

Planning Committee

Council Chamber, Town Hall
14 November 2013 at 6.00pm

This Committee deals with

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

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

Material Planning Considerations

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

The following approach should be taken:

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

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

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

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

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

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions and Considering Reasons for Refusing Applications

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

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

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

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

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
14 November 2013 at 6:00pm**

Members

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

Substitute Members

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

Agenda - Part A

(open to the public including the media)

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

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

Pages

1. Welcome and Announcements

- (a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:

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

2. Have Your Say!

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

Please Note: There will not be any public speaking permitted for Agenda item 8.

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

unless he/she has received a dispensation from the Monitoring Officer.

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

6. Minutes

1 - 5

To confirm as a correct record the Minutes of the meeting held on 17 October 2013.

7. Planning Applications

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

1. 131952 Garage Site, Holborough Close, Colchester
(St Andrew's)

6 - 24

Demolition of 21 existing garages, construction of three 2 bedroom, 2 storey houses with associated parking and displacement parking spaces, external works, drainage and landscaping.

2. 131927 Garage Block, Windsor Close, Colchester
(Berechurch)

25 - 41

Demolition of 40 existing garages. Construction of eight 2 bedroom, 2 storey flats with associated parking and displacement parking spaces, external works, drainage and landscaping.

3. 131957 Garage Site 1, Monkwick Avenue, Colchester
(Berechurch)

42 - 59

Demolition of 43 existing garages, construction of six 3 bedroom, 2 storey houses and eight 2 bedroom, 2 storey flats with associated parking and displacement parking spaces, external works, drainage and landscaping.

4. 131956 Garage Site 2, Monkwick Avenue, Colchester (Berechurch) **60 - 80**
- Demolition of 39 existing garages, construction of four 3 bedroom, 2 storey houses with associated parking and displacement parking spaces, external works, drainage and landscaping.
5. 131929 Garage Block, Rosabelle Avenue, Wivenhoe (Wivenhoe Quay) **81 - 102**
- Demolition of 40 existing garages, construction of five 3 bedroom, 2 storey houses with associated parking and displacement parking spaces, external works, drainage and landscaping.
6. 131931 14 Boadicea Way, Colchester (Shrub End) **103 - 108**
- Single storey rear extension with front and rear disabled ramp.
- 8. Delayed Decision Protocol Report - 131020 and 131023 Jumbo Water Tower, Balkerne Passage, Colchester (Castle) 109 - 112**
- Please see the report of the Head of Commercial Services (attached).
- 9. Amendment Sheet 113 - 114**
- Please see the amendment sheet (attached).

**PLANNING COMMITTEE
17 OCTOBER 2013**

Present :- Councillor Theresa Higgins (Chairman)
Councillors Peter Chillingworth, Helen Chuah,
Stephen Ford, Sonia Lewis, Cyril Liddy,
Jackie Maclean, Jon Manning and Laura Sykes
Substitute Member :- Councillor Gerard Oxford for Councillor Philip Oxford

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

75. 131568 - Bawley House, Walter Radcliffe Road, Wivenhoe

The Committee considered an application for the change of use of approved 8 office units on the first and second floor of the commercial block to polyfunction units with associated parking. The Committee had before it a report in which all the information was set out.

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

A Member of the Committee sought several points of clarification. It was explained by the Principal Planning Officer that there was no proposal to reduce the number of parking spaces on the site. However, as the parking standard for residential units was a minimum standard, up to sixteen spaces would be set aside for such use, which would reduce the number available for the restaurant. However restaurant use attracted only a maximum standard of parking, which would still be complied with in such circumstances.

The contributions for Affordable Housing would supplement a Borough-wide funding pot. It was highlighted that the units in question were to be provided with private balconies and public amenity space was available in the area.

It was noted that there was no requirement for the provision of a community facility within this application.

RESOLVED (UNANIMOUSLY) that –

(i) the application be approved subject to the signing of a unilateral undertaking within six months from the date of the Committee meeting to secure the financial contributions and a linking agreement to the legal agreement in respect of application 091559 to secure the erection of the building.

(ii) In the event that the unilateral undertakings were not signed within six months, to delegate authority to the Head of Professional Services to refuse the application, or otherwise to be authorised to complete the undertakings.

(iii) On completion of the legal agreements the Head of Professional Services be authorised to grant planning permission subject to the conditions set out in the report

and amendment sheet.

76. 131809 - 2 Middleborough, Colchester

The Committee considered an application for the variation of condition 4 (opening hours) attached to planning permission 122147 relating to the Papa Johns Pizza Takeaway. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr Carl Allen, Planning Officer, presented the report and assisted the Committee in its deliberations. He emphasised that, in planning terms, the main consideration for the Committee was the noise disturbance of delivery vehicles.

Ms Sue Kavanagh, 1 St Peter's Yard, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She claimed that there was inadequate parking on the application site to provide for the business use currently employed. She said that parking was currently undertaken off the site, in front of the adjacent advertisement hoarding. This was currently being investigated. She emphasised that Essex County Council's Highways wasn't consulted. She further suggested that noise from delivery vehicles was disturbing the residents that were near the rear of the building. She claimed that although the area was busy in the day, at night it was quiet and the noise was disruptive.

Mr James Edwards addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He claimed the proposal was reasonable in planning terms and simply confirmed the principle established in the earlier permission. He stated that the Environmental Protection Team were happy with the proposal and had always intended the restrictions to apply to the delivery of raw materials, not takeaways. He suggested that the site was deemed to be busy, in the centre of Colchester and that delivery vehicles would not cause any additional disturbance. He stated that the applicant was in discussion with delivery drivers and was working with staff regarding their behaviour.

Councillor Frame attended the meeting and, with the consent of the Chairman, addressed the Committee. He called in the application because of the noise generated from deliveries, which was a significant disturbance in the evening. He believed that it should be ensured that drivers didn't linger near residential areas. He stated that he had received a lot of complaints regarding the noise generated. He said that Papa Johns' should behave as a good neighbour and control their noise levels.

Councillor Hayes attended the meeting and, with the consent of the Chairman, addressed the Committee. She reiterated previous comments regarding the inadequate parking facilities on the site, causing drivers to park illegally off site. She said she would be interested to hear the outcome of investigations. She commented that the road was a busy pedestrian thoroughfare and believed there was a highways issue that should have attracted consultation. She believed that the existing restrictions on takeaway delivery hours were reasonable and suggested the Committee did have sufficient grounds to refuse the application.

The Committee sympathised with the residents however it was noted that as Environmental Protection had raised no objections, the proposal was considered acceptable. It was suggested that the issues raised by residents were more management related.

It was explained that at that moment the site did adhere to parking standards, which was related to floorspace. The Enforcement Team was aware of the issue of illegal parking. Although the area in question was not part of the application site, investigations into the ownership of that land were being made. It was anticipated that an application for increased parking to the rear of the property would be submitted in due course. It was explained by the Planning Officer that the development was next to a highway, which was available for vehicles to use at all times of the day and night. As such, delivery vehicles using this road later at night could not be considered an unreasonable disturbance. The surrounding area was of mixed business and residential use, which attracted activity late into the night.

The Committee raised the issue of unauthorised parking and requested that it be raised with the Enforcement Team to monitor. They also suggested that the applicant needed to take on board the comments of the residents and Committee regarding the parking arrangements.

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

- The applicant regarding an application to improve parking facilities, and
- To the Highway Authority and Environmental Protection in respect of inappropriate parking and amenity issues.

77. 131676 - 9 Little Foxburrows, Shrub End

The Committee considered an application for the conversion of an existing car port and associated alterations. The application had been deferred from the Committee meeting of 3 October 2013 for further information on previous conditions relating to parking and the use of car ports when the original application was approved. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Nadine Calder, Planning Officer, and Ms Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. The Officers explained that condition 26 of the original planning permission, relating to the use of car ports, was to ensure highway safety. As such, she had consulted the Highway Authority had been consulted and had no objections.

Mr Mike Hardy addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was speaking on behalf of Ms Stone and other residents. He stated that the estate was created as a careful balance between homes, open space and parking, with little surplus space. He suggested that the final permission for the estate should be considered as a policy, as

it outlined a particular style for the area. He claimed that the proposal was inconsistent with this design. Car ports were used in this area to minimise on-street parking. To increase parking needs while simultaneously decreasing parking provision would be nonsensical. He requested that the Committee uphold the original permission and its conditions.

Councillor Barton attended the meeting and, with the consent of the Chairman, addressed the Committee. She thanked the Planning Officer for considering the boundary considerations. She suggested that it was necessary to look at the bigger picture. She stated that the Committee which had originally granted permission understood the traffic issues caused by garages and conditioned appropriately. No enforcement was being acted upon regarding that condition. If this Committee did not refuse the application, planning conditions would be rendered pointless.

Councillor Hazell attended the meeting and, with the consent of the Chairman, addressed the Committee. She commented that car ports were for cars and not for people. She also suggested that an approval of this application would contradict the spirit of the original permission. In her opinion, the application was of such a nature as to not warrant any reference to the National Planning Policy Framework. She highlighted that residential amenity was not purely for the applicant but for the neighbouring residents as well. She was concerned as to the consequences of the application with regard to the amount of traffic generated. She urged the Committee to uphold the 2005 decision in spirit and intent.

Members of the Committee expressed concern that approving the proposal would undermine the original planning permission, citing existing traffic problems in the area. It was suggested that the application could be refused on the grounds of being contrary to the original planning permission conditions. Several Members of the Committee were troubled by the potential precedent an approval of this proposal would set. Concern was also expressed regarding DP13 and the significant increase in size, although not in footprint, of the house from a four bedroom to a five bedroom property. It was suggested that this would be out of keeping with the rest of the area.

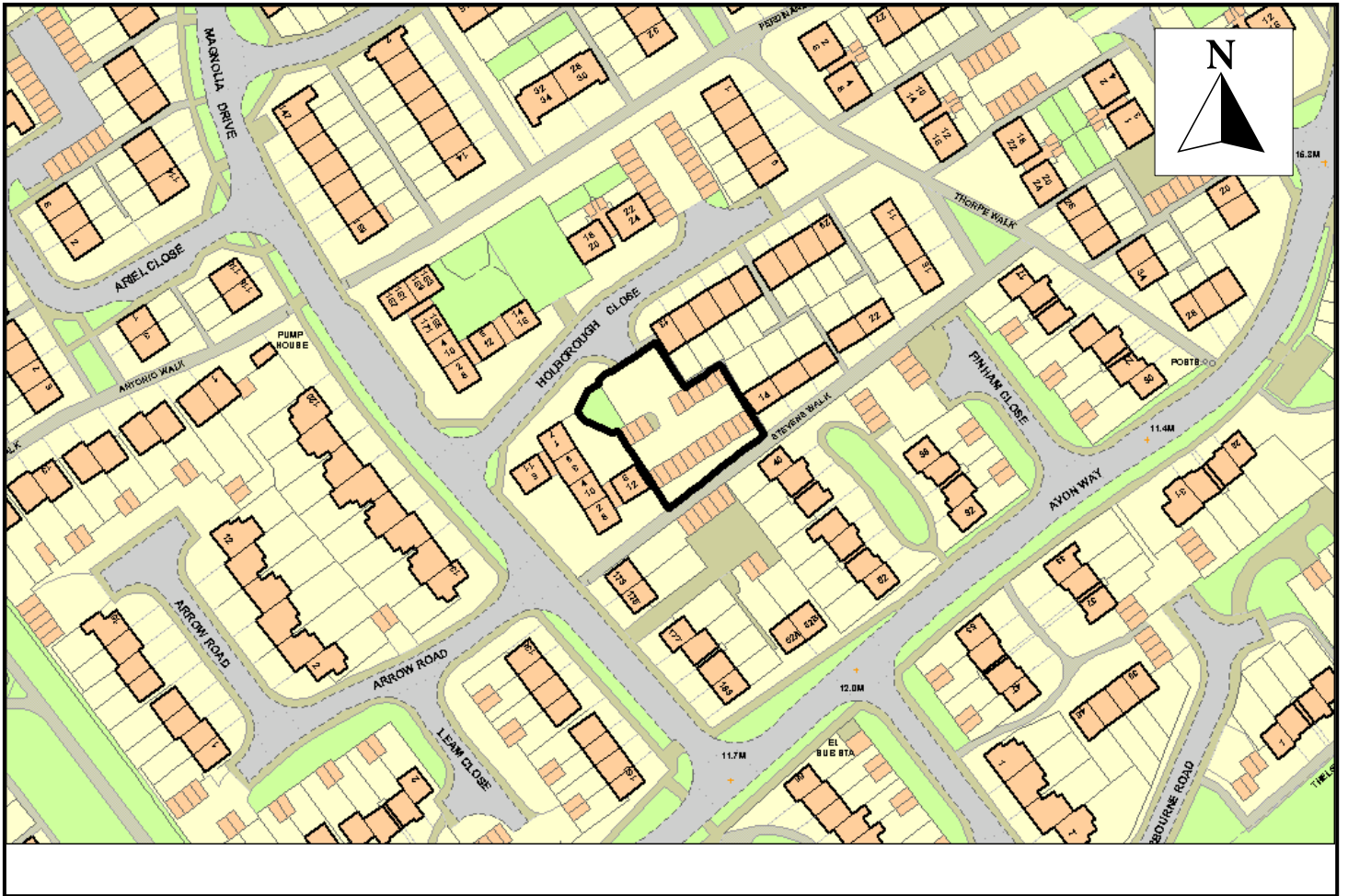
The Planning Officer reiterated that the Highways Authority had not raised any objections to the proposal, after visiting the site. She explained that planning conditions removed permitted development rights and were placed on planning permissions to ensure that control remained with the Council to consider planning applications on their specific merits. She explained that the proposal was not considered contrary to policy DP13.

