



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 30 November 2023 at 18:00**

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

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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Access

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

Facilities

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

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www.colchester.gov.uk

COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 30 November 2023 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

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

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

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

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

Live Broadcast

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

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

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

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

6 **Minutes of Previous Meeting**

The Councillors will be invited to confirm that the minutes of the meeting held on the 28 September 2023, 19 October 2023 and 9 November 2023 are a correct record.

2023-09-28 CCC Planning Committee Minutes	7 - 8
2023-10-19 CCC Planning Committee Minutes	9 - 16
2023-11-09 CCC Planning Committee Minutes	17 - 22

7 **Planning Applications**

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

7.1	231153 Land to the east of, Newbarn Road, Great Tey	23 - 38
	Application for approval of reserved matters following outline approval 212646 - Erection of 30 dwellings and 1ha of public open space and access from Newbarn Road.	
7.2	232148 John Castle Way, Colchester	39 - 44
	Retrospective application for erection of a fence in the alleyway adjoining John Castle Way and Bourne Court to prevent documented anti-social behaviour such as: drug dealing, trespassing, and threatening behaviour.	
7.3	230761 Holly Cottage, Straight Road, Boxted, Essex, CO4 5QN	45 - 54
	Retrospective application for construction of side boundary brick walls.	

8 Exclusion of the Public (not Scrutiny or Executive)

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

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

PLANNING COMMITTEE
28 September
2023

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Davidson, Dundas, Hogg, Mannion and Warnes
<i>Substitute Member:-</i>	Cllr Dundas for Cllr Tate
<i>Also in Attendance:-</i>	

1021. Minutes

No minutes of previous meetings were submitted for approval.

1022. 231825 Route to the University of Essex, St Botolphs Circus, Colchester

The Committee considered an application for the proposed advertisement of 11 wayfinding posts connecting Colchester City Centre to the University of Essex. The proposed wayfinding interventions will establish a walking trail featuring physical markers that are linked to a digital platform. The application was referred to the Planning Committee as the applicant is a member of staff at Colchester City Council.

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

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1023. 231826 Route to the University of Essex, Greenstead Boundary Road, Colchester

The Committee considered an application for a proposed advertisement of 11 wayfinding posts connecting Colchester City Centre to the University of Essex. The proposed wayfinding interventions will establish a walking trail featuring physical markers that are linked to a digital platform. The application was referred to the Planning Committee as the applicant is a member of staff at Colchester City Council.

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

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer

recommendation.

1024. 231889 Little Doves Day Nursery, Lower Road, Peldon, Colchester, CO5 7PR

Councillor Davidson declared a Disclosable pecuniary interest in application 231889 as the applicant and left the meeting prior to the start of the item and did not take part in the debate or vote.

The Committee considered an application for the demolition of an agricultural building and erection of replacement building for Class E (f) – Day Nursery. The application was referred to the Planning Committee as the applicant was an elected Member, Councillor Robert Davidson.

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

James Ryan, Planning Manager, presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown that there had been a previous application on the site for an office building and that the application before them and the conditions recommended took into account the impact on the listed building that was in the immediate vicinity, this included the use of black stained feather edged timber weatherboard which had been requested by the Historic Buildings and Areas Officer. It was further noted as detailed in the Amendment Sheets that the landscaping conditions had been added to ensure that there was a degree of visual softening of the building. The Planning Manager concluded by detailing that the provision of electric vehicle charging points was calculated as one charging point for every ten spaces on site and that the officer recommendation was for approval as detailed in the report.

The Committee debated the proposal on the issues including the materials that would be used on the building and the possibility of concrete weatherboarding. It was noted by the Democratic Services Officer that a sample of the concrete weatherboarding was being handed round by Members and asked that an assessment of the material be made by the Planning Manager. The Planning Manager advised the Committee that the boarding was a concrete material with faux wooded patterning.

Members continued to debate the proposal regarding the materials and questioned why a previously built building in the immediate vicinity had been built with the concrete weatherboarding and not the black stained feather edged timber. Simon Cairns, Joint Head of Planning responded to Members questions detailing that the request for the black stained feather edged timber was directly associated with the immediate context of the Listed Heritage Asset to preserve and enhance said context. The Committee heard that the intervening distance between the Listed Farmhouse building and the previously built building would have been a factor when taking into consideration the materials that were conditioned.

Members continued to debate the use of materials on the buildings and whether there were enough electric car charging spaces on the site.

RESOLVED (FIVE votes FOR and ONE vote AGAINST) That the application be approved as detailed in the officer recommendation.

PLANNING COMMITTEE
19 October
2023

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Davidson, Hogg, MacLean, Mannion, McCarthy, McLean, Tate, and Warnes
<i>Substitute Member:-</i>	
<i>Also in Attendance:-</i>	Cllr Ellis Cllr T. Young

1025. Site Visits

A site visit was conducted for the following applications:

- **231640 Land Off, Hall Road, Copford, Colchester** – Attended by Cllrs Lilley, Barton, Davidson, Hogg, and MacLean
- **220317 Gamet Bearings, Hythe Station Road, Colchester, Essex, CO2 8LD** – Attended by Cllrs Lilley, Barton, Davidson, and Hogg

1026. Minutes

The minutes of the meeting held on the 17 August 2023 were confirmed as a true record.

1027. 231640 Land Off, Hall Road, Copford, Colchester

The Committee considered an application for the creation of 50 no. two, three-, four-, and five-bedroom houses and associated infrastructure, plus public open space in the centre of the site and access works on Hall Road. The application was referred to the Planning Committee as it had been called in by Councillor Ellis due to concerns about highway safety and the acceptability of the access point.

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

James Ryan, Planning Manager, presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the red line plan for the application as well as the indicative plans of the dwellings proposed on the site. The Committee were shown photos of the site alongside street elevations and the point of access along Hall Road. The Planning Manager detailed the access arrangements off of Hall Road showing detailed plans of the proposed pathways as well as the lower kerbing to allow run over on the corner for HGVs. The Committee heard that the proposed lowering of the Kerb

and the junction improvements and access had been assessed by Essex County Council's Highways Team as acceptable. The Committee heard that the site had been allocated in the adopted Local Plan with a single Access which was considered to be appropriate to the site as vehicles would not be travelling further up the road towards the sewage works. The Planning Manager detailed that there was sufficient overlooking of the public open space providing natural surveillance and that the landscape boundary would bolster the border of the Public Right of Way. The Planning Manager detailed that an outline permission had previously been before the Committee on this site for up to 49 dwellings prior to the adoption of the Local Plan which had been deferred by the Planning Committee on the basis of prematurity and highway concerns and then subsequently withdrawn by the applicant. It was noted that the proposal before Members was a full application and that the policy context was much clearer since the adoption of the Local Plan and concluded by detailing that the officer recommendation was for approval as detailed in the Committee report.

Graham Barney (Chair of Copford with Easthorpe Parish Council) addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition of the application. The Committee heard that there were issues building on the curtilage of a Grade 2 Listed Building and that the biggest concern regarding the proposal was the access to the site off of Hall Road detailing that a shared pathway was not a sufficient solution. The Committee heard that the road was 5.8 -5.5 metres wide and was below the acceptable width for a type F road of 6 metres and also a type E road. The Committee heard that provision was in contradiction of the minimum standard and asked if the Essex Design Guide was being ignored and if this was the case then why. Further concern was raised regarding HGV's and vehicles servicing the sewage works and whether highways and public safety was being observed through paragraph 111 of the National Planning Policy Framework as the possible 120 movements from the site did not consider the cyclist connectivity.

Andrew Owen (Applicant) addressed the Committee pursuant to the provisions of Planning Committee procedure rule 8 in support of the application. The Committee heard that they commended the work undertaken by Officers of the Council and the report that had been presented to the Committee through the proposed residential allocation in the adopted Local Plan. The Committee heard that the Local Plan provided certainty for investment in Colchester and would bring in money through the supply chain to the Local Economy. It was noted by the speaker that the proposal would support local infrastructure and was being built above environmental standards as defined in Building Regulations and concluded by asking that the Committee approve the proposal.

Councillor Andrew Ellis addressed the Committee as Ward Member for Marks Tey and Layer. The Committee heard that on the previous evening Full Council had endorsed and adopted the Neighbourhood Plan for Copford with Easthorpe which was a diametric opposite of the Local Plan allocation that was imposed upon the community by City Planners. The Committee heard that an application that had previously been proposed for the site had been deferred and detailed their hope that Members were able to visit the site. The Committee heard that the width of Hall Road would not accommodate the movements from the proposal and that the proposed gardens on the site were smaller than those in the surrounding area as well as detailing that the runover of the proposed junction improvements failed to meet planning standards. Members heard that it was not possible for a child in a push chair to pass another pushchair coming the opposite direction and that the proposal was just an accident waiting to happen. The Visiting Councillor outlined that they did not feel that the proposal before the Committee was progress and that if the proposal was approved then lessons should be used from the allocations process and detailed that the Neighbourhood Plan has been ignored as the proposal did not include any bungalows. The visiting Councillor concluded by detailing that there should be a difference in height with some bungalows and

roof heights and that the site should not all be 2 storey houses.

A Member of the Committee queried the status of the site and what options were available to the Committee.

At the request of the Chair, Simon Cairns, Joint Head of Planning, detailed that the proposal before them was a full application and was a fully adopted site in the Local Plan and detailed that the site access was considered by the Planning Inspectorate. The Committee heard that they had a duty to determine the application in accordance with the development plan taking into account planning considerations and that access to the site had to be taken from Hall Road. The Joint Head of Planning concluded by detailing that the expert advisors for Highways had found the proposal to be acceptable and that it would be unwise to not take their expert advice.

