation from the DQA also noted the large areas of glazing that serves the Old Library.

It also stated that no consultation with neighbours or the DQA had been made by the applicant.

In response: This scheme has been carefully assessed by the Environmental Protection team. They have requested a limitation on the opening hours which will be imposed by condition. It is accepted that the scheme will result in an increase in noise and disturbance but this is within tolerable levels. There is a great deal of glazing in the Old Library but this does not make a function room or restaurant use unacceptable, particularly as the applicants are planning to put drapes up at the windows to help limit the level of noise emitted.

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

11.0 Parking Provision

11.1 This scheme does not provide on site parking. This is the case with many town centre restaurants and the adopted Parking Standards do not require a minimum level of parking provision. Therefore this scheme is acceptable in parking provision terms.

12.0 Open Space Provisions

12.1 This scheme does not generate the need for open space contributions.

13.0 Air Quality

13.1 The site is within the Central Corridor Air Quality Management Area but due to the sustainable location of the site and the type of use proposed it is not envisaged that the scheme will cause material harm to air quality.

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 discussed at the Development Team meeting of 16/05/13 but no contributions were requested.

15.0 Report

15.1 Report to cover

- *Principle of Use*
- *Impact on Neighbouring Amenity*
- *Impact on the Listed Building.*

Material Planning Considerations

Principle of Use

15.2 The proposed coffee bar and restaurant use is located in a sustainable town centre location. It will bring a large and currently empty section of this important building back into beneficial use. This section of West Stockwell Street already enjoys other restaurant uses and this proposal will complement those.

- 15.3 The site is located in the Outer Core as defined in the LDF. Policy DP6 seeks to retain 50% retail uses on street frontages. It also states that A3 uses will be supported provided they contribute to the vitality of the Town Centre.
- 15.4 The Town Hall occupies the High Street frontage that is most relevant to the percentages in DP6. This scheme will front West Stockwell Street and in effect will create new active frontage for much of the day – something the courts did not provide. Therefore this scheme is acceptable in terms of Policy DP6 and officers consider that there are no policy reasons to resist this change of use.

Impact on Amenity

- 15.5 When compared to a very low key use such as a court, this scheme will have an impact on neighbouring amenity as there will be an associated increase in activity in terms of noise and comings and goings. That said, Members will be aware that, when the Court was operational, there was often disturbance and crowds outside during the day. The Old Library however, has previously been used for functions and parties. The Licensing Team has already granted a license for the use and the Environmental Protection Team has no objection to the scheme subject to conditions which will be imposed (apart from the requirement for extraction details which have been dealt with within the application period). Environmental Protection have stated “We understand that the current Premises License allows opening until 02:00 Monday to Saturday, so the recommended hours are broadly in line with what is currently permitted. We have not received any complaints regarding the functions that are currently held at the site”.
- 15.6 In a town centre location such as this in close proximity to the High Street it is reasonable for residents to expect some disturbance in terms of noise and comings and going of staff and the visiting public. Subject to the relevant control, it is not considered that a use of this nature will cause demonstrable harm to neighbouring amenity.

Impact on Listed Building

- 15.7 The use proposed only requires very lightweight amendments to the listed building and it is difficult to imagine a viable scheme that would be less intrusive. The applicants plan to use the character of the building to enhance the dining experience and use it as their unique selling point. The scheme will not result in the loss of any fabric that is of historical significance. Any courtroom furniture that needs to be moved will be stored in the ample storage space the building enjoys.
- 15.8 The kitchen that is proposed to be located at cell level (below the courtrooms) will require a flue for extraction purposes. The flue has been located in the central courtyard area where the flue serving the other kitchen, other pipes and a very large and unattractive concrete chimney is located. A vent that takes in clean air will be fitted to the blank external wall that faces the St Runwald’s Street Car Park. The flue will exit the building into the internal courtyard through an existing sash window. This will require the removal of part of the top half of the sash. The window is of limited historic merit and therefore this intervention is considered to be acceptable.