Several members of the Committee commented that the footprint of the property was not being increased in any way and that sufficient parking, according to policy, would still be available on the driveway for a five bedroom dwelling.

The point was further raised that the garden area appeared to be covered in decking, which was contrary to policy. It was explained by the Planning Officer that this part of the layout could be excluded from any permission granted by a condition. It was further requested that, if approved, a condition be added to ensure use remained residential.

RESOLVED (FOUR voted FOR, FOUR voted AGAINST, TWO ABSTAINED from voting, and the Chairman having exercised her casting vote FOR) that the application be approved, subject to the conditions and informatives set out in the report with:

- An amendment to condition 2 to exclude the additional decking from the permission granted, and
- An extra condition ensuring that the development shall be used solely for residential purposes.



Application No: 131952

Location: Garage Site, Holborough Close, Colchester

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012



Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **14 November 2013**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Andrew Tyrrell

Due Date: 29/11/2013

MINOR

Site: Garage Site, Holborough Close, Colchester

Application No: 131952

Date Received: 4 October 2013

Agent: Nps Property Consultants Limited

Applicant: Colchester Borough Council

Development: Demolition of 21 existing garages, construction of three 2 bedroom 2 storey houses with associated parking and displacement parking spaces, external works, draingage and landscaping.

Ward: St Andrews

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Colchester Borough Council are the applicants and the proposal presents a departure from adopted policy requiring such applications to be accompanied by a contribution towards public open space provision.

2.0 Synopsis

2.1 This application is one of 5 concurrent schemes submitted to deliver a total combined number of 34 affordable housing units on under-used Colchester Borough Council (CBC) owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council Housing Services to find innovative ways of enabling more affordable housing to be built, in line

with stated key priority objectives of the Council. There is currently a significant shortfall in affordable housing in Colchester, and Government changes are likely to lead to an ever-reducing number of affordable units coming forward. At present levels there has been a need for over 1,000 affordable housing units to be provided for the Borough per annum since 2007. In 2011/12 the Council was able to deliver just 370 units through planning obligations on major developments and this was a 3-year high. With the gap increasing again last year after Government changes to the way in which affordable housing can be delivered from “planning gain”, the Council are looking at creative ways to deliver more proactively.

- 2.2 This application by Colchester Borough Council Housing Service proposes the demolition of 21 existing garages to allow for the construction of three 2-bed houses with associated parking. There are also displacement parking spaces for the cars currently occupying the garages and landscaping works. The report below examines the key issues of the impact on the streetscene, the impact on local residents and highway safety and balances them against the Government instructions to facilitate sustainable development, as well as CBC’s own stated key priority to deliver more affordable housing. The report concludes that there are no material reasons to justify the refusal of the application. In fact, the officer’s recommendation to the Committee is that it would enhance the quality of the built environment without adverse impacts to neighbours or highway safety and should be approved.

3.0 Site Description and Context

- 3.1 The application site is currently occupied by a tarmac parking forecourt and 21 garages (see 3.3 below). The site slopes downhill from the north-west entrance down to the south-east rear boundary, with residential properties to all sides. The site is opposite a parking forecourt and has its own forecourt area to the front. The road is unrestricted for parking although the turning head to the eastern end gets filled at night times and some people park on the kerbside as opposed to parking in the two parking areas. It is suggested that this is because of poor lighting.
- 3.2 To the “west” of the site is a block of flats which includes 12 units. Some of these have large windows that face into the site. There is also a drying area that forms part of the existing boundary. To the north-east and east there are neighbouring houses. The properties fronting Holborough Close have rear facing windows that look towards the site and share a boundary with their rear gardens adjacent to the site. The ones to the east are sited “side on” to the site and face onto Stevens Walk, which runs along the southern boundary of the site. There is another garage site and more houses downhill, beyond Stevens walk. Architecturally, the properties are all of a late-60s/70s character and there are no buildings of special architectural or historic interest nearby.
- 3.3 For clarity, there were 22 garages on the site, however one has already collapsed. The remains of this can be seen on site, in the middle of the row to the southern end. Therefore, the application says there are 21 to be demolished and this is the figure taken.

4.0 Description of the Proposal

4.1 The applicant proposes the demolition of the existing garages which are to be replaced by three 2-bed houses. The properties are of a contemporary design finished in brick and smooth render. There is associated parking for both the new properties, and for existing residents in the local area in order to compensate for the displaced car from the garages occupied at present. Overall there are 17 spaces provided.

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits but has no other allocation. As a garage site it would be considered as contaminated land and a survey has been submitted to detail this.

6.0 Relevant Planning History

6.1 There is no relevant planning history to this site and proposal.

7.0 Principal Policies

7.1 The national policy is set out in The National Planning Policy Framework (NPPF). The core thread of national policy is that sustainable developments, that are acceptable in terms of social, economic and environmental impact, should have a presumption in favour of approval. This will be explored further in the main report section below.

7.2 In addition to the above, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

- SD1 – Sustainable development
- H1 – Housing Delivery
- H2 – House Density
- H3 – Housing Diversity
- H4 - Affordable Housing
- TA5 – Parking
- UR2 – Built Design and Character
- PR2 – People Friendly Streets

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

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards

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

- Backland and Infill Development
- EPOA Vehicle Parking Standards (2009)
- Open Space, Sport and Recreation
- Extending your House?
- The Essex Design Guide (1997)
- External Materials in New Developments
- Affordable Housing

8.0 Consultations

8.1 The Highway Authority has stated that, “having regard to the fact that without recourse to the planning process all garages could be renovated and occupied, the proposal is not going to intensify the amount of traffic associated with the site. In this regard the Highway Authority would not wish to raise an objection”. They caveat that this is on the basis of conditions being included which have been set out in the recommendation below where they can be justified. The requirement to provide the preferred space dimensions has not been included as the spaces shown on the plans meet the minimum standards and these are acceptable. The preferred space dimensions would result in less spaces overall. Similarly, the County Council suggested travel pack condition has been amended to an acceptable version for Colchester Borough Council policies as the Local Planning Authority.

8.2 The Council’s Tree Officer has no objection subject to conditions included in the recommendation.

8.3 The Landscape Officer originally recommended revised proposals to better complement the existing landscape (revisions have been received since, although some issues require conditions). These revisions included repositioning the 2 trees nearest the entrance to site more centrally within their beds, removing 4 trees to better complement the spacing of existing tree cover locally and removing knee-rails that were considered not characteristic locally. A low box hedge was suggested to be more in keeping with local landscape character. Overall, the Officer consultation concluded that they were satisfied with the landscape content of the proposal subject to the above amendments and 2 conditions (included in the recommendation)

8.4 The Environmental Control Team has raised no objections as the team who look at complaints resulting from contamination, noise, light and other pollutants. The EHO has requested the use of model condition ZPA on “Construction Method” Statement. The contaminated land officer has added that they note that the reports submitted in support of this application include:

- 1) Walter Environmental Ltd Asbestos Refurbishment Survey, Ref GP-3384, dated 7/6/13
- 2) RSA Geotechnics Ltd Interpretative Report, ref 13601SI, dated July 2013.

“Both reports are acceptable for Environmental Protection purposes, although note that the RSA Geotechnics Ltd Report has been submitted without appendices and a complete report should therefore be requested from the applicant.

1) Has identified the presence of asbestos (roof sheeting and debris) and, as recommended, this material must be dealt with in an appropriate manner and by suitably qualified and experienced persons during the demolition process.

2) Includes a Desk study and some basic intrusive investigation. This report has concluded that there is a negligible risk to end users from any identified potential contaminants of concern and that there is no requirement for remediation.

Based on the information provided, it would appear that the site can be made suitable for the proposed use and should permission be granted for this application, the Contaminated Land Officer would recommend inclusion of the following condition:

- Reporting of Unexpected Contamination

8.5 Parks and Recreation have raised no comments as the team who maintain the Council's grassed areas.

8.6 The Council's Urban Designer suggested some amendments to the original plans which have either been shown on the amended plans received or can be conditioned. Therefore, they have no objections to the scheme.

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

9.0 Representations

9.1 1 letter of support has been received, there are no objections received. The letter of support is not unconditional and does raise some comments too, suggesting that some minor improvements to the proposal to improve the security of the new houses and the existing flats be made as below:

1. The footpath linking to Stevens walk on the west boundary of the site (at the side of 6/12 Stevens Walk) should be closed off by incorporating it into the garden of the new end house (plot 3). "Leaving it open encourages access close to the flats and houses and enables easy escape routes for people with criminal intent and provides nuisance opportunities to the flats and new houses. Effectively blocking it off improves the amenity value of the grass areas in front of the flats and houses as only the residents will have a good reason to be there and I am sure with this improved security it will be better cared for."

Officer Comment: This has not been proposed by the applicants, however it could be achieved by condition should the Committee wish to do so, as the land is within CBC ownership and therefore remains in the applicants control to deliver a satisfactory solution. It would be advisable that any works were undertaken after consultation with the occupiers of these units.

2. Similarly there should be no direct access to Stevens Walk from these new houses. These new house will back onto a blank block garage wall and will not be overlooked. This again provides opportunity for people with criminal intent to gain access to these properties. This will only impact on the middle house as the other two can have access by other means.

Officer Comment: No access is proposed so this suggestion is satisfied.

- 9.2 The letter continues that “In summary I support this proposal. But residents security should be designed in at the start. My proposal reduces the access to Stevens Walk to the absolute minimum for people in Stevens Walk to access their vehicles and provides a chance for the amenity of the green area in front of the flats and houses to be exploited by the residents and not abused by people passing through. In the past rubbish has been fly tipped at the back of garages. This is a chance to stop it being dumped at the back of some ones home.”

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

10.0 Parking Provision

- 10.1 The dwellings proposed have parking spaces that comply with the Borough’s adopted policies TA5 and DP19, as well as adopted minimum standards. Originally the spaces were shown to the Essex Design Guide standards for size, however this has since been corrected to the EPOA Parking Standards adopted since 2009. These require 2 spaces per dwelling and a visitor space. 17 spaces have been provided for the 3 dwellings, and for the displaced vehicles from the occupied garages and/or local residents. This ensures that there are no on-street pressures, although it has been noted on at least two occasions that there remain parking provision in this road too.

- 10.2 In terms of the space sizes, these are shown at 2.5 x 5.0m which is the minimum spaces acceptable. The Highway Authority have asked for the preferred standards of 2.9 x 5.5m, but this would alter the layout and number of spaces and without a policy to justify that change the scheme remains acceptable as it is submitted.

11.0 Open Space Provisions

- 11.1 The proposals include replacing a small area of underused drying space and opening this up to incorporate better public space for the neighbouring flats to the west of the site. The new houses also have adequate amenity space. No contribution towards public open space is proposed. See main body of report for more detail.