At the request of the Chair, Martin Mason, Strategic Development Engineer from Essex County Council Highways Department detailed that the proposal was similar to the application in 2020 and that the access proposals were almost the same. The Committee heard that the proposal had undergone a substantial pre-application consultation where it was considered by the Council and the Highways Department. The speaker detailed that they would not put their name to a scheme that they did not feel was safe and confirmed that there would be a modest level of traffic using the junction.

In response to questions from the Committee the Strategic Development Engineer outlined that there was wheelchair access on the proposed pathways on Hall Road and that the kerb had been raised 25mm from the road height that would enable larger vehicles and cars to mount the footway if that was necessary. The Committee heard that there was no standard footway width and that smaller footways were acceptable and was an issue that could be seen around the County.

Members debated the proposal raising concern about the road and the access with regards to the separation of cars on the road and the use of the pavement as well as how often Anglian Water used the road to service the sewage works.

At the request of the Chair the Planning Manager detailed that they had received correspondence with Anglian Water that the treatment plant would be serviced by tankers 3-5 times a week.

The Committee continued to debate the proposal on issues including: the adequacy of the proposal and whether it could be improved further as well as the impact that there would be on the character of the area considering its location near an ancient woodland. Some Members noted that there were no jobs in the immediate area and that there would be an extra 120 car movements and that there was encouragement for cycling but that it was not enforceable.

Some Members raised concerns about highway safety and whether there would be sufficient room for two cars to pass at the junction on Hall Road and how this could be achieved with two HGVs travelling in opposite directions.

The debate continued with Members discussing whether a passing place could be installed on Hall Road. At the request of the Chair the Strategic Development Engineer outlined that the a passing place was not something that had been put forward by the application or the previous iteration and detailed that it could interrupt the pathway which would be less safe than what was currently proposed and that improvements needed to be secured for the new

residents of the site.

Members continued to debate the proposal on issues including: the access and whether it was safe and adequate for the road, that the site was allocated in the adopted Colchester Local Plan, and that there was a lack of bungalows on site, the density of the site and the proposed play area as well as concerns for existing residents on London Road and the impact that this would have on their amenity. Members noted that there was no request from Essex County Council for a circa £500,000 contribution towards education, and questioned the insufficient information on details. Members discussed the proposed environmental measures on site as well as the use of electric car charging facilities and whether the Public Right of way was suitable as a route and whether anything further could be done to provide hard surfacing for the entirety of the pathway to the school.

At the request of the Chair the Planning Manager responded to the Comments from the Public speakers and questions that had been raised during the debate. The Committee heard that the proposal was assessed under the full weight of the Neighbourhood Plan that had now been made and adopted by the City Council. The Committee heard that there was an expression of favour for bungalows in the Copford with Easthorpe Neighbourhood Plan but that this was not a specific requirement and detailed that as bungalows tend to take up more land than this could result in a reduction in density and therefore mean that more houses were needed in another area. The Committee heard that the proposal provided 15 affordable homes and that the landscaping on site would be secured via a condition whilst noting that it would be difficult to enforce additional screening at the back-to-back dwellings opposite existing houses but confirmed that there was generally a 24 to 25m gap between the built forms as set out in the report. The Planning Manager confirmed that Essex County Council had not requested any further funding for schooling provision as it was no longer required and detailed that if the Committee did use this as a reason for refusal then they would not support that reason at any appeal. With regards to the detailing on the site the Committee heard that the proposal would be of a high quality which would include pantile slates, clay appearance concrete and other detailing on site. The Committee heard the applicant was using a fabric first approach, that there was a condition regarding Electric Vehicle Charging points and that the developer was providing some solar panels as well as air source heat pumps and heat pump recovery systems which went beyond the minimum requirements. Members were asked to note that the Public Right of Way to the school was not hard paving for the entirety as it was seen as an urbanising feature through the forest area by the Public Right of Way Team, and that the fire service had responded and confirmed that a vehicle could enter the site, turn around and exit in forward gear. The Committee were informed that many of the matters that were discussed were of principal which had been confirmed through the site's allocation.

Concern was raised by the Committee regarding the response from the Education authority and why they were not asking for education provision on the site. At the request of the Chair the Joint Head of Planning advised the Committee not to unpick the site from its allocation in the Local Plan especially regarding the access to the site which had not fundamentally changed since the previously deferred application.

Members debated the proposal noting that Essex County Council's Highways Department had not objected to the proposal and that it had been considered by the Planning Inspectorate through the Local Plan examination. Debate continued with some Members expressing concern regarding the Affordable Housing Provision and whether this would be linked to the local area, that the access did not support wheelchair users, and that if there was no element of amending the proposal that the Committee could provide why was the Committee being asked to look at the application.

The Planning Manager advised Members that there was no intention of linking the Affordable homes to a local need as was being trialled in the Layer De La Haye the The Folley local plan allocation.

It was proposed and seconded that the application be approved as detailed in the officer recommendation with the correction of the plans regarding the tree at the bell mouth of the access.

RESOLVED (FIVE votes FOR and ONE vote AGAINST with FOUR ABSTENTIONS) That the application be approved as detailed in the officer recommendation subject to the Section 106 funding, and that the tree be removed from the bell mouth of access through a revised plan.

A short break was taken between 19:25-19:35 following the conclusion of 231640 but before the commencement of 220317.

1028. 220317 Gamet Bearings, Hythe Station Road, Colchester, Essex, CO2 8LD

The Committee considered an application for the demolition of former bearings factory and erection of new building comprising 3 no. blocks over four and five storeys containing 65 no. residential apartments and 2 no. commercial units (Class E) with undercroft car parking (revised drawings received) . The application was referred to the Planning Committee as the application had been called in by Councillor Tim Young owing to concerns about impacts on residential amenity, parking and congestion.

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

John Miles, Principal Planning Officer, presented the application to the Committee and assisted the Committee in its deliberations. The Committee heard that the proposal would demolish the existing buildings on site and replace them with 65 1- and 2-bedroom residential apartments with commercial units on the ground floor. It was noted that since the publication of the report a review had indicated that further monies were available through a section 106 agreement and that this would mean that the funds would be no lower than those detailed in the report. The Committee were shown the proposed built form of the proposal which would have 61 car parking spaces and residential cycle parking which would be internal to the structure and secure. The Principal Planning Officer detailed that there was a provision on site for electric vehicle charging and that the infrastructure was being put in place to convert the normal spaces to electric vehicle charging in the future. The Committee were asked to note that there would be balconies on some of the apartments and went through the floorplans and at each level detailing the proposed room layouts and the podium level, and were also shown indicative views of what the development would look like if approved. The Principal Planning Officer concluded by detailing that there had been an analysis of daylight and sunlight impacts on existing properties and that the officer recommendation was for approval as detailed in the Committee report.

Robert Pomery (Applicant) addressed the Committee pursuant to the provisions of Planning Committee procedure rule 8 in support of the application. The Committee heard that they had been working with successive planning officers on the application in a collaborative process noting that the site resided in the Hythe regeneration area and that although the site was surplus to requirements it would make the best use of the land in a highly sustainable location with a high frequency bus service as well as job opportunities within walking

distance. The speaker outlined that there had been relatively few objections which had been based around sunlight and daylight and concluded that the scheme was policy compliant and recommended for approval.

Councillor Tim Young addressed the Committee as Ward Member for Greenstead. The Committee heard that the current disused building on site was an eye sore and in need of development but that did not mean that the application before Members was the right one. The Ward Member drew attention to the fact that there was no affordable housing on site and that there would be a loss of amenity for residents and that there were existing issues of speeding along Greenstead Road. The Committee heard that there were concerns about the design and that the Civic Society had commented that there had been no green open space for residents and that there were concerns regarding the traffic management plan. The Ward Member outlined that more could be done for the Hythe than what was before the Committee and asked the Committee to send the application back to ensure that affordable housing could be provided on site. The speaker also questioned the detail of the Section 106 agreement regarding the NHS contribution as the improvements were never seen in the area and queried why the leisure contribution went to Castle Park which was nowhere near the proposal. The visiting Councillor concluded by detailing their concern that the proposal would become sub-standard student accommodation.

At the request of the Chair the Senior Planning Officer responded to the points raised by the have your say speakers. The Committee heard that there was some contamination on site and that a further viability review detailed that there was currently £238,639 secured with projects identified by the Council's Development team and detailed that one area that could not be changed was the £39,900 for the NHS. The Committee heard that if they wanted to prioritise a different area then this could be investigated but added that the site benefitted from the vacant building credit and that there was commercial floorspace. It was noted that the proposed form and height would not be overbearing on the area and had been assessed accordingly and that there would be some green space along the frontage of the site with the Urban Design Officer commenting that they felt that the proposal had an innovative design and would bring wider regeneration to the area. The Principal Planning Officer outlined that the Civic Society's most recent comments were in the committee report and that all the units complied with the Nationally Described Space Standards, that there would be communal space on the podium deck and concluded that flooding had been addressed by resilience measures proposed.

Members debated the proposal on issues including: the lack of Affordable Housing on site and whether there was anything that could be done regarding this. The Principal Planning Officer detailed that the Section 106 monies that were surplus was £198,739 which could be secure for affordable housing and that there may be scope to bring this up to max of £331,950 payment in lieu and would be the beneficiary and would ask that this is delegated to officers to identify areas for spend that are CIL compliant. The Joint Head of Planning added that this would be in consultation with the Ward Members for Greenstead where they would be included in the negotiations in the first instance.

Members continued to debate the proposal on the issues including the sustainable location of the development, what the maximum amount of Affordable Housing provision would be on site, that the current building was not secure and what would happen to the large advertising boards on the edge of the site.