15.9 Flues are usually difficult to accommodate in listed buildings and this case is no exception, however they are essential to the operation of a restaurant use such as this one. In the context of the other items located in the central courtyard and taking into consideration its very limited public visibility, the flue is not considered to have a demonstrably harmful impact on the setting of the listed building.

15.10 The proposal is therefore acceptable in terms of its impact on the Listed Building.

16.0 Conclusion

16.1 The scheme will not have a demonstrably harmful impact on neighbouring amenity and is acceptable in terms of its impact on the listed building. Therefore an approval of both the Planning Application and Listed Building Consent application are warranted.

17.0 Recommendation - APPROVE both the planning application and listed building consent subject to the following conditions:

18.0 Recommended Reasons for the Decision

YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because this scheme will bring an important building into back into beneficial use without causing significant harm to the setting or fabric of the listed building. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely the impact the scheme will have on neighbouring amenity in terms of noise and disturbance.

19.0 Conditions (Planning Application)

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 940-01-17, 940-01-15, 940-01-10, 940-01-08B, 940-01-09A, 940-01-06A, 940-01-07C, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - *Restriction of Hours of Operation

The use hereby permitted shall not operate/be open to customers outside of the following times:

Weekdays: Open at 7.00am, Close at 01.30 Monday-Wednesday; 02.00 Thursday and Friday

Saturdays: Open at 7.00am , Close at 02.00

Sundays: Open at 9.00am, Close at 23.00.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, and for the avoidance of doubt as to the scope of this permission.

4 - *Restricted Hours of Delivery

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 0700-1900 hours

Saturdays: 0700-1900 hours

Sundays and Public Holidays: No deliveries

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

5 - Restriction of Amplified Music

Prior to the first use or occupation of the development hereby permitted, the level of internal amplified sound shall be restricted by the installation and use of a noise-limiting device that complies with details that shall have been submitted to and agreed, in writing, by the Local Planning Authority. Thereafter, such devices shall be retained and operated in accordance with the approved specification; agreed noise limits and working order at all times.

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

6 - Site Boundary Noise Levels

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

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

7 - *Light Pollution for Minor Development

Any external lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ3 small town centres or urban locations.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

8 - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

Conditions – Listed Building Application

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. - *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 940-01-17, 940-01-15, 940-01-10, 940-01-08B, 940-01-09A, 940-01-06A, 940-01-07C, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

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.

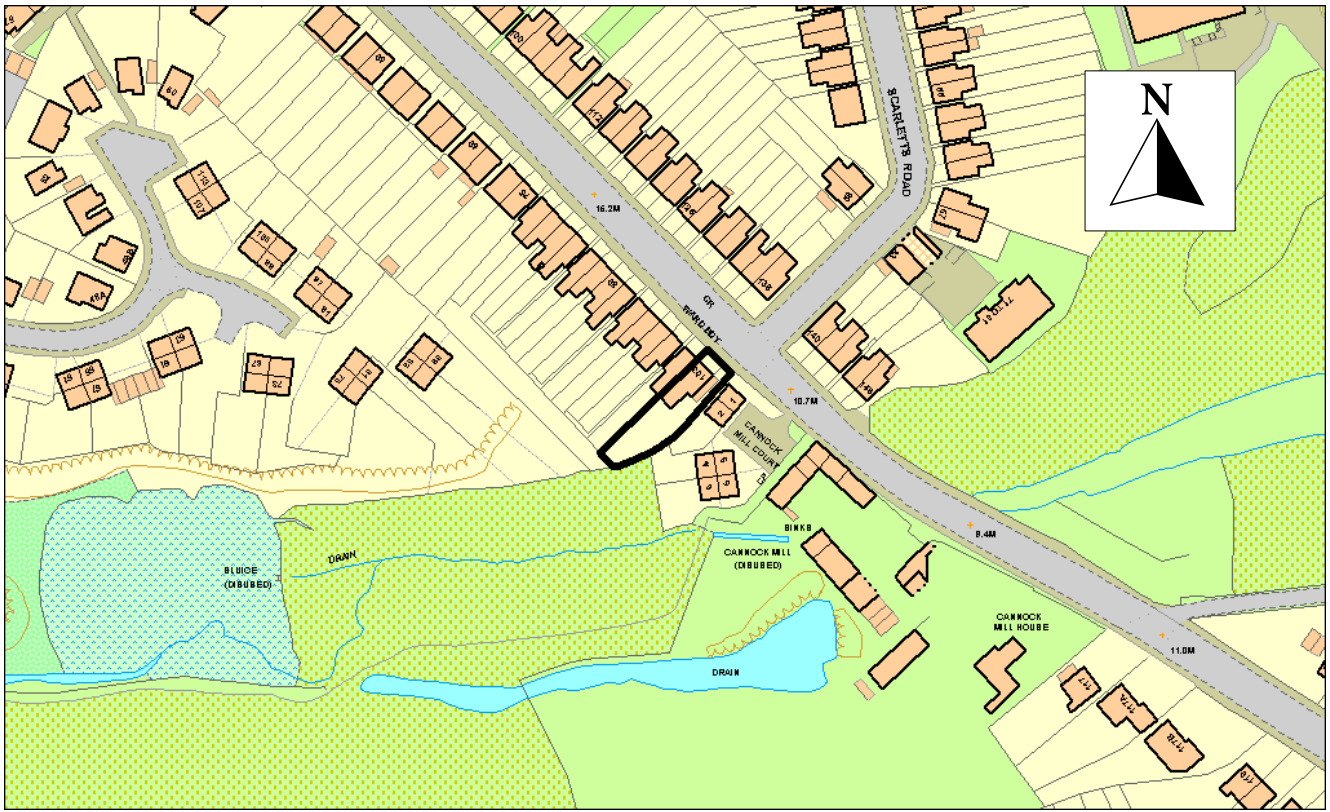
(4) PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. ****This is of critical importance****. If you do not comply with the condition precedent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