12.0 Air Quality

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

13.0 Development Team and Planning Obligations

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

14.0 Report

14.1 The key issues are;

- Affordable Housing Need
- Policy Context
- Design and the Impact on the Character of the Area
- Impact on Local Residents
- Parking and Highway Safety
- Private Amenity Space & Public Open Space, Sport and Play Areas.

14.2 Affordable Housing Need

14.2.1 Until recently, Councils had lost their powers to build council houses. Given that a percentage delivery taken from private market housing will never provide the numbers of affordable dwellings that are needed by residents of Colchester this has caused a serious shortfall and affordable housing provision remains one of the key corporate priorities of the Council. As s106 is reliant on the economy, on the delivery of major schemes by private developers, and is increasingly undermined by the viability of developments and other matters, housing delivery has been well below targets for several years. That Councils have been re-empowered with the ability to build their own housing schemes for the first time in over a decade has allowed this batch of 5 concurrent applications to be the first such projects since these powers were reintroduced.

14.2.2 Housing need evidence is provided by the results of CBC's Strategic Housing Market Assessment (November 2007, updated April 2010). This need is clearly set out in the Cabinet Approved SPD (see extract below):

"The SHMA forms the main Evidence Base for the Council's assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites".

14.2.3 In fact, with the economic downturn, higher lending rates and higher expected profitability from banks before they will lend, viability has often meant that the current 35% affordable housing target is hard to achieve. Consequently, the figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	260	-822
2011/12	1,082	370	-712
2012/13	1,082	133	-949
2013/14	1,082	30 (at Q2)	-1052

14.2.4 The table speaks for itself in showing the scope of need that exists now for affordable housing, illustrating just why it is a key priority. It demonstrates that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations.

14.2.5 This scheme would deliver 3 of the 34 proposed affordable housing units to be built and maintained by Colchester Borough Council as part of this current project. If these are successful it will lead to similar projects in the future. Therefore, the need for affordable housing can be given significant weight as a material planning consideration. This should be balanced against the need to protect the amenities of the areas where development is proposed.

14.3 The Policy Context

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

14.3.2 These dimensions give rise to the need for the planning system to perform a number of roles

- an economic role, helping to build a strong economy by supporting growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure
- a social role, providing vibrant and healthy communities through the supply of housing required to meet the needs of present and future generations; creating a high quality built environment, with accessible local services that reflect need
- an environmental role, protecting and enhancing our environment; mitigating and adapting to climate change including moving to a low carbon economy.

14.3.3 Planning decisions should start with a presumption that development should be approved where it accords with the development plan; and permission should be granted unless there are any adverse impacts that would "significantly and demonstrably outweigh the benefits" of a scheme, when assessed against policies and taken as a whole. In this instance the benefits of providing affordable housing must be considered against any adverse impacts, but with a presumption that they should be approved.

14.3.4 The local, Colchester Borough Council policies, follow this positive approach and are discussed in more detail against the individual issues raised below, as relevant. However, they ensure that developments must be designed to a sufficient standard to be approved, taking into account the need to maintain a good quality built environment, protect neighbouring amenity and ensure that the safety of the highway is preserved. It is considered that the proposals meet these needs in a satisfactory manner.

14.4 Design and the Impact on the Character of the Area

14.4.1 The general design approach is one that seeks to establish a project “brand” across the 5 sites, through a contemporary design that reflects the era of the buildings as opposed to trying to mimic the date of its surroundings. The usual starting point for all design is to look for visual reference from the local context and to reflect local characteristics in new buildings. However, where there are no strong local characteristics and the context lends itself to other design possibilities then more flexibility can be given in the design philosophy. Additionally, where the architecture of the area reflects its own period it is not unusual to divert from pastiche approaches and attempt to be unashamedly different. That in itself reflects that the infilling of an area was not original and should not be mistaken as part of the original development – it forms part of the evolutionary story of an area.

14.4.2 At this site, the frontage parking area has been reflected in the layout of the site, although the dwellings have been constrained by the need to avoid harm to neighbours in terms of which parts of the site are developable. For example, additional dwellings further to the east would have unacceptable overlooking relationships with properties to the north and south. Indeed, even plot 1 has had to use some contemporary design solutions in the front façade where the first floor bedroom window does not face forwards, but has been moved to the side elevation to avoid overlooking the adjacent neighbour. The design approach taken lends itself to this comfortably, and it also has the benefits of providing some sense of natural surveillance to the parking area within the site.

14.4.3 Despite their contemporary aesthetic, the dwellings proposed reflect the traditional pattern of terraces in the area, taking a similar footprint and width to depth ratio. Roof pitches match the general pattern of the site surroundings as does the amount of articulation in the front elevations, the strong sense of entranceway and the scale of solid to void resulting from the window openings.

14.4.4 Policy is quite clear that planning should not dictate architectural styles, but judge development against broader considerations such as the rhythms of the streetscene, the scale and height of development, and such issues. Policy DP1 is a key consideration, and this sets out a requirement that all development should be well designed and preserve or enhance the character of the built environment.

14.4.5 Overall, the proposed design is considered to help enhance the quality of the built environment over and above the value of the existing garages, and when considered in the local context, and it is acceptable on its own merits when considered against policies such as DP1, UR2 and PR2.

14.5 Impact on Local Residents

14.5.1 Policy requires new development to avoid an unacceptable impact on neighbouring amenities including loss of privacy, loss of light and loss of outlook. In terms of the first, overlooking is avoided by a combination of angle and distance from neighbouring windows, angle and distance to protected “sitting out areas”, by structures and planting and by the topography of the site.

- 14.5.2 The “back to back” distances required by policy are 25m, within an angle of 45 degrees from any centre line from a new window, reducing down to 15m from more oblique angles of outlook or for side-to-side windows. There are no privacy distances dictated for front windows, due to them usually facing public domain, but in cases where they face towards other rear elevations on neighbouring properties common sense should be applied. In this case, plot 1 would have caused concerns had it contained a first floor front window, which would have offered views into the adjacent property (despite that neighbouring property being on higher land). The siting of the properties and their respective window openings means that this proposal accords with the required levels of privacy to satisfy policy.
- 14.5.3 Similarly, the proposal also accords with policy on angles of outlook from neighbouring windows, therefore ensuring that it will not be overbearing. There is some impact on the outlook of windows from the block of flats to the west, however these are acceptable overall. The test to make this judgment is a combination of the plan and elevation angles of outlook from any window facing the development.
- 14.5.4 With regard to light, any potential loss of direct sunlight will be minor and accord with policy. The proposal sits on sloping land, being lower than property to the north, and therefore the angle of overshadowing is never at a point where it fails to meet policy designed to protect from an unacceptable level of overshadowing.
- 14.5.5 In summary, there is no conflict with our policies that seek to avoid any adverse impact on the amenities of neighbours.

14.6 Parking and Highway Safety

- 14.6.1 Adopted parking standards require two parking spaces per dwelling for new dwellings. This has been achieved by the proposal. The same standards also require 0.25 visitor parking spaces per dwelling, which would necessitate one visitor space on this site. That results in a need for 7 spaces from the 3 new dwellings, where there are 17 spaces provided on site.
- 14.6.2 However, 10 additional spaces are provided because there are displaced vehicles from the demolition of the garages. The Highway Authority have no objection to this level of parking and have pointed out that if the garages were put into full use then there would be 21 cars using this site at present without the need for planning permission. This is a material factor in the consideration of parking provision here. Similarly, it is a matter of fact that some of the cars parked at the site at present would be forced into the highway itself should the garages be demolished.
- 14.6.3 Prior to the submission of the planning applications the applicants undertook a parking survey to assess the existing parking capacity of the highway, and to ensure that a suitable level of parking could be provided through this development so as to avoid any detrimental impacts on local safety. Following surveys, it was concluded that only 2 of the garages are currently used for parking vehicles and therefore only 2 cars would be displaced from the demolition of the 21 garages. The 10 spaces provided would therefore be sufficient to accommodate the existing traffic at the site and its surroundings. This seems to be consistent with the evening site visits the case officer has made, where there have always been spaces to park within the highway of Holborough Close, the parking area opposite the site to the north, and in the forecourt at the front of the application site.

14.6.4 In fact, it may be fair to consider that an “over provision” has been offered, and Members of the committee may wish to consider whether they would prefer to see some of the parking spaces removed from the plans to allow for larger grassed open space areas. Potentially, the parking surveys would suggest that the “tandem” parking area to the west of the entranceway could be reduced to a single row of 3 spaces to increase the amenity area here, or that the spaces at the southern end of the site could be replaced with a larger grassed area adjacent to Stevens Walk.

14.7 Private Amenity Space & Public Open Space, Sport and Play Areas.

14.7.1 A provision of 60 square metres or more of private amenity space is proposed for each dwelling. This complies with the level required by Development Policy DP16 and is considered to be acceptable.

14.7.2 Policy DP16 also states that “all new residential development will be expected to provide new public areas of accessible strategic or local open space” In smaller developments a commuted sum is acceptable. No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “The standards, outlined above, are to be applied to all additional new residential Units....New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”

14.7.3 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Darwin Close, Gloucester Avenue, and the several Estuary Housing Schemes given permission in the last year the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. Consistent with these 100% affordable housing schemes, the normal requirements for such contributions have not been sought herein. This is based on the pressing need for the delivery of affordable housing being a greater priority. It does not set a precedent for private market housing as this does not provide 100% affordable housing.

14.7.4 In addition, in Holborough Close the application does seek to make net gains in public open space and to enhance the landscape value of the area. This is of benefit to the existing residents of the area, particularly those “most affected” immediately adjacent to the site. Therefore, there are reasonable benefits to the scheme that help mitigate against the lack of commuted sum towards open space elsewhere in the Borough.

14.7.5 Furthermore, CBC is the provider and maintainer of public open spaces. It is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Councils overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.

14.7.6 In conclusion, the scheme provides acceptable private amenity space provisions. It is also beneficial to the levels of open space enjoyed by neighbouring properties. Given that the Council maintains public open spaces, it is not necessary, nor appropriate to require a Unilateral Undertaking in this instance.

14.8 Other Consideration and Matters

14.8.1 Adopted policy would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved. It is noted that all registered social landlords that usually provide affordable housing are required to build to this standard or higher. In aiming to lead by example to others the Council has decided to aim for a higher level of Code 4. This has been designed into the scheme and is the intention for the tender and subsequent construction process that it will be achieved in constructing this project. However, as the Council's policy requires Code 3 only this level of Code for Sustainable Homes could be reasonably conditioned. Despite this condition (which will state level 3 as a minimum), the scheme should achieve Code 4 levels in due course anyway.

14.8.2 Similarly, the Council proposes to seek a Local Apprenticeship Scheme so that there are jobs created for local people, helping to up skill people and increase their chances of gaining employment in future. This is a socio-economic benefit of the scheme. The tender process is also open to local construction companies to submit bids, alongside others, to build the homes should the development be approved as recommended. That process runs outside of the planning process but is nonetheless within the Council's overall control.

15.0 Conclusion

15.1 This development would be a positive contribution to the area in general. The current unsightly garages, of which only 2 are occupied for parking purposes, would be removed from the site and replaced with an acceptable contemporary design of dwellings, with enhanced landscaping and a satisfactory level of parking. This can be achieved without any adverse harm to neighbours when measured against the policies of our Development Plan. This is reflected in the fact that the development has not been met with local opposition, with only 1 reply being in favour of the development subject to a suggested amendment that has not been made. This is to close off the alleyway between the flats to the west and the garage site boundary by incorporating it into the garden of plot 3. As it stands, the application is perfectly acceptable. However, there is merit in this suggestion should Members wish to consider it further at the Committee meeting. Similarly, Members may also decide that they wish to substitute some of the "over provision" in parking for some extra open space. Any such changes would require minor amendments to the suggested conditions such as Condition 2, but this could be addressed through the course of any debate. That said, should members decide not to make any changes then the scheme remains acceptable exactly as shown and it is recommended that it should be approved.

16.0 Recommendation

16.1 APPROVE subject to conditions set out below

17.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 180-P1, 181-P1, 182-P3, 184-P3 and 185-P2.