At the request of the Chair, the Principal Planning Officer outlined that the Affordable Housing if secured would be from within the existing proposal and that officers could negotiate to secure the maximum amount taking into account viability. The Committee heard that the

advertising boards have been in place for so long now that they had deemed consent but added that they caused substantial injury to the area and that the Council was currently working to remove them, but they were subject to an appeal. It was noted that if the application as approved then this would add to the evidence base of why the advertising boards should be removed. Debate continued with some Members raising concerns regarding any potential fire in the car park as well as that the charging spaces could cause a fire related issue.

At the request of the Chair, the Principal Planning Officer detailed that there were no concerns regarding the trees in the area as they were within Highway owned land and that with regards to the car park there had been no objections from Essex County Council's Fire Service and confirmed that the proposal would be covered by building regulations to ensure safety and effectiveness.

RESOLVED (UNANIMOUSLY) That the application is approved as detailed in the officer recommendation in the report and amendment sheet subject to following:

- That delegated authority is given to the Head of planning to secure the quantum of Section 106 funding available and exact spend projects to be agreed with Ward Councillors for Greenstead, with the Affordable Homes provision being maximised on site.

1029. 231661 Car Park to North, Napier Road, Colchester

The Committee considered an application to replace the existing information board with a smart locker installation and interpretation board in the form of a vinyl covering on a locker (revised description). The application was referred to the Planning Committee for reasons of transparency as the applicant is Colchester City Council.

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

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1030. 231611 The Kiln, The Folley, Layer De La Haye, Colchester, CO2 0HZ

The Committee considered an application for the installation of a ground mounted solar photovoltaic system using ground screws. The application was referred to the Planning Committee as the agent was an elected Member of the Council (Cllr Carl Powling).

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

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1031. 231810 14 Trinity Square, Colchester, Essex, CO1 1JR

The Committee considered an application for the proposed replacement windows and roof coverings along with brickwork repairs, replacement slate coverings for front walls to second floor. The application was referred to the Planning Committee as the applicant was Colchester Borough Homes.

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

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

PLANNING COMMITTEE
9 November
2023

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Hagon, Hogg, MacLean, Mannion, McCarthy, McLean, Tate, and Warnes
<i>Substitute Member:-</i>	Cllr Hagon for Cllr Davidson
<i>Also in Attendance:-</i>	Cllr Harris

1032. Site Visits

A site visit was conducted for the following applications:

- **231402 Land Fronting, Gosbecks View, Colchester**– Attended by Cllrs Lilley, Barton, and Hogg

1033. Minutes

The minutes of the meeting held on the 7 September 2023 were confirmed as a true record.

1034. 223013 Bypass Nurseries, Dobbies Lane, Marks Tey, Essex, CO6 1EP

The Democratic Services Officer advised the Committee that a holding objection from National Highways had been received on the 3 November 2023 after the publication of the agenda which would require further assessment of the application. As such the item had been withdrawn by Officers prior to the Committee meeting where it was noted that all relevant parties had been informed.

1035. 231402 Land Fronting, Gosbecks View, Colchester

Councillor McCarthy declared a non-registerable interest in application 231402 through their call-in request and confirmed that they would recuse themselves from the Committee and only speak as a ward Member and not take part in the debate and vote.

The Committee considered an application for 3 no 3-bedroom and 3 no 2-bedroom bungalows and 1 no 3-bedroom and 2 no 4-bedroom houses with associated garaging and alterations to access road. The application was referred to the Planning Committee as the application had been called in by Councillor Sam McCarthy for the following reasons:

“Gosbecks View is a narrow country road that simply cannot cope with more cars utilising the road, let alone pedestrians and cyclists. There’s no pathways planned. This causes serious safety concerns for current and potential new residents. Refuse collection is already difficult, with a refuse vehicle causing damage in the past.”

An objection has also been received from Cllr Dave Harris as follows:

“I have been contacted by residents of the area who are concerned over the access lane being used for these extra dwellings. The worry which is real is the new houses will reverse onto what is a well-used pedestrian walk route. Also, the laybys passing places it is thought will be used for visitor parking and thus the road will no longer have users able to pass safely. Highways is a County Council Issue and as a County Councillor my duty is to heed the comments and concerns that the existing householders have expressed. I have seen the site and see no other way than to create an access off the main road nearby.”

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

John Miles, Principal Planning Officer, presented the application to the Committee and assisted the Committee in its deliberations. The Committee heard that the proposal was part of the SC1 allocation in the Adopted Local Plan with the proposal before Members comprising of nine dwellings with private amenity space and parking. It was noted that the plans included an additional turning head along Gosbecks View and passing places that the site was adjacent to a Scheduled Ancient Monument of a Roman Road. It was noted that the dwellings had been oriented to match those on the existing Bloor development site across the road and outlined that an interpretation panel of the sites historical significance would be implemented on site. The Committee heard that this would be complemented by the additional detailing that would be added to the dwellings facing the Scheduled Ancient Monument to enhance the sites character. The Committee were shown photos of the site and detailed that Essex County Council’s Highways Department had considered the access arrangements who had deemed the site to be acceptable and confirmed that the proposal was a sustainable development and was policy compliant with the officer recommendation for approval.

Richard Rayner addressed the Committee pursuant to the provisions of Planning Committee procedure rule 8 in opposition of the application. The Committee were asked whether they had visited the site and whether they had viewed the proposed access and detailed the pedestrian safety issues that could result if the development was approved. It was noted that the road did not have any drainage and flooded frequently and that the whole width of the single-track road was used for vehicles so would put pedestrians in danger as there was no pathway. The Committee heard that despite revisions this had not been addressed through objections with tandem parking outside of existing properties which would be an issue as well as parking in the passing places. The Committee heard that there needed to be 24-hour parking restrictions on Gosbecks View and that there needed to be some amendments to the plot locations in case of gates being put on drives and the turning circles of cars manoeuvring into other properties driveways. The speaker concluded by detailing that the lane would not be suitable in emergencies for Fire Engines or refuse vehicles and that there needed to be appropriate lighting for safety but as not to disturb wildlife.

Mollie Foley addressed the Committee pursuant to the provisions of Planning Committee procedure rule 8 in support of the application. The Committee heard that the application had been subject to pre-application advice from the Essex County Council’s Highways

Department and that the proposal was in accordance with the agreed parking standards with cars being able to enter, manoeuvre, and then exit in forward gear. The Committee heard that the proposal had prioritised highway safety and that a turning head had been provided as well as parking bays which could not be used for parking under condition 25 of the proposed conditions and confirmed that there had been no objection to the proposal from Essex County Council's Highways Department. The Committee heard that the proposal was sympathetically designed taking into account the local environment and that the dwellings proposed contained bespoke designs including significant architectural detailing. Members were asked to note that the development guaranteed the protection of the Roman Road adjacent and that context for visitors would be provided through the proposed interpretation panel. The speaker concluded by detailing that the site would provide a biodiversity net gain of 10% and would remove the invasive species on site whilst new planting would be introduced and asked that the application be approved as detailed in the officer recommendation.

Councillor Sam McCarthy addressed the Committee as Ward Member for Shrub End. The Committee heard that the area had changed significantly in recent years and that the proposal before the Committee was impossible because of the tiny road that was being used for access and said that the photo shown to the Committee made the road look wider and said that the proposed parking bays would be parked in. The Committee heard that the access was the main concern with pedestrians and vehicles meeting on the road as there was no new footpath being proposed even with more people walking down there. It was cited that a footpath was essential to a development and detailed the hope that Members had visited the site. The Ward Member concluded by asking that Members look very closely at the access and defer the application if that was needed to resolve this issue.

Councillor Dave Harris addressed the Committee as Ward Member for Berechurch and County Councillor for Maypole. The Committee heard that the key aspect of the proposal was the lane being 11 feet wide and outlined that they had held a meeting with residents to look at the site outlined that they were not against the development but were concerned about the access for the new dwellings. The Committee heard that they should consider deferring the application to look at the highways issues and asked Members to note that there was a substation along Gosbecks View which needed to be serviced and that there was no safe walking along the road without a pathway or lighting. The Visiting Councillor detailed that the passing places could be parked in and their placement opposite existing driveways would cause further issues of entry, and that more needed to be done on site to ensure safety of current and existing residents. Members heard that Highways had visited the site and that they had responded to them on the standard rules that applied to the application and that once the site was approved then it could not be changed and asked the Committee to look at this application further.

At the request of the Chair the Principal Planning Officer responded to the points raised by the have your say speakers. The Committee heard that surface water drainage and potential flooding on site had been considered alongside the landscaping plan whilst taking into consideration the ecology and biodiversity net gain which could be secured. The Committee heard that there would be an increase in vehicle movements and that passing places would be provided as mitigation and that the proposal would not be an unacceptable amount of movement on the road with it being lightly trafficked at low speeds. Additionally, the Committee heard that there was also a turning head being provided and that the road was not a Public Right of Way (ProW) which was used and ran parallel from Gladiator Way.

Members debated the application noting that the proposal would generate more traffic from the nine additional properties and that from the site visit some Members asked why an

entrance could not come from Cunobelin Way with a left turn only when exiting so that there was no issue of vehicles leaving the site.

At the request of the Chair the representative from Essex County Council Highways Department, Matthew Tiller, responded to the points raised by the speakers and the Committee. The Committee heard that the function of Cunobelin Way was a traffic carrier and that the access to the site would need to be taken from a lower category road and that the County Council would not like to see the loss of the layby, or the implementation of a left hand turn onto the existing road. In response to a question from the Committee, the Representative from Essex County Council Highways Department outlined that a left turn from Cunobelin way had not been considered as it had not been discussed at the pre-application process.