(5) Reporting of Unexpected Contamination In the event that contamination that was not previously identified is found at any time when carrying out the approved development, 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 the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and 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 the approved remediation scheme. 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'.

21.0 Positivity Statement

WA2 - Application Approved Following Revisions

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.



Application No: 130880
Location: 103 Old Heath Road, Colchester, CO1 2EX
Scale (approx): 1:1250

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7.6 Case Officer: Lucy Mondon

Due Date: 04/07/2013

HOUSEHOLDER

Site: 103 Old Heath Road, Colchester, CO1 2EX

Application No: 130880

Date Received: 9 May 2013

Agent: Mrs Zoe Manning

Applicant: Mr & Mrs M Keene

Development: Proposed rear extension

Ward: New Town

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee at the request of Cllr Peter Higgins on the grounds that 'there are concerns that the nature of the build will impinge on the adjacent property and, in particular, may cause loss of light'.

2.0 Synopsis

2.1 The application seeks planning permission for the erection of a single-storey rear extension (to replace an existing conservatory).

2.2 The following report considers the matters raised by the Local Ward Member, as well as other material planning matters together with issues raised in representations. The report describes the site and its setting, the proposal itself, and the consultation responses received.

2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

3.1 No. 103 Old Heath Road is a semi-detached house located in a predominantly residential area in the New Town ward of Colchester. To the rear of the property is a two-storey gable-end range (original) and a lean-to conservatory. The garden slopes up towards the house. As a consequence, the floor level of the existing conservatory is above the ground level of the garden by approximately 0.4 metre.

3.2 There is on-site parking for 1-2 vehicles and on-street parking is available.

4.0 Description of the Proposal

4.1 The proposal is for a single-storey rear extension to replace the existing rear conservatory. The dimensions are as follows:

Projection from rear wall	4.3 metres
Width	3.95 metres
Height to eaves	2.8 metres
Height to ridge	4.4 metres

4.2 The extension would have a hipped roof and would be sited adjacent to the boundary wall with No. 101 Old Heath Road. The extension would be constructed in brick, with a slate roof.