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

3 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4 - Residential Code for Sustainable Homes (Part 1 of 2)

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

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

5 - Residential Code for Sustainable Homes (Part 2 of 2)

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

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

6 - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

7 -Removal of PD for Residential Extensions

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

8 - Simple Landscaping Scheme Part 1 of 2

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

9 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

10 - Tree and Natural Feature Protection: Protected Areas

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

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

11 - Non-Standard Condition/Reason

In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and subject to the approval in writing of, the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site has some signs of contaminants and any further unexpected contamination would need to be considered as above.

12 - Construction Method Statement

No works shall take place until including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities; measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

13 - Cycle Parking TBA

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

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

14 - Non-Standard Condition/Reason

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

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

15 - No Unbound Surface Materials

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

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

16 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.5 metres x 5.0 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

17 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall have been previously submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

18 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall have been previously submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

19 - Non-Standard Condition/Reason

No works shall take place until the following detailed drawings and cross sections at a scale of not less than 1:50 have been submitted to and agreed, in writing by, the Local Planning Authority:

- All joinery and fenestration
- Surface finish interactions.

The scheme shall thereafter be finished in accordance with the agreed details.

Reason: The level of architectural detailing is not adequately described on the submitted drawings.

20 - Tree and Hedgerow Protection: General

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

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

21 - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

22 - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

18.0 Informatives

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

(2) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

(3) ZTM - Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631 with regard to the necessary application and requirements.

(4) ZTE - Informative on Demolition Notices

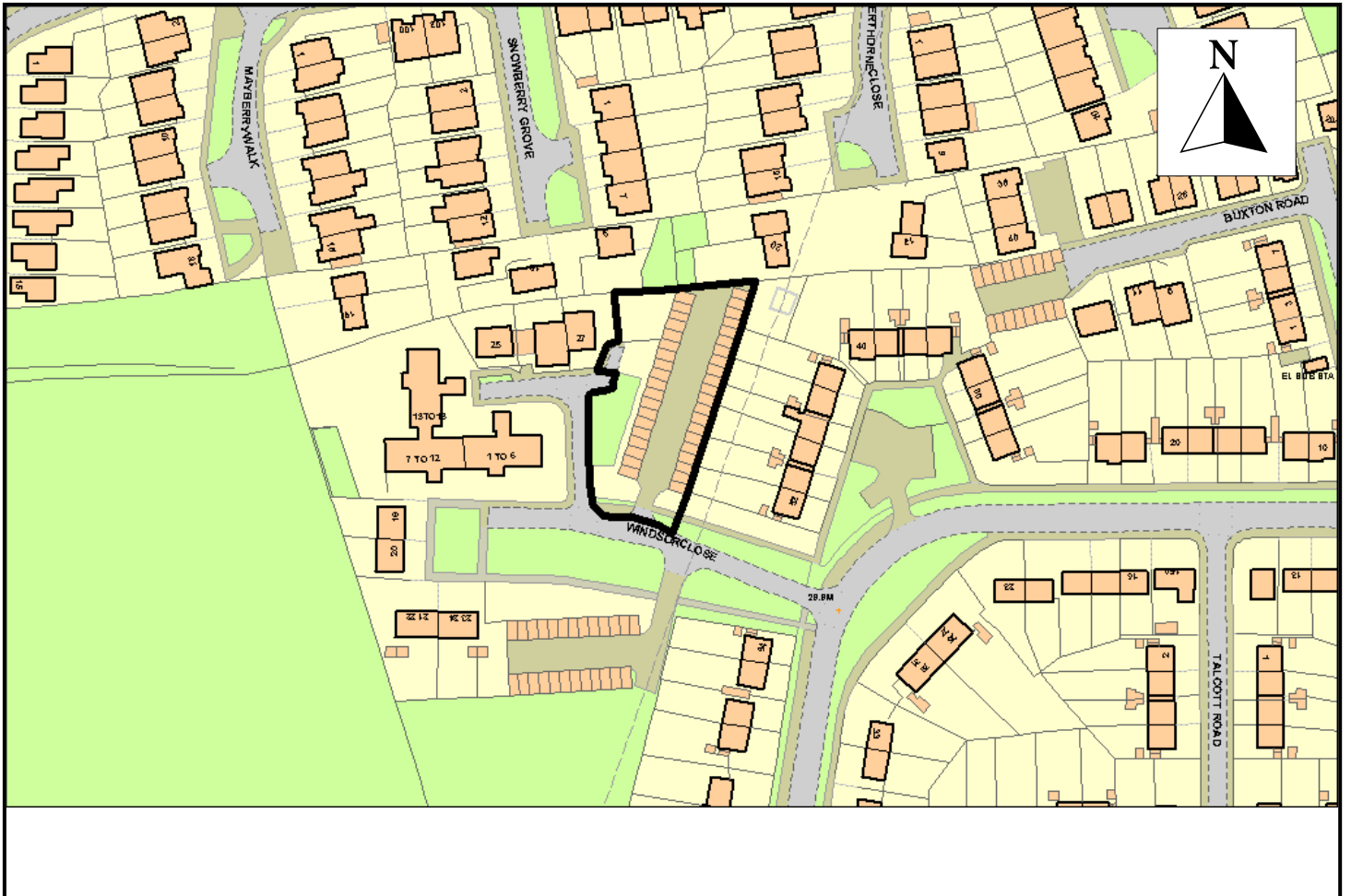
PLEASE NOTE that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Team on 01206 282436.

(5) Non-Standard - Landscaping Notes for Applicant/Agent

- It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional.
- In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Landscape Consultant and the Council's Landscape Planning Officer.
- Please refer to planning application number when responding to this consultation.

19.0 Positivity Statement

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



Application No: 131927

Location: Garage Block, Windsor Close, Colchester

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012

7.2 Case Officer: Andrew Tyrrell Due Date: 29/11/2013

MINOR

Site: **Garage Block, Windsor Close, Colchester**

Application No: **131927**

Date Received: 4 October 2013

Agent: Nps Property Consultants Limited

Applicant: Colchester Borough Council

Development: Demolition of 40 existing garages. Construction of eight 2 bedroom 2 storey flats with associated parking and displacement parking spaces, external works, drainage and landscaping.

Ward: Berechurch

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Colchester Borough Council are the applicants. Additionally, there is no unilateral undertaking to provide a contribution towards public open space provision (see explanation in report below).

2.0 Synopsis

2.1 This application is one of 5 concurrent schemes submitted to deliver a total combined number of 34 affordable housing units on under-used Colchester Borough Council (CBC) owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council Housing Services to find innovative ways of enabling more affordable housing to be built, in line with stated key priority objectives of the Council. There is currently a significant shortfall in affordable housing in Colchester, and Government changes are likely to lead to an ever-reducing number of affordable units coming forward due to changes to the s106 and viability guidance being issued. At present there has been a need for over 1,000 affordable housing units to be provided for the Borough per annum since 2007. In 2011/12 the Council was able to deliver just 370 units through planning obligations on major developments and this was a 3-year high. With the gap increasing again last year after Government changes to the way in which affordable housing can be delivered from "planning gain", the Council are looking at creative ways to deliver more proactively.

2.2 This application by Colchester Borough Council Housing Services proposes the demolition of 40 existing garages to allow for the construction of eight 2-bed flats with associated parking and landscaping. There are also 2 displacement parking spaces for the 6 cars currently occupying the garages, although parking surveys show 41 available on-street spaces within walking distance for the remaining 4 displaced vehicles so there are no pressures in the area. Furthermore, 3 disabled bays are created in the adjacent flats to accommodate existing blue badge residents. The report below examines the key issues of the impact on the streetscene, the impact on local

residents and highway safety and balances them against the Government instructions to facilitate sustainable development, as well as CBC's own stated key priority to deliver more affordable housing. The report concludes that there are no material reasons to justify the refusal of the application. In fact, the officer's recommendation to the Committee is that it would enhance the quality of the built environment without adverse impacts to neighbours or highway safety and should be approved.

3.0 Site Description and Context

3.1 The application site is currently occupied by 40 garages of varying conditions. These are accessed from Windsor Close to the southern end of the site, and run north-south in orientation. To the east of the site electricity pylons and lines are a notable feature in the landscape. These constrain the site alongside underground infrastructure.

3.2 To the west, a cul-de-sac approach serves 3 dwellings and some flats. The western part of the application site contains some parking spaces that are communally used. Beyond the electricity lines there are two storey properties that back onto the site. There is a significantly sized Oak tree to the north of the site, just beyond the boundary and overhanging the site.

4.0 Description of the Proposal

4.1 The applicant proposes the demolition of the existing 40 garages which are to be replaced by eight 2-bed flats. The properties are 2-storey and of a contemporary design. There is associated parking and landscaping in the form of 18 spaces on site, plus 3 disabled bays "off-site". These 3 bays replace existing parking in the western part of the site, and follow resident consultation prior to the planning application being submitted (i.e. they are relocated more suitably in response to a known need).

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits but has no other allocation. As a garage site it would be considered as contaminated land and a survey has been submitted to detail this.

6.0 Relevant Planning History

6.1 There is no relevant planning history to this site and proposal.

7.0 Principal Policies

7.1 The national policy is set out in The National Planning Policy Framework (NPPF). The core thread of national policy is that sustainable developments, that are acceptable in terms of social, economic and environmental impact, should have a presumption in favour of approval. This will be explored further in the main report section below.

- 7.2 In addition to the above, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
- SD1 – Sustainable development
 - H1 – Housing Delivery
 - H2 – House Density
 - H3 – Housing Diversity
 - H4 - Affordable Housing
 - TA5 – Parking
 - UR2 – Built Design and Character
 - PR2 – People Friendly Streets
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
 - DP12 Dwelling Standards
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - DP20 (plus 3 disabled bays “off-site”) Accessibility and Access
 - DP19 Parking Standards
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Backland and Infill Development
 - EPOA Vehicle Parking Standards (2009)
 - Open Space, Sport and Recreation
 - Extending your House?
 - The Essex Design Guide (1997)
 - External Materials in New Developments
 - Affordable Housing

8.0 Consultations

- 8.1 The Highway Authority has stated that, “having regard to the fact that without recourse to the planning process all garages could be renovated and occupied, the proposal is not going to intensify the amount of traffic associated with the site. In this regard the Highway Authority would not wish to raise an objection”. They caveat that this is on the basis of conditions being included which have been set out in the recommendation below where they can be justified. The requirement to provide the preferred space dimensions has not been included as the spaces shown on the plans meet the minimum standards and these are acceptable. The preferred space dimensions would result in less spaces overall. Similarly, the County Council suggested travel pack condition has been amended to an acceptable version for Colchester Borough Council policies as the Local Planning Authority.
- 8.2 The Council’s Tree Officer has no objection subject to conditions included in the recommendation. The main consideration clearly relates to the Oak to the north being protected and the development slightly encroaches upon the potential future Root Protection Area, but not to any degree of concern given the existing ground treatment. Provided there is protective fencing and details about lifting the existing ground surface this development can go ahead without harm to the trees in the area.

- 8.3 Originally, the Landscape Officer recommended that
- Proposed tree cover be reduced by 2 and with 2 trees relocated, to better complement existing tree cover locally and help protect the viability of the proposed trees through to maturity.
 - A yew hedge be proposed to wrap around the southern end of the development in order to help complement the structure of the existing landscape that will help the development identify with the Close's existing landscape character.

However, in conclusion they were satisfied with the landscape content of the proposal subject to the above amendments. Revised plans have since been received and this issue can be dealt with through the conditions discharge process in any event.

- 8.4 The Environmental Control Team has raised no objections as the team who look at complaints resulting from contamination, noise, light and other pollutants. The EHO has requested the use of model condition ZPA on "Construction Method" Statement. The contaminated land officer has added that they are "in receipt of RSA Geotechnics ground investigation report number 13600SI July 2013. It is a satisfactory report for environmental protection purposes and I note that it has been stated that '...there is no requirement for remediation...' based on the information provided this conclusion would appear reasonable." They recommend a condition to deal with unexpected contamination as per the other garage sites and this has been included in the recommendation below.

- 8.5 Parks and Recreation have raised no comments as the team who maintain the Council's grassed areas.