Members continued to debate the proposal with Members raising significant concern regarding the existing width of the lane and whether there was any possibility of restricting parking so that the passing places did not get parked on and queried whether a Traffic Regulation Order (TRO) would be appropriate. The Representative from Essex County Council Highways Department, Matt Tiller, outlined that they couldn't recommend a TRO for this proposal and would not expect this there but would have to be raised by the North Essex Parking Partnership who could look at restrictions such as double yellow or double red lines.

Members of the Committee continued to debate the proposal on issues including: the access to the area for larger vehicles, that there was no two-way traffic flow, that the road was more of a wide footpath than a road, that the lighting infrastructure proposed was inadequate, and that further space for vehicles was required along the road with the passing places being inadequate as well as the turning head. Members raised further concerns with the accordance with policy LTN1/20 as well as cycling infrastructure to promote healthy and inclusive lifestyles.

At the request of the Chair, the Principal Planning Officer responded that Essex County Council had not objected to the proposal as Fire Engines would be able to service the area and that access could be looked at again if Members wished to defer the application and that lighting needed to be included that was sensitive to bats but this could be explored through a deferral as well.

The debate concluded with Members detailing that they had significant concerns over safety when considering the sloped surfaces at the side of the roads as refuge for pedestrians if there was a vehicle travelling along it.

A proposal was made and seconded as follows:

That the application is deferred for future consideration by the Committee with Delegation given to the Head of Planning to seek revisions to the scheme in the interests of the safety of pedestrians and road users to achieve:

- Lighting of access road in compliance with LTN1/20
- Potential two lane widening of Gosbecks View
- Request that Essex County Council Highways Department review the potential for a left-hand turning lane to provide direct access from Cunobelin Way
- Seek provision of footway along Gosbecks View or along alternative access arrangement that is LTN1/20 compliant.
- Review proposed Section 106 contributions to focus on project delivery in Shrub End including potential War Memorial funding.

RESOLVED (UNANIMOUSLY) That the application is deferred for future consideration by the Committee with Delegation given to the Head of Planning to seek revisions to the scheme in the interests of the safety of pedestrians and road users to achieve:

- Lighting of access road in compliance with LTN1/20
- Potential two lane widening of Gosbecks View
- Request that Essex County Council Highways Department review the potential for a left-hand turning lane to provide direct access from Cunobelin Way
- Seek provision of footway along Gosbecks View or along alternative access arrangement that is LTN1/20 compliant.
- Review proposed Section 106 contributions to focus on project delivery in Shrub End including potential War Memorial funding.



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Item No: 7.1

Application: 231153

Applicant: Mersea Homes

Agent: Andrew Ransome

Proposal: Application for approval of reserved matters following outline approval 212646 - Erection of 30 dwellings and 1ha of public open space and access from Newbarn Road.

Location: Land to the east of, Newbarn Road, Great Tey

Ward: Rural North

Officer: Nadine Calder

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Members of the Planning Committee when outline planning permission for the development was granted at the Planning Committee of the 31 March 2022.

2.0 Synopsis

- 2.1 The key issues for consideration are the details of the proposed development to provide 30 dwellings and 1 hectare of public open space (POS) consisting of appearance, landscaping, layout and scale (“the reserved matters”), and how these relate to wider material planning considerations, including design, the character and appearance of the surrounding area and residential amenity.
- 2.2 The scheme achieves an acceptable quality of design and is, for the reasons outlined in the main body of the report, otherwise acceptable with regards to wider material planning considerations. On that basis, the application is recommended for approval.

3.0 Site Description and Context

- 3.1 The site extends to 2.9 hectares and currently forms an agricultural field. The land has a gentle gradient that runs in a north to south direction. The site is located to the east of Newbarn Road and to the north of The Street. The site’s boundaries with these roads are characterised by a mature hedgerow, which only has a break in the south-western corner of the field.
- 3.2 The site adjoins the existing settlement boundary of Great Tey with residential development within Farmfield Road and Harvesters’ Way lying to the east of the site. Dwellings within these roads are accessed from Greenfield Drive.
- 3.3 The north eastern part of the site bounds the village recreational ground, whilst the north western part is located adjacent to the residential curtilage of the dwellings located along Newbarn Road.

4.0 Description of the Proposal

- 4.1 This application for reserved matters approval submits the details (appearance, landscaping, layout and scale) for the development of this site, which was granted outline planning permission under the terms of reference 212646 for the provision of 30 dwellings and 1ha of Public Open Space (POS).

5.0 Land Use Allocation

- 5.1 The site forms part of a housing allocation (Policy SS8 Great Tey, ‘Land off Greenfield Drive’), which is identified to accommodate 30 new dwellings and a minimum of 1ha of POS.

6.0 Relevant Planning History

- 6.1 Outline planning permission for the provision of 30 dwellings (including 30% affordable housing), 1ha of POS and access from Newbarn Road was granted in August 2022 under the terms of reference 212646. All other matters (appearance, landscaping, layout and scale) were reserved for consideration at reserved matters stage.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

- SG2 Housing Delivery
- ENV1 Environment
- DM8 Affordable Housing
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- DM18 Provision of Open Space and Recreation Facilities
- DM19 Private Amenity Space
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water Waste and Recycling

7.4 Some "allocated sites" also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process:

- SS8 Great Tey

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

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Archaeological Advisor noted that the outline planning permission required the implementation of a programme of archaeological works. This has since been carried out, although no mention of the archaeological evaluation or a copy of the report have been submitted with this application for reserved matters. They therefore require that a condition is added to the reserved matters permission, if granted, to secure the implementation of a programme of archaeological works prior to any works taking place. This requirement is however already covered by the outline planning permission and therefore does not need to be secured again via this reserved matters application.
- 8.3 The Arboriculture Officer is in agreement with the landscape aspect of the application.
- 8.4 The Contaminated Land Officer notes that no contamination risks have been found at the site and therefore confirmed that the proposal is acceptable without any conditions.
- 8.5 Environmental Protection have not objected to the proposal.
- 8.6 The Landscape Officer does not object to the landscape aspect of the proposed development.
- 8.7 Private Sector Housing have no objection to the proposed development.
- 8.8 The Urban Design Officer does not object to the proposal subject to conditions.
- 8.9 Anglian Water note that as the discharge for surface water for this site will be to an existing ditch, this falls outside of their jurisdiction for comments.
- 8.10 Essex County Fire & Rescue Service raise no objection to the application but advise that additional fire hydrants may be required. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.
- 8.11 Essex County Council Highways have no comments to make on the proposal following changes that were made to the internal road layout at their request.
- 8.12 The Infrastructure Planning Officer at Essex County Council as the Education Authority has made a request for a financial contribution towards education facilities.

Please note that contributions were secured through the outline planning consent; there is no mechanism to request financial contributions as part of a reserved matters application.

- 8.13 Essex County Council as the Lead Local Flood Authority raised no objection to the proposal subject to conditions (which are almost identical to the ones that are already included on the outline planning permission).
- 8.14 Essex County Council as the Minerals and Waste Planning Authority have no comment to make on the proposed development as the site area is below the minimum Minerals Local Plan 2014: Policy S8 threshold of 5ha.
- 8.15 Natural England had no comments to make on this application.

9.0 Parish Council Response

- 9.1 The Parish Council have stated that they strongly support the objections of the Neighbourhood Plan Committee regarding the layout of the development which is contrary to that agreed with the developers. The Neighbourhood Plan Committee has spent considerable time liaising with the developers and with the parishioners of Great Tey and this application is contrary to that. The Parish Council supports all of the objections of the Neighbourhood Plan Committee.
- 9.2 Following the reconsultation, the Parish Council confirmed that their view on the proposed development has not changed.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 The original consultation exercise resulted in the submission of 17 letters of objection from 13 households, including the Great Tey Neighbourhood Plan Group (GTNPG), and three letters with general observations. Following the receipt of amended plans, a further seven letters of objection from five households and the GTNPG were received, in addition to one further letter making general observations.
- 10.3 The reasons for objecting to the original scheme (which are relevant to this current application) can be summarised as follows:
- Layout is not the one preferred by village residents
 - Design and architecture is inconsistent with the existing neighbourhood
 - Properties are very close to existing properties along eastern boundary
 - Dwellings closest to existing dwellings should be single storey
 - Loss of view
 - Loss of privacy
 - Loss of natural light
 - Outbuildings should be provided for all properties
 - SUDS basin is in the wrong place
 - More affordable, smaller houses would be better
 - Affordable housing should not be grouped together

The following reasons for objecting, which relate to the principle of development and are therefore not relevant to this current application as they were addressed at the outline application stage, are:

- Loss of green space that is home to (protected) wildlife
- No additional park or green space needed
- Loss of character
- School is at capacity
- No local shop/facilities
- Limited bus service
- Increased traffic
- Increase noise levels in the area
- Additional pressure on water supply
- Access road off a narrow lane used by pedestrians
- Roads are not designed for construction traffic

10.4 The reconsultation resulted mainly in previous objection comments being reiterated but also included the following comments (which are not relevant to the current application as this matter was assessed under the outline planning permission):

- Access to the site should be taken off Harvesters Way and Farmfield Road
- Access to the site should be taken off The Street/Brook House Road

10.5 The consultation has also resulted in two letters of support, stating that whilst they object to the principle of the development, the current application is supported for the following reasons:

- Proposed layout is preferable as it avoids a larger, sprawling development
- Keeps the new development in line with the existing 1970s estate
- Similar density
- A larger spaced out site would require more roadways and concrete
- Larger area of public open space is a welcome addition to the village

11.0 Parking Provision

11.1 20 out of the proposed 30 dwellings benefit from at least three parking spaces (a minimum of 2 spaces + 1 visitor space). For the remaining ten dwellings, three visitor spaces are provided scattered across the site. The proposed development is therefore compliant with adopted parking standards.