5.0 Land Use Allocation

5.1 Predominantly residential.

6.0 Relevant Planning History

6.1 No previous planning history.

7.0 Principal Policies

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

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

UR2 - Built Design and Character

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

DP20 Flood Risk and Management of Surface Water Drainage

DP21 Nature Conservation and Protected Lanes

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

Vehicle Parking Standards
Sustainable Construction
Extending Your House?
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

8.1 Natural England: 'This application falls within or is in close proximity to Upper Colne Marshes Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.'

8.2 RSPB: No comments received.

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 No comments received.

10.0 Representations

10.1 One letter of objection has been received from No. 101 Old Heath Road, the contents of which are summarised as follows:

- Currently, light enters the garden through the glazed conservatory at No. 103. A brick and slate extension would cast a shadow over half the patio for most of the morning;
- The extension would block light to the utility room and kitchen windows;
- The extension would be overbearing, being directly on the boundary and over 4 metres from the ground level, and would result in loss of outlook;
- Contradiction on the drawing: floor plan shows existing steps adapted to suit new floor level; section shows new floor to be levels with existing conservatory;
- A main drain runs diagonally through the bottom of the garden at No. 101 and through the garden of No. 103 into the main road. Anglian Water should be consulted on this issue;
- There is an existing grey water drain that runs parallel with the back of No. 101 that goes through the existing conservatory at No. 103. This has not been considered on the plans submitted.

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 would not have an impact upon the current parking arrangements for the property, which consists of 1-2 off-street parking spaces and on-street parking.

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 The main planning considerations are: Design and impact on the character of the area; impact on neighbouring amenity; impact on parking and highway safety; and impact on biodiversity and flood risk.

15.2. Design and impact on the character of the area:

The proposed extension is considered to be acceptable in terms of its design. The extension would be modest in terms of its scale and would not dominate the host dwelling. The choice of materials reflects those used in the host dwelling, which is appropriate.

- 15.3 The siting of the proposed extension, to the rear of the property away from public views, means that there is a very limited impact on the character of the surrounding area.

15.4 Impact on neighbouring amenity:

The proposal would replace an existing lean-to conservatory alongside the boundary with No. 101 Old Heath Road. The existing conservatory is fully glazed and does, despite its height at over 4 metres, allow light through to the immediate rear garden of No. 101. In comparison, the proposal would be for a solid build extension, however, the extension would be less overbearing than the existing conservatory as the solid roof would slope away from the boundary, rather than rise to a height of 4.2 metres on the boundary as with the lean-to conservatory.

- 15.5 The extension would not allow the passage of light through to the rear of No. 101. However, the solid wall would only be 0.7 metres above the boundary wall between the two properties, which is not considered to be significant. There would be some level of overshadowing to the rear of No. 101, as the extension would be sited to the south-east. However, the level of overshadowing would not be so significant as to be detrimental to the current level of amenity enjoyed by the occupants of No. 101. The

proposal would allow for a reasonable amount of daylight to enter the rear kitchen window as per the 45 degree test set out in the Extending Your House SPD:

‘The ‘overshadowing zone’ is a 45 degree line drawn in plan and elevation into the centre of an affected window, and should be kept clear in order to retain a reasonable amount of daylight. Proposals that break the 45 degree line in both plan **and** elevation are generally considered to be unacceptably overshadowing.’

- 15.6 The proposal does not include any windows that would overlook the neighbouring property.
- 15.7 Impact on parking and highway safety:
The proposal would not have an impact on the parking arrangements for the property and would not, therefore, have a detrimental impact on highway safety.
- 15.8 Impact on biodiversity and flood risk:
The proposal has been assessed in line with the NPPF and Natural England Standing Advice. The site is not considered to encompass suitable habitat for protected species, nor is the proposal considered likely to have an impact upon protected species. Natural England has not objected to the proposal. The proposal is therefore acceptable in regards to biodiversity.
- 15.9 The site is located within Flood Zone 1 and the application has been assessed in line with the NPPF and Environment Agency Standing Advice. As a Flood Zone 1, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding. No mitigation is required.
- 15.10 Other Matters:
The neighbour has commented that there is a drain that runs underneath the existing conservatory. Having discussed this matter verbally with Anglian Water, the standing advice is that planning permission does not automatically grant approval to build over or within 3 metres of a public sewer and that Anglian Water should be consulted by the developer prior to Building Regulations. An advisory note to this effect can be added to the decision notice should the application be approved.