- 8.6 The Council's Urban Designer suggested some amendments to the original plans which have either been shown on the amended plans received or can be conditioned. Therefore, they have no objections to the scheme.

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

9.0 Representations

- 9.1 There has been a single letter received. This makes a general comment about the development, stating that the author is not against the principle but that they feel that single bedroom properties should be built to allow for down-sizing and the subsequent freeing-up of larger affordable units for others etc. This comment has been passed to the Housing Service to consider, but would not be grounds for refusing this scheme as it must be considered on its merits, against planning policy.

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

10.0 Parking Provision

- 10.1 The dwellings proposed have parking spaces that comply with the Borough's adopted policies TA5 and DP19, as well as adopted minimum standards. Originally the spaces were shown to the Essex Design Guide standards for size; however this has since been corrected to the EPOA Parking Standards adopted since 2009. These require 2 spaces per dwelling and a visitor space. In terms of the space sizes, these are shown at 2.5 x 5.0m which is the minimum space acceptable. The Highway Authority have asked for the preferred standards of 2.9 x 5.5m, but this would alter the layout and number of spaces and without a policy to justify that change the scheme remains acceptable as it is submitted.
- 10.2 The 18 spaces provided facilitate the new dwellings, which against an adopted 2.25 space requirement would require 18 spaces. This leaves no spaces for the displaced vehicles. There are 6 garages currently in use for parking vehicles, therefore 6 cars would be forced off the site either into the highway or somewhere else. However, there is another CBC owned garage site opposite to the south and the surveys have evidenced that there are a minimum of 41 spaces at any one time within walking distance. Therefore, a relaxed approach can be taken to this small number of vehicles in these specific circumstances.

11.0 Open Space Provisions

- 11.1 The proposals include communal space, being for flats. There is no public space on a site of this scale and no contribution towards public open space is proposed. See main body of report for more detail.

12.0 Air Quality

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

13.0 Development Team and Planning Obligations

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

14.0 Report

- 14.1 The key issues are;
- Affordable Housing Need
 - Policy Context
 - Design and the Impact on the Character of the Area
 - Impact on Local Residents
 - Parking and Highway Safety
 - Private Amenity Space & Public Open Space, Sport and Play Areas.

14.2 Affordable Housing Need

14.2.1 Until recently, Councils had lost their powers to build council houses. Given that a percentage delivery taken from private market housing will never provide the numbers of affordable dwellings that are needed by residents of Colchester this has caused a serious shortfall and affordable housing provision remains one of the key corporate priorities of the Council. As s106 is reliant on the economy, on the delivery of major schemes by private developers, and is increasingly undermined by the viability of developments and other matters, housing delivery has been well below targets for several years. That Councils have been re-empowered with the ability to build their own housing schemes for the first time in almost 25 years has allowed this batch of 5 concurrent applications to be the first such projects since these powers were reintroduced.

14.2.2 Housing need evidence is provided by the results of CBC's Strategic Housing Market Assessment (November 2007, updated April 2010). This need is clearly set out in the Cabinet Approved SPD (see extract below):

"The SHMA forms the main Evidence Base for the Council's assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites".

14.2.3 In fact, with the economic downturn, higher lending rates and higher expected profitability from banks before they will lend, viability has often meant that the current 35% affordable housing target is hard to achieve. Consequently, the figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	260	-822
2011/12	1,082	370	-712
2012/13	1,082	133	-949
2013/14	1,082	30 (at Q2)	-1052

14.2.4 The table speaks for itself in showing the scope of need that exists now for affordable housing, illustrating just why it is a key priority. It demonstrates that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations.

14.2.5 This scheme would deliver 8 of the 34 proposed affordable housing units to be built and maintained by Colchester Borough Council as part of this current project. If these are successful it will lead to similar projects in the future. Therefore, the need for affordable housing can be given significant weight as a material planning consideration. This should be balanced against the need to protect the amenities of the areas where development is proposed.

14.3 The Policy Context

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

14.3.2 These dimensions give rise to the need for the planning system to perform a number of roles

- an economic role, helping to build a strong economy by supporting growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure
- a social role, providing vibrant and healthy communities through the supply of housing required to meet the needs of present and future generations; creating a high quality built environment, with accessible local services that reflect need
- an environmental role, protecting and enhancing our environment; mitigating and adapting to climate change including moving to a low carbon economy.

14.3.3 Planning decisions should start with a presumption that development should be approved where it accords with the development plan; and permission should be granted unless there are any adverse impacts that would “significantly and demonstrably outweigh the benefits” of a scheme, when assessed against policies and taken as a whole. In this instance the benefits of providing affordable housing must be considered against any adverse impacts, but with a presumption that they should be approved.

14.3.4 The local, Colchester Borough Council policies, follow this positive approach and are discussed in more detail against the individual issues raised below, as relevant. However, they ensure that developments must be designed to a sufficient standard to be approved, taking into account the need to maintain a good quality built environment, protect neighbouring amenity and ensure that the safety of the highway is preserved. It is considered that the proposals meet these needs in a satisfactory manner.

14.4 Design and the Impact on the Character of the Area

14.4.1 The general design approach is one that seeks to establish a project “brand” across the 5 sites, through a contemporary design that reflects the era of the buildings as opposed to trying to mimic the date of its surroundings. The usual starting point for all design is to look for visual reference from the local context and to reflect local characteristics in new buildings. However, where there are no strong local characteristics and the context lends itself to other design possibilities then more flexibility can be given in the design philosophy. Additionally, where the architecture of the area was of its own time and fashions it is not unusual to be unashamedly different and produce design of the current age. That in itself reflects that the infilling of an area was not original and should not be mistaken as part of the original development – it forms part of the evolutionary story of an area and makes a statement, which is

something that CBC are trying to achieve in providing the first affordable housing in over 2 decades.

- 14.4.2 At this site, the dwelling units are provided in 2 blocks of flats, each containing 4 units. Flats are characteristic of this location and some 1970s flats can be seen opposite. The two blocks are different in design, with the one closest to the main passing thoroughfare turning the corner and addressing more “frontages”. The south elevation would be the most prominent and this is reflected in the entranceway and detailing offered on what is effectively a “side elevation”.
- 14.4.3 Policy is quite clear that planning should not dictate architectural styles, but judge development against broader considerations such as the rhythms of the streetscene, the scale and height of development, and such issues. Policy DP1 is a key consideration, and this sets out a requirement that all development should be well designed and preserve or enhance the character of the built environment.
- 14.4.4 Overall, the proposed design is considered to help enhance the quality of the built environment over and above the value of the existing garages, and when considered in the local context, and it is acceptable on its own merits when considered against policies such as DP1, UR2 and PR2.

14.5 Impact on Local Residents

- 14.5.1 Policy requires new development to avoid an unacceptable impact on neighbouring amenities including loss of privacy, loss of light and loss of outlook. In terms of the first, overlooking is avoided by a combination of angle and distance from neighbouring windows, angle and distance to protected “sitting out areas”, by structures and planting and by the topography of the site.
- 14.5.2 The “back to back” distances required by policy are 25m from 2 storey houses, but 35 from flats, with this being the closest issue for scrutiny in terms of the various amenity issues. The greater distance for flats is based on the assumptions that flats will have more intensive use of upper floor living rooms that overlook than a typical bedroom found in first floors of houses. There is also compensation for flats being more than 2-storey built into the distances. With this reasoning in mind, it is noted that there are no east-facing first floor living room windows looking towards the nearest private gardens and elevations. Similarly, the flats are not scaled larger than dwellinghouses, being 2-storey. Therefore, the view has been taken that the 25m distance is more relevant and the one that should apply. That said, because of the clearance for the power lines the distance is approximately 29m, falling between the two standards. There are no privacy distances dictated for front windows, due to them usual facing public domain, as is the case herein.
- 14.5.3 Similarly, the proposal also accords with policy on angles of outlook from neighbouring windows. Therefore, this ensures that it will not be overbearing impact. With regard to light, there is considered to be no adverse loss of direct sunlight, or daylight.
- 14.5.4 In summary, there is no conflict with our policies that seek to avoid any adverse impact on the amenities of neighbours.

14.6 Parking and Highway Safety

14.6.1 Adopted parking standards require two parking spaces per dwelling for new dwellings. This has been achieved by the proposal. The same standards also require 0.25 visitor parking spaces per dwelling, which would necessitate 2 visitor spaces on this site. That results in a need for 18 spaces from the 8 new dwellings, where there are 18 spaces provided on site (plus 3 disabled bays “off-site”).

14.6.2 However, 6 additional vehicles displaced from the garage site cannot be accommodated within the scheme. These would be parked within the public highway, which is unrestricted. The parking surveys found that even at peak times there are 41 spaces available. Therefore, given the site specifics, it is considered that there will be no unacceptable stress on the public highway. The highway authority has not raised any objections and a refusal on highway grounds would be unsupported.

14.7 Private Amenity Space & Public Open Space, Sport and Play Areas.

14.7.1 A provision of 25 square metres private amenity space per flat is required. However, given the overground and underground constraints the layout results in more than this level of amenity space provision for each dwelling. This complies with the level required by Development Policy DP16 and is considered to be acceptable.

14.7.2 Policy DP16 also states that “all new residential development will be expected to provide new public areas of accessible strategic or local open space” In smaller developments a commuted sum is acceptable. No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “The standards, outlined above, are to be applied to all additional new residential Units....New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”

14.7.3 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Darwin Close, Gloucester Avenue, and the several Estuary Housing Schemes given permission in the last year the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. Consistent with these 100% affordable housing schemes, the normal requirements for such contributions have not been sought herein. This is based on the pressing need for the delivery of affordable housing being a greater priority. It does not set a precedent for private market housing as this does not provide 100% affordable housing.

14.7.4 Furthermore, CBC is the provider and maintainer of public open spaces. It is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council’s overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.

14.7.5 In conclusion, the scheme provides more than acceptable private amenity space provisions. It is also beneficial to the levels of open space enjoyed by neighbouring properties. Given that the Council maintains public open spaces, it is not necessary, nor appropriate to require a Unilateral Undertaking in this instance.

14.8 Other Consideration and Matters

14.8.1 Adopted policy would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved. It is noted that all registered social landlords that usually provide affordable housing are required to build to this standard or higher. In aiming to lead by example to others the Council has decided to aim for a higher level of Code 4. This has been designed into the scheme and is the intention for the tender and subsequent construction process that it will be achieved in constructing this project. However, as the Council's policy requires Code 3 only this level of Code for Sustainable Homes could be reasonably conditioned. Despite this condition (which will state level 3 as a minimum), the scheme should achieve Code 4 levels in due course anyway.

14.8.2 Similarly, the Council proposes to seek a Local Apprenticeship Scheme so that there are jobs created for local people, helping to up skill people and increase their chances of gaining employment in future. This is a socio-economic benefit of the scheme. The tender process is also open to local construction companies to submit bids, alongside others, to build the homes should the development be approved as recommended. That process runs outside of the planning process but is nonetheless within the Council's overall control.

15.0 Conclusion

15.1 This development would be a positive contribution to the area in general. The current unsightly garages, of which only 6 out of the 40 are occupied for parking purposes, would be demolished and enhanced through contemporary accommodation, with positive landscaping and a satisfactory level of parking. This can be achieved without any adverse harm to neighbours when measured against the policies of our Development Plan. This is reflected in the fact that the development has not been met with significant local opposition.

16.0 Recommendation

16.1 APPROVE subject to conditions set out below

17.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 121-P1, 122-P3, 124-P3, 125-P3, and 126-P3.

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

3 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4 - Residential Code for Sustainable Homes (Part 1 of 2)

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

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

5 - Residential Code for Sustainable Homes (Part 2 of 2)

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

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

6 - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

7 -Removal of PD for Residential Extensions

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

8 - Simple Landscaping Scheme Part 1 of 2

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

9 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

10 - Non-Standard Condition/Reason

In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and subject to the approval in writing of, the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site has some signs of contaminants and any further unexpected contamination would need to be considered as above.

11 - Construction Method Statement

No works shall take place until including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

12 - Cycle Parking TBA

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

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

13 - Non-Standard Condition/Reason

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

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

14 - No Unbound Surface Materials

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

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

15 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.5 metres x 5.0 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

16 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall have been previously submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

17 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall have been previously submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

18 - Non-Standard Condition/Reason

No works shall take place until the following detailed drawings and cross sections at a scale of not less than 1:50 have been submitted to and agreed, in writing by, the Local Planning Authority:

- All joinery and fenestration
- Surface finish interactions.