12.0 Accessibility

12.1 In considering the application due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Representations received have not identified any specific equality implications potentially arising from the proposed development and requiring additional consideration. The proposal does not give rise to any other concerns from an accessibility or equality perspective more widely.

12.2 All of the proposed affordable housing will meet Part M4 (2) Building Regulations and so will 2 of the open market houses.

13.0 Open Space Provisions

13.1 The application includes 1ha of POS and the residential development includes additional open space provisions which are in accordance with the minimum 10% requirement.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 Whilst this is a “Major” application, contributions for this development have been secured under the Section 106 agreement completed pursuant to the outline permission.

16.0 Report

Principle of Development

16.1 The principle of this development has been established through the outline planning approval (212646) which was granted in August 2022 for the provision of 30 residential dwellings and a minimum of 1ha of POS together with access off Newbarn Road to the west of the site.

16.2 This application for reserved matters approval is submitted pursuant to this outline planning permission and submits the details of the approved scheme, and seeks to demonstrate that the design, layout, appearance and landscaping element of the proposed development are acceptable.

Design, Scale, Layout and Landscaping

16.3 The Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The Framework is supported by a collection of planning practice guidance which includes a National Design Guide. This document seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice.

16.4 At a local level these policies are carried through and adopted as part of the Colchester Borough Local Plan 2017 – 2033. Section 1 Plan Policy SP7 requires all new development to meet high standards of urban and architectural design with Section 2 Plan Policy DM15 requiring all development, including new build, extensions and alterations, to be designed to a high standard, positively respond to its context, achieve good standards of amenity, and demonstrate social, economic and environmental sustainability.

16.5 It is worth noting that the GTNPG are in the process of drafting a Neighbourhood Plan for Great Tey, however the Neighbourhood Plan is not yet at a stage where it can be afforded any significant weight in decision making and the following assessment is therefore made against the policies of the Local Plan and Framework only. We understand the GT NHP is to be submitted before the end of this year at which time CCC will be required to carry out 6 weeks consultation (Regulation 16). Consequently, at the present

time there is very limited weight which can be afforded to the emerging Plan. Once the Regulation 16 consultation has finished then at that stage the weight increases and varies according to the representations received (para 48 of the NPPF). Following Examination, if an Examiner recommends it can proceed to referendum, once the Council (CCC) have issued the decision to proceed (usually 1-2 weeks after ER received) it then has very significant weight and full once Referendum passed if successful. Accordingly, in conclusion currently the emerging plan carries no weight in decision making.

- 16.6 The site is located on the western rural edge of the existing settlement and consists of open countryside. The site sits adjacent to existing residential dwellings, highway connections and public open space on its eastern boundary, with open countryside to the north, south and west.
- 16.7 The proposed layout of the site appears logical in terms of the placement of the open space, SUDs and the built environment. The layout deals with sensitive edges appropriately and conserves the majority of existing hedgerows. The layout establishes a legible street hierarchy and makes provision for a good level of pedestrian/cycle permeability. The layout also accommodates policy compliant levels of public open space, parking provision, gardens, and back-to-back distances. On this basis, the proposed spatial strategy is considered appropriate and results in acceptable standards of public and residential amenity.
- 16.8 The proposed built environment adopts a variety of broadly vernacular forms, with traditional and contextual materiality and a good degree of detailing. Placement of the built environment, along with its plan form establishes a relatively consistent rhythm within the street scene. However, combined with relatively consistent building lines and a uniform approach to parking, the result is a lack of any genuine enclosure of space and a relatively suburban character. That said, the individual units are broadly eclectic and relatively inoffensive in themselves.
- 16.9 Overall, it is considered that, given the site's size, shape, adjacencies, context and the matters agreed at outline stage, the proposal achieves an acceptable standard of design and placemaking. The scheme also delivers a substantial area of public open space that has the potential to enhance walking routes within the village. On this basis, notwithstanding a couple of minor issues that can be resolved via condition, there is no objection to the proposed development on design grounds, subject to the below conditions.
- 16.10 Comments from the Parish Council, the GTNPG and local residents in terms of the proposed layout are noted and a meeting between representatives from the Local Planning Authority, applicant, agent and GTNPG was held to discuss this matter. As explained during that meeting, the development, as proposed, is held to comply with established place making principles and would provide an appropriate extension to the village. It also conforms to the allocation within the Local Plan. Providing a green space in a linear fashion (as requested by the GTNPG) would not only extend residential development beyond the established building line of adjacent development, and further into the countryside, it would also separate the new development from the existing village, thus act as a

barrier, rather than integrating the new development with existing built development. It is for that reason that the proposed layout is considered to be the most appropriate for this site.

16.11 The submitted plans also include generous soft landscaping along the frontages of the dwellings, including front gardens laid to grass, hedgerows and/or trees as well as the more strategic POS. The proposed scheme of planting and soft landscaping appears broadly acceptable, with both the Landscape Officer and Arboriculture Officer accepting it in principle. Full details of both hard and soft landscape proposals are required to be submitted for consideration in accordance with the relevant conditions of the outline planning permission before any works permitted by this reserved matters application can commence. The precise detailing of levels, boundary treatments and other associated landscaping features will therefore have to be the subject of a discharge of condition application. Notwithstanding this, given the importance of soft boundary enclosures to establishing the character of the area on this edge of settlement location, a condition is proposed removing permitted development rights in relation to boundary enclosures.

Impacts on Neighbouring Properties

16.12 Section 2 Plan Policy DM15 seeks to promote high quality design and requires development to demonstrate, amongst other matters, that they will protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight.

16.13 The scheme has been designed having due regard to the Council's amenity standards. With regard to the amenity of existing residents to the east of the site, the development is sufficiently far removed to not have an impact on the private amenity of these residents, either through overlooking, overshadowing or appearing overbearing.

16.14 The proposed two dwellings closest to the eastern boundary of the site are bungalows (Plots 16 and 21), which due to their limited height, combined with the proposed boundary treatment consisting of a solid enclosure and soft landscaping features, would ensure that no material harm would be caused on the existing neighbouring occupiers in Farmfield Road with regards to overlooking, loss of light or loss of privacy.

16.15 The proposed dwelling on Plot 22 follows the established building line created by dwellings along the southern side of Farmfield Road, and with no first floor windows in the side elevation of No. 9 Farmfield Way, and only one bathroom window in the flank elevation of the proposed property (which is to be obscure glazed), no concerns of overlooking arise from this dwelling.

16.16 Finally, the dwelling on Plot 30 is positioned forward of the front of the nearest neighbouring property in Harvesters' Way (No. 10) and this positioning, coupled with proposed intervening hard and soft boundary treatment, would ensure that no material harm is caused on the amenities of the neighbouring occupier.

16.17 In addition to the above, it is considered that the 30 dwellings and associated outbuildings are arranged in a way that avoids unacceptable impacts on the amenities of future occupiers of the proposed dwellings. There are therefore no concerns that the development would cause any harmful impact on existing occupiers to the east of the site or future occupiers of the proposed development.

Private Amenity Space/Public Open Space

16.18 Section 2 Plan Policy DM19 sets out a range of garden sizes which are as follows for houses:

- One or two bedroom houses – a minimum of 50m²
- Three bedroom houses – a minimum of 60m²
- Four bedroom houses – a minimum of 100m²

16.19 The rear gardens of the proposed dwellings range in size and the submitted information indicates that the vast majority of the gardens are generous, with all gardens complying with the provision of Policy DM19 in respect their size. Furthermore, all private amenity spaces are held to be designed to a high standard, with the siting, orientation, size and layout making for a secure and usable space.

16.20 The POS is overlooked by a number of dwellings which front onto it and therefore the open space benefits from passive surveillance. Its layout is consequently also considered acceptable.

Parking Provision and Highway Matters

16.21 Access to the site is taken off Newbarn Road to the west. Access was the only matter that was not reserved as part of the outline application and these parameters have therefore already been approved. The internal road layout includes one estate road which serves the majority of the proposed dwellings and five private drives. Following lengthy discussions and the submission of amended drawings incorporating their requests (relating to improvements to proposed footways/cycleways, private drives, turning heads, traffic calming features etc.), the Highway Authority raises no objection to the development subject to the development being carried out in accordance with the approved plans.

16.22 The Vehicle Parking Standards SPD, to which Section 2 Plan Policy DM22 refers, provides the parking standards for residential development. The adopted standard for dwellings of two or more bedrooms is a minimum of two car parking spaces per dwelling; and a minimum of one secure covered cycle space per dwelling (unless a secure area can be provided within the curtilage of the dwelling). Visitor car parking is also required: 0.25 spaces per dwelling (rounded up to the nearest whole number).

16.23 The submitted plans show that 15 plots have 2 on-site parking spaces and 1 on site visitor parking space, whilst the remaining 15 plots have 2 on-site parking spaces. A further 5 dwellings have space for unallocated visitor parking. This would leave ten dwellings with the need for additional visitor parking. As per

Policy DM22, 3 additional visitor spaces are required for these dwellings (rounded up) and the scheme includes 3 visitor spaces within the site.

16.24 The parking standards also require a minimum of 1 secure covered cycle space per residential dwelling (unless a secure area can be provided within the curtilage of the dwelling). Details for cycle storage are secured via condition on the outline planning permission. Nevertheless, the submitted plans indicate that appropriate cycle parking can be achieved through the provision of an on-site outbuilding for each dwelling.

Refuse & Recycling

16.25 Each dwelling will have dedicated storage within their own residential curtilage and it is expected that kerb site collection is proposed. To this extent, size 3 and size 5 turning heads are provided to enable refuse vehicles to get to each dwelling.