16.0 Conclusion

- 16.1 The proposal is in accordance with policies UR2, DP1, and DP13 of the Colchester Borough Council Local Development Framework. The proposal would respect the character of the host dwelling, being subservient in scale and constructed in matching materials. The proposal would not have a detrimental impact upon residential amenity: the modest height and hipped roof would allow for sufficient light to reach the neighbouring property and would not cause significant levels of overshadowing or overbearing. Further, the proposal would not have a detrimental impact upon highway safety, biodiversity, or matters of flood risk.

17.0 Recommendation - APPROVE subject to the following conditions

18.0 Recommended Reasons for the Decision

YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because it is a well designed scheme that will sit comfortably in the street scene and will also enable the expansion of a local business and the provision of 9 full time equivalent jobs. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely: The impact on protected trees, the impact on neighbouring amenity and the level of parking provision.

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 Number KOH-01 received on 17 May 2013, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

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) The Applicant/Agent/Developer is advised that there is a public sewer and drain running through the site and that Anglian Water is contacted at an early opportunity in order to discuss and agree what works are acceptable within the vicinity of the public sewer and drain. Please be aware that Planning Permission does not grant approval to build over or within 3 metres of a public sewer. Further information can be found on the Anglian Water website www.anglianwater.co.uk.

21.0 Positivity Statement

WA1 – Application Approved Without Amendment

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.

AMENDMENT SHEET

Planning Committee
20 June 2013

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

- 7.1 130654 – Unit 1, Tollgate Centre, Tollgate West, Stanway

Correction. Condition 2 should read:

“The development hereby approved shall comply in all respects with the approved plan numbers 01095-U1- 22A, 01095-U1- 24A, 01095-U1- 28A and 01095-U1-30B”

- 7.1 130655 – Unit 1, Tollgate Centre, Tollgate West, Stanway

References to the legal agreement should be amended and corrected to read:

Travel Plan Provision - £3,500.

Community Transport contribution (towards community bus) £3,000.

Walking and Cycling infrastructure to improve routes from and within the development area - £30,000

- 7.2 130794 - Drury Arms, 1 Layer Road, Colchester

1. The following comments have been received from the Highway Authority:

It is noted that this proposal now includes a right turn lane in Layer Road. The Highway Authority would not wish to raise an objection to this application but in addition to the recommendation submitted under application 112443 dated 27 January 2012, the following condition is requested;

No works in connection with the proposed development shall commence until such time as the right-turn lane and keep clear markings as shown on the submitted plan have been provided entirely at the Developer's expense.

Reason: To make adequate provision within the highway for turning traffic as a result of the proposed development.

Note: This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

INF01 - General - All works affecting the highway to 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 to the Essex County Council on 0845 603 7631

2. Revised plans have been submitted to show the widening of the pavement along the northern (Drury Road) boundary of the site. As a result of these revisions, conditions 2 and 17 can be amended as follows:

2 - Non-Standard Condition/Reason

Notwithstanding the landscaping of the site, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 11.0058.PL01 Rev N and 11.0058.PL02 Rev N, received on 3rd June 2013.
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

17 - Non-Standard Condition/Reason

Prior to the development first being used, the pavement adjacent to the northern boundary of the site along Drury Road shall have been widened as shown on drawing 11.0058.PL01 Rev N.
Reason: In the interests of highway safety.

7.4 130880 – 103 Old Heath Road, Colchester

The recommended reason for approval at Paragraph 18 is incorrect. The recommended reason for approval should read as follows:

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because, having had regard to all material planning considerations, the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely:

The proposal would respect the character of the host dwelling, being subservient in scale and constructed in matching materials. The proposal would not have a detrimental impact upon residential amenity: the modest height and hipped roof would allow for sufficient light to reach the neighbouring property and would not cause significant levels of overshadowing or overbearing in accordance with the Extending Your House SPD. Further, the proposal would not have a detrimental impact upon highway safety, biodiversity, or matters of flood risk.



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.