The scheme shall thereafter be finished in accordance with the agreed details.

Reason: The level of architectural detailing is not adequately described on the submitted drawings.

19 - Tree and Natural Feature Protection: Protected Areas

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

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

20 - Tree and Hedgerow Protection: General

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

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

21 - No External Light Fixtures

No external lighting fixtures shall be constructed, installed or illuminated at any time.

Reason: To ensure that there are no undesirable effects of light pollution

22 - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

18.00 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

(2) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

(3) ZTM - Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631 with regard to the necessary application and requirements.

(4) ZTE - Informative on Demolition Notices

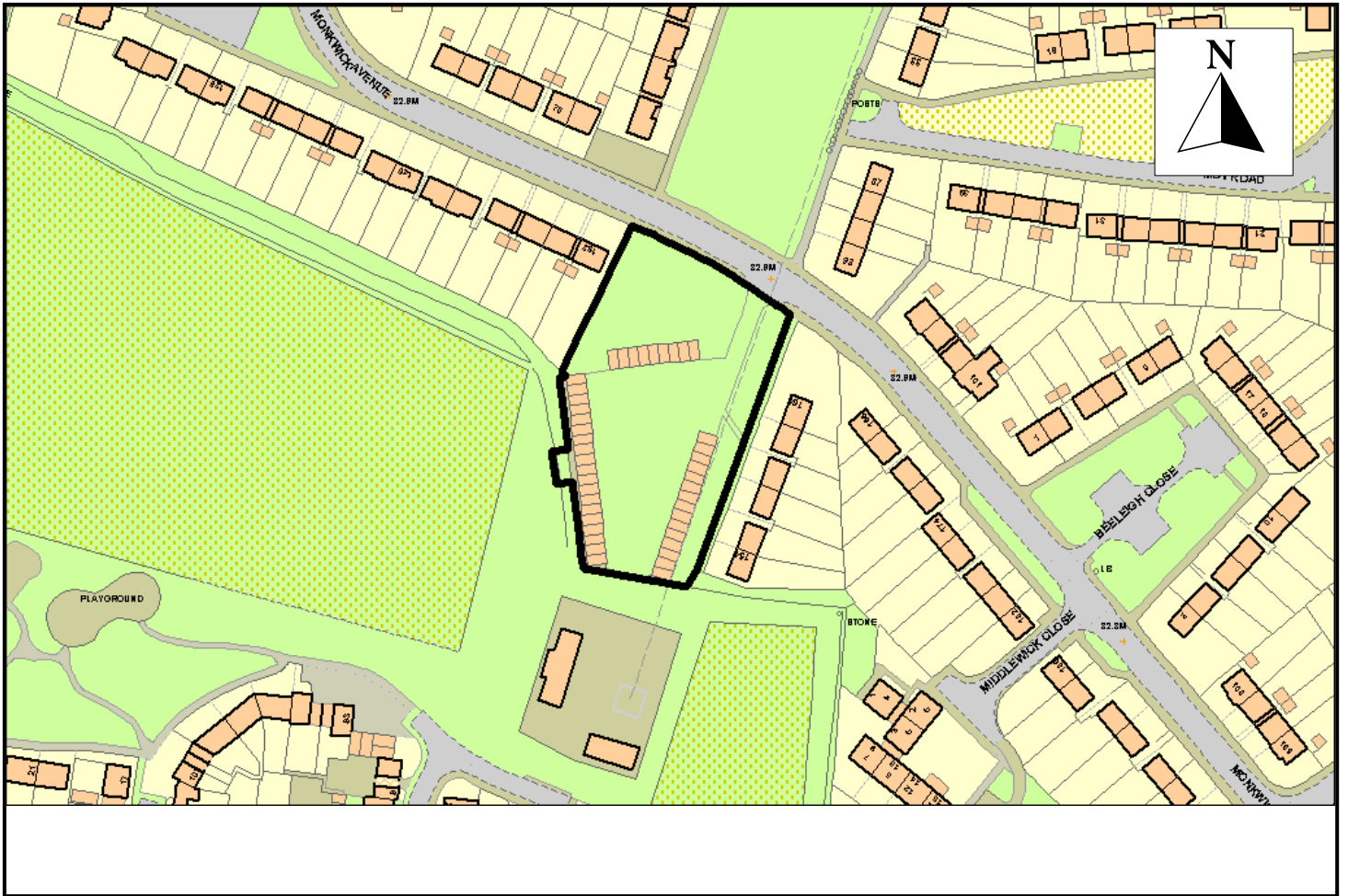
PLEASE NOTE that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Team on 01206 282436.

(5) Non-Standard - Landscaping Notes for Applicant/Agent

- It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional.
- In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Landscape Consultant and the Council's Landscape Planning Officer.
- Please refer to planning application number when responding to this consultation.

19.0 Positivity Statement

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



Application No: 131957

Location: Garage Site 1, Monkwick Avenue, Colchester, CO2 8NA

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012

7.3 Case Officer: Andrew Tyrrell

Due Date: 06/01/2014

MAJOR

Site: Garage Site 1, Monkwick Avenue, Colchester, CO2 8NA

Application No: 131957

Date Received: 7 October 2013

Agent: Nps Property Consultants Limited

Applicant: Colchester Borough Council

Development: Demolition of 43 existing garages, construction of six 3 bedroom 2 storey houses and eight 2 bedroom 2 storey flats with associated parking and displacement parking spaces, external works, drainage and landscaping.

Ward: Berechurch

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This “major” application is referred to the Planning Committee because Colchester Borough Council are the applicants and the proposal presents a departure from adopted policy requiring such applications to be accompanied by a contribution towards public open space provision.

2.0 Synopsis

2.1 This application is one of a batch of 5 schemes submitted to deliver a total combined number of 34 affordable housing units on under-used Colchester Borough Council (CBC) owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council Housing Services to find innovative ways of enabling more affordable housing to be built, in line with stated key priority objectives of the Council. There is currently a significant shortfall in affordable housing in Colchester, and Government changes are likely to lead to an ever-reducing number of affordable units coming forward. At present levels there has been a need for over 1,000 affordable housing units to be provided for the Borough per annum since 2007. In 2011/12 the Council was able to deliver just 370 units through planning obligations on major developments and this was a 3-year high. With the gap increasing again last year after Government changes to the way in which affordable housing can be delivered from “planning gain”, the Council are looking at creative ways to deliver more proactively.

2.2 This application is the largest of the 5 proposals, being for a total of 14 units out of the overall 34 on all sites. The units are comprised of 6 x 3-bed houses and 8 x 2-bed flats. There are also 42 car parking spaces to replace the 43 demolished garages on the site. 31 of the spaces are required to meet adopted parking standards for the new dwellings, whilst 11 are spare and for the displaced vehicles from the garages and for local neighbouring properties who currently park on the grass verges owned by CBC.

2.3 The report below examines the key issues of the impact on the streetscene, the impact on local residents and highway safety and balances them against the Government instructions to facilitate sustainable development, as well as CBC's own stated key priority to deliver more affordable housing. The report concludes that there are no material reasons to justify the refusal of the application. In fact, the officer's recommendation to the Committee is that it would enhance the quality of the built environment without adverse impacts to neighbours and that it would help improve highway safety and should therefore be approved.

3.0 Site Description and Context

3.1 The application site is currently occupied by 43 garages in a triangular pattern. The site is in a predominantly residential area, although there is woodland to the south-west and a green-sward to the north.

4.0 Description of the Proposal

4.1 The applicant proposes the demolition of the existing garages which are to be replaced by fourteen dwellings, with a mix of eight 2-bed flats and six 3-bed dwellinghouses.

4.2 The properties are of a contemporary design finished in brick, cladding and smooth render. They have a strong rhythm and that characteristic reflects the repetitive nature of local properties. The mix of flats and dwellings is also a local character that has been complimented.

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits but has no other allocation. As a garage site it would be considered as contaminated land and a survey has been submitted to detail this.

6.0 Relevant Planning History

6.1 There is no relevant planning history to this site and proposal.

7.0 Principal Policies

7.1 The national policy is set out in The National Planning Policy Framework (NPPF). The core thread of national policy is that sustainable developments, that are acceptable in terms of social, economic and environmental impact, should have a presumption in favour of approval. This will be explored further in the main report section below.

7.2 In addition to the above, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

- SD1 – Sustainable development
- H1 – Housing Delivery
- H2 – House Density
- H3 – Housing Diversity
- H4 - Affordable Housing

- TA5 – Parking
- UR2 – Built Design and Character
- PR2 – People Friendly Streets

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

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards

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

- Backland and Infill Development
- EPOA Vehicle Parking Standards (2009)
- Open Space, Sport and Recreation
- Extending your House?
- The Essex Design Guide (1997)
- External Materials in New Developments
- Affordable Housing

8.0 Consultations

8.1 The Education Authority has state that they “note that the development under application 131957 is a philanthropic project to provide affordable housing... As the project is 100% affordable housing, and presumed not for profit, then the scheme would fall within one of our exemption. In the circumstances we will not be seeking an education contribution on this occasion”.

8.2 The Highway Authority has stated that, “having regard to the fact that without recourse to the planning process all garages could be renovated and occupied, the proposal is not going to intensify the amount of traffic associated with the site. In this regard the Highway Authority would not wish to raise an objection”. They caveat that this is on the basis of conditions being included which have been set out in the recommendation below where they can be justified. The requirement to provide the preferred space dimensions has not been included as the spaces shown on the plans meet the minimum standards and these are acceptable. The preferred space dimensions would result in less spaces overall. Similarly, the County Council suggested travel pack condition has been amended to an acceptable version for Colchester Borough Council policies as the Local Planning Authority.

8.3 The Council’s Tree Officer has no objection subject to conditions. They have no concerns regarding the removal of the trees shown, but do request protective measures for those retained.

8.4 The Landscape Officer originally recommended revised proposals to better complement the existing landscape (revisions have been received since, although some issues require conditions). It is recommended the proposed knee rail frontage enclosure to plot 1 to 4 and side enclosure to plot 4 be revised as low brick wall, and any knee rail dividing these plots between separating boundaries be removed from the proposal. This in order to better complement local landscape character. Overall, the Officer consultation concluded that they were satisfied with the landscape content of the proposal subject to the above amendments although these could be dealt with through conditions (included in the recommendation)

8.5 The Environmental Control Team has raised no objections as the team who look at complaints from contamination, noise, light and other pollutants. The EHO has requested the use of model condition ZPA on "Construction Method" Statement. The Contaminated Land Officer has added that they note that the reports submitted in support of this application include:

1) Walter Environmental Ltd Asbestos Refurbishment Survey, Ref GP-3376, dated 31/5/13

2) RSA Geotechnics Ltd Interpretative Report, ref 13598SI, dated July 2013.

Both reports are acceptable for Environmental Protection purposes. Note that the RSA report on the planning file is corrupted, although the original (on the CD) is not.

1) Has not identified the presence of any asbestos, however, access was limited.

2) Includes a Desk study and some basic intrusive investigation. This report has concluded that there is a negligible risk to end users from any identified potential contaminants of concern and that there is no requirement for remediation.

Based on the information provided, it would appear that the site can be made suitable for the proposed use and should permission be granted for this application, the Contaminated land Officer would recommend inclusion of the following condition:

- Reporting of Unexpected Contamination

8.6 Parks and Recreation have raised no comments as the team who maintain the Council's grassed areas.

8.7 The Council's Urban Designer suggested some amendments to the original plans which have either been shown on the amended plans received or can be conditioned. Therefore, they have no objections to the scheme.

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

9.0 Representations

9.1 3 Objections have been received. The issues raised include:

- Who will be responsible for the maintenance and upkeep of the proposed new access road to the front of numbers 154 to 164 Monkwick Avenue? Specifically, can it be confirmed that current residents will not be required to contribute to it's upkeep?

Officer comment: The area is currently owned and maintained by the Council and the planning permission does not affect this. However, the future arrangements are outside of the gift of planning to control and it is only fair to state that herein.