Other Matters

16.26 The outline planning permission required nine of the 30 dwellings to be affordable. The affordable housing mix comprises 4no. two-bed dwellings, 4no. three-bed dwellings and 1no. four-bed dwelling. Whilst it would be preferred for the affordable housing to not be clustered together, due to the size of the scheme, it is understood that this can prove difficult. The proposed housing mix has otherwise been agreed with the Affordable Housing Enabling Officer.

16.27 A proportionate financial contribution to mitigate wildlife impact from recreational disturbance (i.e. potentially caused by people occupying new residential units) in accordance with emerging Essex Coast RAMS requirements was also secured through the outline planning permission.

16.28 Other matters, including archaeological impacts, contaminated land, drainage and ecology, were addressed at the outline application stage and, subject to conditions, were found to be acceptable. Whilst updated consultation responses and requests for conditions in respect of some of these matters were received, the outline planning permission covers these aspects satisfactorily and there is no requirement for additional conditions.

17.0 Planning Balance and Conclusion

17.1 This reserved matters application is submitted pursuant to outline planning permission 212646. The principle of development is established by the outline permission with this reserved matters application covering all other aspects, including appearance, landscaping, layout and scale of the development.

17.2 While local objections (mainly to the proposed layout) are noted, the scheme is held to be generally well designed and thus satisfactory. The conditions attached to the outline planning approval and those subject below, will ensure that this development can be undertaken without material harm to matters of acknowledged planning importance.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. Reserved Matters Applications

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference 212646 relating to this site and the conditions attached thereto remain in force.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by section 51 of 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

- 1118 R1.L.001 (Site Location Plan)
- 1118 R1.L.004 (E) (Proposed Site Plan)
- 1118 R1.L 005 (E) (Proposed Materials Plan)
- 1118 R1.L 010 ('AH3' - Proposed Floor Plans & Front Elevation)
- 1118 R1.L 011 ('AH3' - Proposed Side & Rear Elevations)
- 1118 R1.L 012 (AH4 - Proposed Floor Plans and Front Elevation)
- 1118 R1.L 013 (AH4 - Proposed Side & Rear Elevations)
- 1118 R1.L 014 ('AH 6' - Proposed Floor Plans & Front Elevation)
- 1118 R1.L 015 ('AH 6' - Proposed Side & Rear Elevations)
- 1118 R1.L 016 ('PD1' - Proposed Floor Plan & Front Elevation)
- 1118 R1.L 017 ('PD1' - Proposed Side & Rear Elevations)
- 1118 R1.L 018 ('PD2' - Proposed Floor Plan and Front Elevation)
- 1118 R1.L 019 ('PD2' - Proposed Side & Rear Elevations)
- 1118 R1.L 020 (PD3 Plots 14,15,20 - Prop Floor Plans and Front Elev)
- 1118 R1.L 021 (PD3 Plots 14,15,20 - Prop Side and Rear Elevs)
- 1118 R1.L 022 (PD3 Plots 17 & 18 - Prop Floor Plans and Front Elev)
- 1118 R1.L 023 (PD3 Plots 17 & 18 - Prop Side and Rear Elevs)
- 1118 R1.L 024 ('PD4 P7' - Proposed Floor Plans & Front Elevation)
- 1118 R1.L 025 ('PD4 P7' - Proposed Side & Rear Elevations)
- 1118 R1.L 026 ('PD4+ P8' - Proposed Floor Plans & Front Elevation)
- 1118 R1.L 027 ('PD4+ P8' - Proposed Side & Rear Elevations)
- 1118 R1.L 028 ('PD 5 Render' - Proposed Floor Plans & Front Elev)
- 1118 R1.L 029 ('PD 5 Render' - Proposed Side & Rear Elevations)
- 1118 R1.L 030 ('PD 5 Brick' - Proposed Floor Plans & Front Elev)
- 1118 R1.L 031 ('PD 5 Brick' - Proposed Side & Rear Elevations)
- 1118 R1.L 032 ('PD9 Brick' - Proposed Floor Plans and Front Elev)
- 1118 R1.L 033 ('PD9 Brick' - Proposed Side & Rear Elevations)
- 1118 R1.L 034 ('PD9 Render' - Proposed Floor Plans and Front Elev)
- 1118 R1.L 035 ('PD9 Render' - Proposed Side & Rear Elevations)
- 1118 R1.L 036 ('PD10' - Proposed Floor Plans and Front Elevation)
- 1118 R1.L 037 ('PD10' - Proposed Side & Rear Elevations)
- 1118 R1.L 038 ('PD 11' - Proposed Floor Plans & Front Elevation)
- 1118 R1.L 039 ('PD 11' - Proposed Side & Rear Elevations)
- 1118 R1.L 040 ('PD12' - Proposed Floor Plans and Front Elevation)

1118 R1.L 041 ('PD12' - Proposed Side & Rear Elevations)

1118 R1.L.042 (Proposed Outbuildings)

1118 R1.L.043 (Proposed Outbuilding)

Arboricultural Impact Assessment and Method Statements (Reference No. TPSQU0040, Issue No 4, dated 24th April 2023)

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

3. Materials

No external facing or roofing materials (including those of the on-site sub-stations), or brick boundary walls, shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development in the interests of good design and visual amenity as there are insufficient details within the submitted planning application.

4. Architectural Details

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the depth of reveal and any dormer features); rooflights to be used; doors, cills, lintels, arches, eaves, verges, ridge, brickwork /stone work detailing, chimneys; recessed/projecting/decorative brickwork; bays, porches, plinths; blank and faux windows; and any rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design and that the character and appearance of the area is not compromised by poor quality architectural detailing.

5. Utilities

No works shall commence (above ground floor slab level) until details (including position) of all external plant (including solar PV), extract ducts, vents, grilles and meter housings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of good design and visual amenity, as there are insufficient details within the submitted planning application.

6. Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to protect the amenities of adjacent neighbouring occupiers.

7. PD Removal for boundary treatments

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected on any public facing boundary unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

19.1 Informatives

19.1 The following informatives are also recommended:

Advisory Note on Construction & Demolition

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

Informative on Conditions Stating Prior to Commencement/Occupation

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

Informative on Street Naming & Numbering

For the safety of residents, it is the developer's obligation to ensure that

1. street name signs are in place before the first property is occupied on any new street, and
2. each property is marked with a house number visible from the highway before occupation

Informative for Reserved Matter Applications Regarding Outline Condition

PLEASE NOTE that the outline planning permission reference number 212646 together with this approval constitute the planning permission for this development. All of the conditions imposed on both the outline permission and this approval must be complied with.

Informative on Any Application With a Site Notice

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



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Item No: 7.2

Application: 232148

Applicant: Oakbourne Management

Agent: Euan Shepherd

Proposal: Retrospective application for erection of a fence in the alleyway adjoining John Castle Way and Bourne Court to prevent documented anti social behaviour such as: drug dealing, trespassing and threatening behaviour.

Location: John Castle Way, Colchester

Ward: Berechurch

Officer: Phillip Moreton

Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the application has been called in by Cllr Martin Warnes and is controversial locally.

2.0 Synopsis

2.1 The key issues for consideration are: the principle of development, the impact on the character and appearance of the Area, pedestrian/cycle connectivity and amenity. Other material planning matters are also considered. The comments submitted by statutory consultees, as well as other consultees and local representations are considered.

2.2 The application is subsequently recommended for refusal.

3.0 Site Description and Context

3.1 The site is a footpath/cycleway that is located to the East of John Castle way and west of Dudley Court. The site is a footpath and cycleway associated with the development of residential properties of John Castle Way that was secured by condition 30 of the approved outline permission (132075) for this development to connect King George Avenue with Dudley Court. See below:

30. Prior to occupation the new cycleway/footway linking King George Road to Dudley Close will be constructed entirely at the Developer's expense.
Reason: To make adequate provision within the highway for the additional pedestrian and cycling traffic generated within the highway as a result of the proposed development.

3.2 A complaint was made to the Councils planning enforcement team that the footpath/cycleway had been closed off by a close boarded fence. The complaint was investigated, and a site meeting took place on site with residents of the estate, the estate managers, planning officers and ward councillors where the issues were discussed. It was explained that a planning application would need to be submitted to the City Council to seek the retention of the fence and that this should be presented to Colchester's Planning committee for determination to consider the pro's and con's of the application in the context of the Councils adopted plan policies which encourage walking and cycling.

4.0 Description of the Proposal

4.1 The application seeks retrospective planning permission for a fence to block the pedestrian/cycleway link which connects John Castle Way and Bourne Court

5.0 Land Use Allocation

5.1 Residential predominantly.

6.0 Relevant Planning History

6.1 132075 – Outline – Residential development comprising up to 24 no. dwellings, associated landscaping and vehicular access from King George Road. Approved 18/11/2014.

6.2 160071 – Full – Erection of 27 residential units, complete with access and parking provision. Approved 10/08/2016.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

PP1 Generic Infrastructure and Mitigation Requirements
DM15 Design and Amenity
DM20 Promoting Sustainable Transport and Changing Travel Behaviour

7.4 Regard should also be given to the following adopted Supplementary Planning Documents (SPD): The Essex Design Guide

8.0 Consultations

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

8.2 **Transport and Sustainability** – We note that the landowner is applying for retrospective planning approval for blocking off the foot and cycleway they installed only 5-6 years ago. We note that they claim this will stop antisocial behaviour, but I believe they have severed a foot and cycle path leaving two dead-end paths. With no people passing through this space, with passive policing to those using the path, surely the potential for antisocial behaviour is higher.

The original planning approval for the development (132075) required a new cycleway/footway linking King George Road to Dudley Close to be constructed entirely at the developer's expense, and the reason for this condition was to make adequate provision for the additional pedestrian and cycling traffic generated as a result of the proposed development. We would suggest that this is a well-used east west route linking the Bourne Road/ Mersea Road area with the LCWIP route 5 Garrison route which serves the residential areas to the west as well as linking into the city centre. This link also enables cyclists and pedestrians to access the LCWIP 5 Garrison route from The Hythe area via Distillery Lane and Bourne Pond nature reserve and avoiding the busy Mersea Road. Of course, the residents of this development also enjoy the foot and cycle access that this link provides, including access to St Georges Primary school.