- The new footpath link to the southern end of the proposed new access road is shown on the plans as coming out into the middle of the road and it would be preferable if it linked directly to the new footpath along the new properties to suit the direction of travel of the majority of pedestrians using it (mainly heading to & from local school towards that side of the road), and minimising extra footfall outside no's 154-164.
Officer comment: Having reviewed this access point, the footfall would be over grass and this would not appear to be the optimum positioning. However, it is suggested that contrary to the objection the location of the access would appear to make more sense to follow on from the end of the footpath adjacent the existing properties, and not the new properties. A footpath at the end of the footpath to the new dwellings would require pedestrians to cross the turning area and the open space at the southern boundary.
- The 68 bus does not run along Monkwick Avenue, the 8 & 67 enter Monkwick Avenue from Berechurch Hall Road only as far as Queen Elizabeth way. The only bus serving the new properties is a Sunday service only, the number 8C.
Officer comment: This is noted, although the site being an urban area is still considered to be sustainable.
- The design is not in keeping with the existing houses on the estate.
Officer comment: This is covered in the main report below.
- Concerns over privacy, with some of the 2 story flats causing overlooking as there will always be someone upstairs.
Officer comment: This is covered in the main report below.
- Concerns over security, with the access to the cycle store running between old and new properties.
Officer comment: There is an access for new residents to take stored cycles out between the new dwellings. This runs along a small part of the boundary to existing property, but this is not considered to undermine security. It is not an area that invites public footfall.
- Does this mean access to the woodland will be moved and will the surface be upgraded?
Officer comment: This application relates only to the land in the red line.
- What disruption will the build cause to the Environment/Wildlife that all ready exists in the area?
Officer comment: There are no signs of ecology on the garage site itself. There will be species of some form in the woodland, however there is no protected species on record and the usual controls over construction are considered sufficient for a site outside of this area.
- What provision will be made for parking for the residents of house numbers (even) 154-164, which currently face directly onto the garage block, during the construction of the new development? Parking is limited, not all of the residents are able-bodied and some use the garage site to park in at present
Officer comment: Any rights of access would need to be considered by the Council as a developer and this issue has been passed onto the Housing Service to consider.

The full text of all of the representations received is available to view on the Council's website. The officer's consideration of these issues is set out in the final paragraphs of the main report body below.

10.0 Parking Provision

- 10.1 The dwellings proposed have parking spaces that comply with the Borough's adopted policies TA5 and DP19, as well as adopted minimum standards. Originally the spaces were shown to the Essex Design Guide standards for size; however this has since been corrected to the EPOA Parking Standards adopted since 2009. These require 2 spaces per dwelling and a visitor space for each 14 dwellings (32 spaces for the 14 units herein). 42 spaces have been provided, meaning that 10 parking spaces are compensatory for the demolished garages and for use of others. This ensures that there are no on-street pressures as a direct consequence of this development. Residents of the neighbouring properties that face into the site will also have access to parking where they currently park on the grass verge and cut this up. A refusal on the grounds of intensified high safety issues could not be sustained as a result.
- 10.2 In terms of the parking space sizes, these are shown at 2.5 x 5.0m which is the minimum spaces acceptable. The Highway Authority have asked for the preferred standards of 2.9 x 5.5m, but this would alter the layout and number of spaces and without a policy to justify that change the scheme remains acceptable as it is submitted.

11.0 Open Space Provisions

- 11.1 The proposed dwellings have adequate amenity space overall. The mid-terrace houses facing Monkwick Avenue have 57 square metres of amenity space, a shortfall of 3 square metres. However this small underprovision is considered to be acceptable given that there is a field opposite and a woodland adjacent the site and these areas can be used for amenity purposes. The remaining units have adequate space and meet policy outright.

12.0 Air Quality

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

13.0 Development Team and Planning Obligations

- 13.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. There, it was considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990 (see subsequent sections of this report). This was on the basis that it was an entirely philanthropic scheme that should be supported as a key priority.

14.0 Report

14.1 The key issues are;

- Affordable Housing Need
- Policy Context
- Design and the Impact on the Character of the Area
- Impact on Local Residents
- Parking and Highway Safety
- Private Amenity Space & Public Open Space, Sport and Play Areas.

14.2 Affordable Housing Need

14.2.1 Until recently, Councils had lost their powers to build council houses. Given that a percentage delivery taken from private market housing will never provide the numbers of affordable dwellings that are needed by residents of Colchester this has caused a serious shortfall and affordable housing provision remains one of the key corporate priorities of the Council. As s106 is reliant on the economy, on the delivery of major schemes by private developers, and is increasingly undermined by the viability of developments and other matters, housing delivery has been well below targets for several years. Now that Councils have been re-empowered with the ability to build their own housing schemes for the first time since the 1990s this has allowed this batch of 5 concurrent applications to be the first such projects since these powers were reintroduced.

14.2.2 Housing need evidence is provided by the results of CBC's Strategic Housing Market Assessment (November 2007, updated April 2010). This need is clearly set out in the Cabinet Approved SPD (see extract below):

"The SHMA forms the main Evidence Base for the Council's assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites".

14.2.3 In fact, with the economic downturn, higher lending rates and higher expected profitability from banks before they will lend, viability has often meant that the current 35% affordable housing target is hard to achieve. Consequently, the figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	260	-822
2011/12	1,082	370	-712
2012/13	1,082	133	-949
2013/14	1,082	30 (at Q2)	-1052

14.2.4 The figures speak for themselves and show the scope of need that exists now for affordable housing, illustrating just why it is a key priority. They demonstrate that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations.

14.2.5 This scheme is critical to the overall project as it would deliver 14 of the 34 proposed affordable housing units to be built and maintained by Colchester Borough Council as part of this current tranche. If these are successful it will lead to similar projects in the future. Therefore, the need for affordable housing can be given significant weight as a material planning consideration. This should be balanced against the need to protect the amenities of the areas where development is proposed.

14.3 The Policy Context

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

14.3.2 These dimensions give rise to the need for the planning system to perform a number of roles

- an economic role, helping to build a strong economy by supporting growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure
- a social role, providing vibrant and healthy communities through the supply of housing required to meet the needs of present and future generations; creating a high quality built environment, with accessible local services that reflect need
- an environmental role, protecting and enhancing our environment; mitigating and adapting to climate change including moving to a low carbon economy.

14.3.3 Planning decisions should start with a presumption that development should be approved where it accords with the development plan; and permission should be granted unless there are any adverse impacts that would "significantly and demonstrably outweigh the benefits" of a scheme, when assessed against policies and taken as a whole. In this instance the benefits of providing affordable housing must be considered against any adverse impacts, but with a presumption that they should be approved.

14.3.4 The local, Colchester Borough Council policies, follow this positive approach and are discussed in more detail against the individual issues raised below, as relevant. However, they ensure that developments must be designed to a sufficient standard to be approved, taking into account the need to maintain a good quality built environment, protect neighbouring amenity and ensure that the safety of the highway is preserved. It is considered that the proposals meet these needs in a satisfactory manner.

14.4 Design and the Impact on the Character of the Area

- 14.4.1 The site is effectively two-part in that it has a Monkwick Avenue frontage and then it's own road fronting properties. These are two different character elevations although a general design approach is used to establish a CBC look fitting of the 21st Century. The approach is one that seeks to establish a project "brand" across the 5 sites, through a contemporary design that reflects the era of the buildings as opposed to trying to mimic the date of its surroundings, which includes former Local Authority housing typologies. The usual starting point for all design is to look for visual reference from the local context and to reflect local characteristics in new buildings. However, where there are no strong local characteristics and the context lends itself to other design possibilities then more flexibility can be given in the design philosophy. Additionally, where the architecture of the area reflects its own period it is not unusual to divert from pastiche approaches and attempt to be unashamedly different. That in itself reflects that the infilling of an area was not original and should not be mistaken as part of the original development – it forms part of the evolutionary story of an area.
- 14.4.2 At this site, the "street fronting" properties are a terrace row of 4 dwellinghouses. They have a regular form and rhythm to reflect that characteristic of the surrounding streets, albeit in different architectural aesthetic. Within the site, a row of flats is created. The central section repeats a rhythm, with the ends taking their own form to differentiate and turn the corners. The layout creates its own road, with parking and landscaping that will also help serve numbers 154-164 opposite.
- 14.4.3 Policy is quite clear that planning should not dictate architectural styles, but judge development against broader considerations such as the rhythms of the streetscene, the scale and height of development, and such issues. Policy DP1 is a key consideration, and this sets out a requirement that all development should be well designed and preserve or enhance the character of the built environment.
- 14.4.4 Overall, the proposed design is considered to help enhance the quality of the built environment over and above the value of the existing garages, and when considered in the local context, and it is acceptable on its own merits when considered against policies such as DP1, UR2 and PR2.

14.5 Impact on Local Residents

- 14.5.1 New development should avoid unacceptable impacts on neighbouring amenities such as loss of privacy, loss of light and outlook. These key requirements are met by the proposal..
- 14.5.2 In terms of the first, overlooking is avoided primarily by good distances to properties. Front elevations are not offered "privacy" by policy because they are public fronting anyway, but there are still reasonable distances to that usually found on new developments. The combinations of angle and distance from neighbouring windows mean that there are no concerns whatsoever in this regard.
- 14.5.3 Similarly, the proposal also accords with policy on angles of outlook from neighbouring windows, therefore ensuring that it will not be overbearing. With regard to light, there are also no concerns whatsoever over adverse loss of light to any neighbour.

14.5.4 In summary, there is no conflict with our policies that seek to avoid any adverse impact on the amenities of neighbours. This is reflected by the consultation responses, where such issues are not controversial in any way.

14.6 Parking and Highway Safety

14.6.1 Adopted parking standards require two parking spaces per dwelling for new dwellings. This has been achieved by the proposal. The same standards also require 0.25 visitor parking spaces per dwelling, which would necessitate one visitor space on this site. This results in a need for 32 spaces from the 14 new dwellings, and there are 42 spaces provided under the proposal..

14.6.2 However, 10 additional spaces are provided because there are displaced vehicles from the demolition of the garages. The Highway Authority have no objection to this level of parking and have pointed out that if the garages were put into full use then there would be 43 cars using this site at present without the need for planning permission. This is a material factor in the consideration of parking provision here. Conversely, it is a matter of fact that some of the cars parked at the site at present would be forced into the highway itself should the garages be demolished.

14.6.3 Prior to the submission of the planning applications the applicants undertook a parking survey to assess the existing parking capacity of the highway, and to ensure that a suitable level of parking could be provided through this development so as to avoid any detrimental impacts on local safety. Following surveys, it was concluded that only 10 of the garages are currently used for parking vehicles and therefore only 10 cars would be displaced from the demolition of the 43 garages. The 10 spare spaces provided would therefore be sufficient to accommodate the existing traffic at the site and its surroundings. On that basis a refusal on highway safety grounds would be unjustifiable.

14.7 Private Amenity Space & Public Open Space, Sport and Play Areas.

14.7.1 Policy requires 60 square metres of rear garden for the dwellings and 25 square metres of space for each flat, which can be provided communally. The scheme meets this overall, although the mid-terrace dwellings have a slightly lower provision of 57 square metres of private amenity space. This does not quite comply with the level required by Development Policy DP16 but is considered to be acceptable nonetheless. The site is heavily constrained but the policy is so nearly met, and it is considered to be acceptable given that there is a field immediately opposite and a woodland adjacent.

14.7.2 Policy DP16 also states that “all new residential development will pay a commuted sum towards open space provision and maintenance. No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “The standards, outlined above, are to be applied to all additional new residential Units... New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”

14.7.3 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Darwin Close, Gloucester Avenue, and the several Estuary Housing Schemes given permission in the last year the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. This is based on the pressing need for the delivery of affordable housing being a greater priority. It does not set a precedent for private market housing as this does not provide 100% affordable housing.

14.7.4 In addition, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Councils overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.

14.7.5 In conclusion, given the specifics of this location in Monkwick Avenue, the scheme provides acceptable private amenity space and open space provisions.