We would suggest that any antisocial behaviour is addressed by the landowner other means, which do not conflict with their original planning condition and allow local residents to make their journeys on foot or bike in line with Council policy to help reduce congestion and enable healthy lifestyles.

8.3 **Community Safety Officer** – No response received at the time of writing the report.

8.4 **Police Designing Out Crime Officer** – Will be providing a response following consulting colleagues who are on annual leave. This will be before the committee date and will be added to the amendment sheet.

8.5 – **Environmental Protection** – No Comment

8.6 – **Highways Authority** - The Highway Authority observes that the fence is located on private land and not highway Maintainable at Public Expense and therefore does not object to the proposals as submitted.

8.7 - **Colchester Cycling Campaign** – The cycling campaign objects to this proposal. Please note that the original conditions for this development (plan 132075) specified that the developer provide a pedestrian/cycle link between King George Road and Dudley Close/Bourne Court. What prevents antisocial behaviour is frequent passing and repassing by ordinary citizens. Creating what amounts to two cul-de-sacs is likely to increase not decrease any such activity. We request that the fence is removed and also (in line with LTN 1/20 and the principles set out in Gear Change) that any staggered barrier is taken out. It is clear from the other comments on the application that this is a valued link for cyclists and pedestrians. Retaining the blockage would result in significant diversions and possibly more journeys by car.

9.0 Representations from Notified Parties

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

Objection comments summary:

- Concerns about loss of walkable access to amenities e.g., Doctors surgery, schools
- Concerns about the loss of pedestrian and cycle path are at odds with Council policy.
- Concerns over loss of access to public transport.
- Concerns about the access for emergency vehicles.
- Fears over isolation from the wider community.
- Walkway improved connectivity in the local community

Support comments summary:

- Alleyway allegedly used for criminal activity.
- Antisocial behaviour on pathway.
- Safer for children

10.0 Air Quality

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

11.0 Planning Obligations

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

12.0 Report

Connectivity and Amenity

- 12.1 Local Plan Section 2 Policy DM20 sets out criteria that will be applied to increase modal shift towards sustainable modes by improving accessibility of development through the promotion of walking and cycling as an integral part of development with sustainable transport being improved to provide better connections between communities and their needs. This will be achieved by Safeguarding existing and proposed routes for walking, ensuring new developments are supported by quality public transport linking them to the main urban areas and major centres of employment, health and education. Access to public transport should be within walking or cycling distance of any new development.
- 12.2 Local Plan Section 2 Policy DM15 states that development should protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight and create a safe, resilient and secure environment, which supports community cohesion and is not vulnerable to neglect, whilst also stating that development should provide attractive, well connected and legible streets and spaces, which encourage walking, cycling, public transport and community vitality, whilst adequately integrating safe vehicle access.
- 12.3 In this instance, the proposal seeks retrospective planning permission for the retention of a close boarded fence that closes off the formerly existing path and cycleway. The path/cycleway in question was secured by condition 30 of the outline planning application (130072) as a part of the approval. It is clear that the intent of the condition was for the path/cycleway to be retained as a part of the development to improve and increase access to local amenities by the local community via sustainable means e.g., walking and cycling and therefore reduce the need to drive in line with local policy to promote sustainable transport to help reduce congestion and enable healthier lifestyles.
- 12.4 The management company/applicant representing residents has installed in path/cycleway that connects John Castle Way with Bourne Court to combat documented anti-social behaviour such as: drug dealing, trespassing and threatening behaviour. The problems experienced are acknowledged by officers who appreciate the burden this has imposed on residents of the dwellings fronting the link.
- 12.5 It is considered that the closing off of the path/cycleway leads to a loss of accessible link/route (that was secured by condition) for community access to local amenities and public transport which promotes sustainable transport and reduces the need for journeys by car. As the cycle/footway has been blocked it results in pedestrians that need to head East to west towards Berechurch Road needing to head around the development either north via Mersea Road and Pownall Crescent, or south via Mersea Road and then east via The Willows resulting in a longer journey. This longer journey in turn may result in more local residents driving to their destination instead of walking and cycling.

13.0 Planning Balance and Conclusion

- 13.1 Whilst the need for the fence to combat perceived anti-social behaviour is understood the demonstrable harm caused by the blocking of this conduit clearly fails to comply with Adopted Policy DM20 and the NPPF 2023 Paragraph 104 both of which look to

promote active and sustainable modes of transport. The Planning Balance therefore tips in favour of a refusal of this scheme. It is also considered that an alternative solution needs to be found to combat the antisocial behaviour experienced whilst allowing use of the approved route which provided an important link.

14.0 Recommendation to the Committee

14.1 The Officer recommendation to the Committee is for:

REFUSAL of planning permission for the reasons set out below:

1. The National Planning Policy Framework (the Framework) (2023) Para 104 States that transport issues should be considered from the earliest stages of plan making and development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued.

Local Plan Section 2 Policy DM15 states that development should protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight and create a safe, resilient and secure environment, which supports community cohesion and is not vulnerable to neglect, whilst also stating that development should provide attractive, well connected and legible streets and spaces, which encourage walking, cycling, public transport and community vitality, whilst adequately integrating safe vehicle access.

Local Plan Section 2 Policy DM20 sets out criteria that will be applied to increase modal shift towards sustainable modes by improving accessibility of development through the promotion of walking and cycling as an integral part of development with sustainable transport being improved to provide better connections between communities and their needs. This will be achieved by Safeguarding existing and proposed routes for walking, ensuring new developments are supported by quality public transport linking them to the main urban areas and major centres of employment, health and education. Access to public transport should be within walking or cycling distance of any new development.

Whilst the need for the fence to combat perceived anti-social behaviour is understood the demonstrable harm caused by the blocking of this conduit clearly fails to comply with Adopted Policy DM20 and the NPPF 2023 Paragraph 104 both of which look to promote active and sustainable modes of transport. The Planning Balance therefore tips in favour of a Refusal of this scheme by reason of the resultant harm to the policy objective of promoting sustainable and active travel through the provision of permeable and well-connected development.



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Item No: 7.3

Application: 230761

Applicant: Mr And Mrs Nigel Chapman

Agent: Mrs Lucy Carpenter

Proposal: Retrospective application for construction of side boundary brick walls.

Location: Holly Cottage, Straight Road, Boxted, Essex, CO4 5QN

Ward: Rural North

Officer: Nicola Perry

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee due to the applicant being a former Colchester City Council Councillor. Section 9 of the Planning Procedures Code of Practice requires all applications which are submitted by or on behalf of former Councillors (within the last 6 months) to be reported to the Planning Committee.

2.0 Synopsis

2.1 The application seeks retrospective planning permission for two brick boundary walls to the south side of the site, between Holly Cottage and Pond Cottage. The key issues for consideration are the design and visual impact of the development on the application site and surrounding area including the setting of the Listed Buildings, as well as the effect on residential amenity.

2.2 Having assessed the application against local and national legislation, policy and guidelines it is considered that the development does not have a detrimental impact visually or adversely affect neighbouring amenity, nor does it harm the setting of the Listed building,

2.3 The application is subsequently recommended for approval, subject to conditions. All relevant issues are assessed in the report below.

3.0 Site Description and Context

3.1 The application site contains a single detached residential property known as 'Holly Cottage' located on the west side of Straight Road to the south of the junction with Oakfield Drive, within the Parish of Boxted.

3.2 Holly Cottage (List UID 1238548) was originally one of two Grade II listed buildings dating from the 17th Century, that has since been combined with adjoining Box Cottage to the north (List UID 1274103) to form a single dwelling under the same ownership. The two-storey property accommodates a first floor in the roof served by dormers and is of traditional timber framed, rendered and thatched construction. Adjacent property, Pond Cottage to the south is unlisted but its architecture, as well as evidence from historic maps, suggest it dates from at least the mid-19th Century.

3.3 Holly Cottage is set back from the highway to include a garden area to the front bordered by hedging and a picket fence along the boundary and vehicular access for off-street parking. The property is grouped with other nearby properties, whilst the wider surroundings are characterised by predominately linear residential development along Straight Road and open countryside.

3.4 The application site is not situated within designated land such as a Conservation Area, an Area of Outstanding Natural Beauty (AONB), and is not a designated Scheduled Monument. There are no trees within or immediately adjacent to the site that are covered by Tree Preservation Orders (TPO's).

4.0 Description of the Proposal

- 4.1 Householder planning permission is sought retrospectively for the construction of side boundary brick walls, situated between Holly Cottage and adjacent Pond Cottage.
- 4.2 The brick walls subject of the application are described as comprising of two independent sections. One of which is located along the southern boundary, separating the front garden area of Holly Cottage from the parking area to Pond Cottage (wall 2 on the supplied plan). The other is located on the boundary to the rear of Pond Cottage, separating the private rear courtyard area of this adjacent property from Holly Cottage (wall 1 on the supplied plan).
- 4.3 A brief Planning Statement and Heritage Assessment have been provided with supporting information in addition to the supplied drawings.

5.0 Land Use Allocation

- 5.1 Established residential curtilage located within Boxted settlement boundary.

6.0 Relevant Planning History

- 6.1 An application for Listed Building Consent (230762) was submitted concurrently but subsequently withdrawn as it was not required in this instance.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

SG8 Neighbourhood Plan
ENV1 Environment
DM13 Domestic Development
DM15 Design and Amenity
DM16 Historic Environment
DM19 Private Amenity Space

7.4 The Neighbourhood Plan for Boxted is also relevant. This forms part of the Development Plan in this area.

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

The Essex Design Guide
External Materials in New Developments
Boxted Parish Plan incorporating Village Design Statement

8.0 Consultations

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

Historic Buildings and Areas Officer

8.2 The Historic Buildings and Areas Officer has analysed the impact upon heritage, advising in summary that Holly Cottage comprises two listed buildings that have been linked and are under the same ownership, Box Cottage (List UID 1274103) and Holly Cottage (List UID 1238548). Adjacent property, Pond Cottage is unlisted but its architecture and the evidence from historic map suggest that it dates from at least the mid-19th century or perhaps a bit earlier. It forms a pleasant group with the group of listed buildings to the north (including Holly Cottage, Box Cottage, and Medlars) and other unlisted properties in the vicinity, such as Bartons and the Old Forge House.

8.3 The predominant means of enclosure in the area are hedges, picket fences and close board fences. Ordinarily, the recommendation for the wall sections in question would therefore be the use of one of these options, to be in keeping with the character of the area. However, having regard for the retrospective nature of the application and the quality of the brick walls that have been built with good materials and detailing, the proposal can be supported provided that some form of mitigation is agreed, to soften the impression of the tall walls (especially the front section that is visible from Straight Road) and assist their integration in this context. Suggested mitigation could include some form of hedge planting before the wall and/or the use of trellis panels, to support climbing plants.

It is noted a query was also raised in respect of the status of planning permission for a large outbuilding located to the front garden of Pond Cottage, however this is a separate matter which does not form part of the assessment of this application.

Archaeological Advisor

- 8.4 The Archaeological Advisor has examined the submitted plans and documents and confirms the development would not result in material harm to the significance of below ground archaeological remains. Therefore, no there would be no requirement for archaeological investigation.

Essex Highway Authority

- 8.5 The Highway Authority do not object to the development as submitted. An informative is provided requesting any works within or affecting the highway to be agreed by prior arrangement with the Highway Authority before commencement. As the application is for retrospective planning permission this guidance is not required.

9.0 Parish Council Response

- 9.1 The Parish Council have not returned any comments on this application.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties, a site notice was also displayed and a press advert published. No written representations from members of the public (objections/or support) were received in response.

11.0 Parking Provision

- 11.1 Parking provision would be unaffected by this development.

12.0 Accessibility

- 12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The development does not raise any issues of potential direct or indirect discrimination and the consultation responses and/or representations received, have not identified any specific equality implications requiring additional consideration.

13.0 Open Space Provisions

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

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in determination of this application are:

- The Principle of Development
- Design and Layout
- Visual Impact on the Surrounding Area
- Impacts on Neighbouring Amenity
- Impacts on Heritage Assets
- Other Matters

Principle of Development

16.2 The application site has an established residential use and is located within the settlement boundary for Boxted. Domestic development is therefore generally acceptable in principle, subject to material planning considerations. This includes the design of the development, with particular regards to the visual impact on the character and appearance of the application site, surrounding area, and setting of the Listed Buildings, as well as the effect on residential amenity in terms of outlook, light and privacy.

Design, Layout and Impacts on Neighbouring Amenity

16.3 The National Planning Policy Framework (the Framework) (NPPF) (2023) and the Planning Practice Guidance (PPG) recognise the importance of good design, specifically in paragraph 130 of the NPPF which requires planning decisions to ensure development is visually attractive as a result of good architecture, and sympathetic to local character. Paragraph 126 states that the creation of high quality and beautiful buildings and places are both fundamental to what the planning and development process should achieve.

16.4 The relevant policies from the adopted Colchester Local Plan include Section 1 Policy SP7 *Place Shaping Principles* which states all new development should meet high standards of urban and architectural design, and respond positively to local character and context to preserve and enhance the quality of existing places and assets of historical value. Section 2 Policies DM13 *Domestic Development* and DM15 *Design and Amenity* are also applicable. These policies require development to be designed to a high standard to respect and enhance the character and appearance of the site, its context, and surroundings, to achieve good standards of amenity and positively integrate with the character of the existing built environment, including heritage assets.

- 16.5 The application relates to the erection of brick walls to the shared boundary of the site between Holly Cottage and Pond Cottage. The two sections of wall comprise a large, angled stretch (wall 2) to the front southern boundary and a smaller infill piece (wall 1) to the mid southern boundary replacing a holly hedge with metal stakes and a dilapidated wall respectively. Both sections of wall are approximately 186.5cms in height (depending on ground levels) and constructed from multi red bricks in Flemish bond capped with a red creasing tile and a brick on end.
- 16.6 The brick walls are typical of this form of traditional boundary enclosure. A palette of high-quality materials and techniques have been used in terms of brick type, texture, colour, and bond, which correspond appropriately with the character and appearance of the host dwelling and surrounding area.
- 16.7 Owing to the location of the brick walls along the side boundary and orientation of the large section to the front in relation to the highway, the development is not overly obtrusive within the street scene. Although it is acknowledged the large section is partially visible when approaching the site from north to south, the presence of existing boundary treatment to the sites frontage, comprising an established hedge and picket fence, provides an element of screening. It was noted during the case officer site visit, this is further enhanced by planting adjacent to and in the foreground of the large section of brick wall which helps soften its appearance. The brick walls are also expected to weather in time dulling down in tone. A compliance condition is therefore considered sufficient and proportionate to the scale of development, to ensure planting is retained in perpetuity, should permission be granted.
- 16.8 Whilst the smaller section of brick wall does not benefit from any soft landscaping in its foreground, it is considered to have negligible impact on the wider surroundings owing to its location, modest size and the characteristics of the site.
- 16.9 The submitted Planning Statement advises the brick walls were constructed by the owners of neighbouring property Pond Cottage, in conjunction with the owners of Holly Cottage. Nonetheless, due regard has been given to the impact of the proposed development on the residential amenity of current and future occupiers. The location, density and height of the brick walls are comparable to typical boundary treatments found between residential properties and therefore are not considered to result in material harm or represent an unneighbourly form of development.
- 16.10 For the reasons described, the design of the development is satisfactory on its own merits to integrate accordingly with the context of the site. The brick boundary walls are considered visually acceptable and do not materially detract from the appearance of the host dwelling, nor do they diminish the character of the site, the street scene or surrounding area.

Impacts on Heritage Assets

- 16.11 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which they possess.
- 16.12 The National Planning Policy Framework (NPPF) (2023) aims to conserve and enhance the historic environment. Section 16, Paragraph 199 determines that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraphs 201 and 202 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 16.13 This test of the Framework is reflected in Section 2 Policy DM16 *Historic Environment* of the adopted Colchester Local Plan, which requires development affecting the historic environment seeks to conserve and enhance the significance of heritage assets and any features of specific historic, archaeological, architectural, or artistic interest.
- 16.14 The application relates to development within the curtilage of Holly Cottage, a Grade II Listed Building. Advice from the Council's Historic Buildings and Areas Officer has therefore been sought regarding the impact of the development upon the character and setting of the designated heritage asset. The NPPF Glossary defines the setting of a heritage asset as "the surroundings in which a heritage asset is experienced" and clarifies that "its extent is not fixed and may change as the assets and its surroundings evolve".
- 16.15 In summary, the Historic Buildings and Areas Officer is able to support the development, owing to the quality of the brick walls that have been constructed, including materials and detailing. However, this is subject to some form of mitigation such as planting, to soften the impression of the walls particularly the section to the front that is visible from Straight Road and assist its integration in this context. It is noted from the case officer site visit that an area of planting exists in the foreground of this section of wall and some shrubs are already established, however this should be retained in perpetuity, should the application be approved. The smaller section of wall to the rear is relatively conspicuous in comparison due to its location.
- 16.16 Having due regard to the specialist advice received, with reference to the supplied Heritage Statement, Planning Statement and case officer site visit, the development is not considered to result in significant harm to the character and setting of the listed building, subject to appropriate mitigation. A condition securing planting would be included, should permission be granted.

Other Matters

16.17 Finally, in terms of other planning considerations such as. damage to trees, or archaeology, the development does not raise any concerns. The development is considered to accord with policies and guidance contained within the Boxted Neighbourhood Plan insofar as they relate to design, amenity and heritage. Additionally, the Parish Council have not returned any comments of support or objection in relation to the application.

17.0 Planning Balance and Conclusion

17.1 To summarise, the development is acceptable in design terms, including taking into account the visual impact on the site, the surrounding area and setting of the Listed Buildings, subject to conditions. The level of harm to neighbour amenity is not considered to be material or unacceptable. No objections have been received and it is felt that the development accords with the Council's policy requirements including Policies SP7, DM15 and DM16 from Section 1 and Section 2 of the adopted Colchester Local Plan.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. The development hereby permitted shall be permanently retained in accordance with the 'existing' details shown on the submitted Drawing Numbers:

2023-707-001, 2023-707-002

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

2. The materials shall be those specified on the submitted application form and drawings and shall be retained as such in perpetuity.

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

3. Within 1 year from the date of this permission, the area of garden to the front of the site shall include a section of planting adjacent to and along the length of wall 2, to include a mix of deciduous and evergreen plants and shrubs. These plants and shrubs shall then be monitored, in the event that any of these plants or shrubs, within a period of 5 years of being planted, die, are removed, destroyed, fail to thrive or are otherwise defective during such period, they shall be replaced during the next planting season thereafter, with others of similar size and type, unless the Local Planning Authority agrees, in writing, to a variation of these approved details.

Reason: In order to ensure that a sufficient landscaping scheme is retained to soften the development in the interest of visual amenity and to protect the setting of the Listed Buildings.

19.1 Informatives

Not applicable.

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Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