14.8 Other Consideration and Matters

14.8.1 Adopted policy would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved. It is noted that all registered social landlords that usually provide affordable housing are required to build to this standard or higher. In aiming to lead by example to others the Council has decided to aim for a higher level of Code 4. This has been designed into the scheme and is the intention for the tender and subsequent construction process that it will be achieved in constructing this project. However, as the Council's policy requires Code 3 only this level of Code for Sustainable Homes could be reasonably conditioned. Despite this condition (which will state level 3 as a minimum), the scheme should achieve Code 4 levels in due course anyway.

14.8.2 Similarly, the Council proposes to seek a Local Apprenticeship Scheme so that there are jobs created for local people, helping to up skill people and increase their chances of gaining employment in future. This is a socio-economic benefit of the scheme. The tender process is also open to local construction companies to submit bids, alongside others, to build the homes should the development be approved as recommended. That process runs outside of the planning process but is nonetheless within the Council's overall control.

15.0 Conclusion

15.1 This development would be a positive contribution to the area in general. The existing unsightly garages would be removed from the site and would be replaced with an acceptable contemporary design of 14 dwellings, with enhanced landscaping and a satisfactory level of parking. This can be achieved without any adverse harm to neighbours amenity when measured against the policies of our Development Plan. It can also be achieved whilst making the area more accessible to the closest neighbours, helping them gain from the development long-term.

16.0 Recommendation

16.1 APPROVE subject to conditions set out below

17.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 141-P1, 142-P3, 144-P3, 145-P2, 146-P2 and 147-P2. Reason:

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

3 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4 - Residential Code for Sustainable Homes (Part 1 of 2)

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

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

5 - Residential Code for Sustainable Homes (Part 2 of 2)

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

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

6 - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

7 -Removal of PD for Residential Extensions

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

8 - Simple Landscaping Scheme Part 1 of 2

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

9 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

10 - Non-Standard Condition/Reason

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

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme.

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

Reason: The site has some signs of contaminants and any further unexpected contamination would need to be considered as above.

11 - Construction Method Statement

No works shall take place until including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

12 - Cycle Parking TBA

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

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

13 - Non-Standard Condition/Reason

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

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

14 - No Unbound Surface Materials

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

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

15 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.5 metres x 5.0 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

16 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall have been previously submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

17 - Tree and Natural Feature Protection: Protected Areas

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

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

18 - Tree and Hedgerow Protection: General

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

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

19 - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

20 - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

18.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

(2) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

(3) ZTM - Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631 with regard to the necessary application and requirements.

(4) ZTE - Informative on Demolition Notices

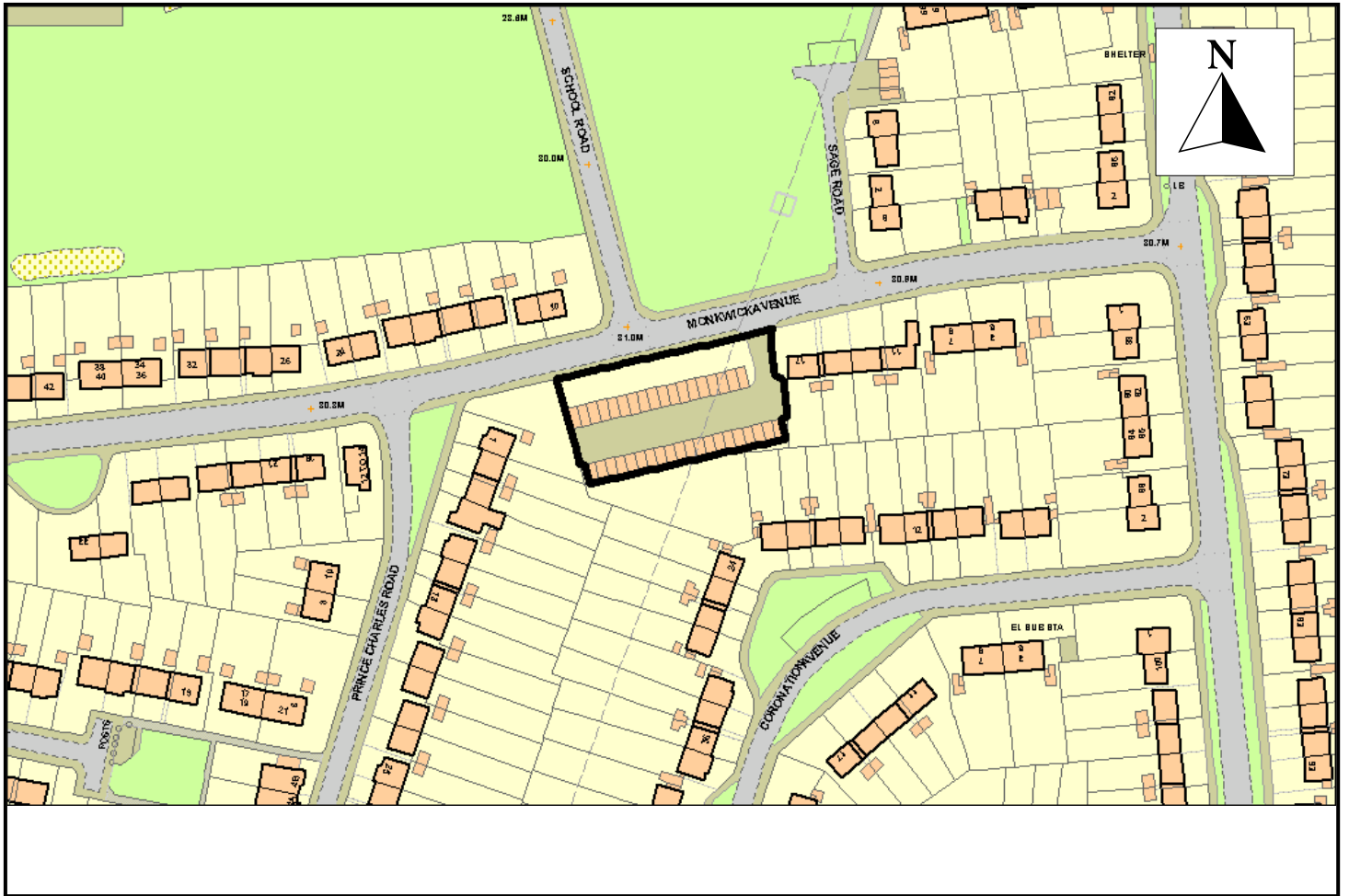
PLEASE NOTE that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Team on 01206 282436.

(5) Non-Standard - Landscaping Notes for Applicant/Agent

- It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional.
- In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Landscape Consultant and the Council's Landscape Planning Officer.
- Please refer to planning application number when responding to this consultation.

19.0 Positivity Statement

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



Application No: 131956

Location: Garage Site 2, Monkwick Avenue, Colchester

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2012

7.4 Case Officer: Andrew Tyrrell

Due Date: 29/11/2013

MINOR

Site: Garage Site 2, Monkwick Avenue, Colchester

Application No: 131956

Date Received: 4 October 2013

Agent: Nps South East Limited

Applicant: Colchester Borough Council

Development: Demolition of 39 existing garages, construction of four 3 bedroom 2 storey houses with associated parking and displacement parking spaces, external works, drainage and landscaping.

Ward: Berechurch

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Colchester Borough Council are the applicants, and because the proposal is not accompanied by a contribution towards public open space provision. The later point is explained in the report below.

2.0 Synopsis

2.1 This application is one of 5 concurrent schemes submitted to deliver a total combined number of 34 affordable housing units on under-used Colchester Borough Council (CBC) owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council Housing Services to find innovative ways of enabling more affordable housing to be built, in line with stated key priority objectives of the Council. There is currently a significant shortfall in affordable housing in Colchester, and Government changes are likely to lead to an ever-reducing number of affordable units coming forward. At present levels there has been a need for over 1,000 affordable housing units to be provided for the Borough per annum since 2007. In 2011/12 the Council was able to deliver just 370 units through planning obligations on major developments and this was a 3-year high. With the gap increasing again last year after Government changes to the way in which affordable housing can be delivered from "planning gain", the Council are looking at creative ways to deliver more proactively.

2.2 This application by Colchester Borough Council Housing Service proposes the demolition of 39 existing garages, to be replaced by the construction of four 3-bed houses with associated parking and landscaping. The properties are a row of terraced houses of a contemporary design. The parking and turning areas associated with the development are particularly important given the close proximity of the nearby school. Although developments do not have to mitigate other issues, and only need to

neutralise their own impacts, it is considered that the redevelopment of this site will also make it safer for children and parents who use the existing garage site to park and turn in at peak school times.

- 2.3 The report below examines the key issues of the impact on the streetscene, the impact on local residents and highway safety and balances them against the Government instructions to facilitate sustainable development, as well as CBC's own stated key priority to deliver more affordable housing. The report concludes that there are no material reasons to justify the refusal of the application. In fact, the officer's recommendation to the Committee is that it would enhance the quality of the built environment without adverse impacts to neighbours and that it would help improve highway safety and should therefore be approved. The scheme therefore accords with both local and national policy.

3.0 Site Description and Context

- 3.1 The application site is currently occupied by 39 garages in 2 rows running east to west across the site. The access is from the north, at the north-east corner of the site. At the entrance way there is a small tarmac area that parents collecting schoolchildren, usually 3 from site observations, wait at the end of the school day. The access road of Monkwick Avenue does get busy at this time of day.
- 3.2 The school is to the north, beyond the playing field. Also stretching across this field and the application site, running north-south, are some electricity pylons and lines. To the east and west rows of dwellings front Monkwick Avenue in a linear fashion. They are uniform in architectural appearance, are very much of their time in design terms but are of limited architectural merit. To the south, properties back onto the site. There are two trees visible above the southern boundary, which are sited in the garden of a neighbouring property.
- 3.3 Of note, access has been accrued to 1 Prince Charles Road, with access through a gap in the western boundary treatment of the garage site. Similarly, a gate can be found at the western end of the southern boundary and there has also been some land changes to the adjacent property at 17 Monkwick Avenue to the eastern end.

4.0 Description of the Proposal

- 4.1 The applicant proposes the demolition of the existing garages which are to be replaced by four 3-bed dwellinghouses. These are lined east to west in line with the building line of Monkwick Avenue. They finish west of the electricity lines for clearance gap reasons, with the land east of the lines laid out for parking and turning. There are 20 parking spaces proposed of which only 9 are required by policy standards in relation to the new dwellings.
- 4.2 The properties are of a contemporary design finished in brick, cladding and smooth render. They have a strong rhythm and that characteristic reflects the repetitive nature of local properties. They represent a crisp architectural statement and will help lift the design quality of the area.

4.3 Perhaps of more significance than normal, the openness of the site is important. The site is currently used by a handful of parents to wait for schoolchildren from Monkwick Primary. At present the existing two rows of garages block visibility and access so that these cars can only park in the entranceway, but the designed layout also allows clear visibility of vehicles within the site and also allows more generous areas for parking and turning at school times. This is not necessary to make the proposal acceptable in planning terms, but is a valuable benefit to the school-using community that the Council has worked hard to secure.

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits but has no other allocation. As a garage site it would be considered as contaminated land and a survey has been submitted to detail this.

6.0 Relevant Planning History

6.1 There is no relevant planning history to this site and proposal.

7.0 Principal Policies

7.1 The national policy is set out in The National Planning Policy Framework (NPPF). The core thread of national policy is that sustainable developments, that are acceptable in terms of social, economic and environmental impact, should have a presumption in favour of approval. This will be explored further in the main report section below.

7.2 In addition to the above, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

- SD1 – Sustainable development
- H1 – Housing Delivery
- H2 – House Density
- H3 – Housing Diversity
- H4 - Affordable Housing
- TA5 – Parking
- UR2 – Built Design and Character
- PR2 – People Friendly Streets

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

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards

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

- Backland and Infill Development
- EPOA Vehicle Parking Standards (2009)
- Open Space, Sport and Recreation
- Extending your House?
- The Essex Design Guide (1997)
- External Materials in New Developments
- Affordable Housing

8.0 Consultations

8.1 Cllr Dave Harris has made general observations on the proposal. He states that:

“I am concerned over the impact the development will have on parking in and around School Road at school out time. Cars park around the area in Monkwick Ave, and if there is not careful thought over this impact then danger will exist to children. I would like a walk through the area with Head teachers of Junior and Infant school and myself to discuss any measures that can be taken to minimise this reduction on parking in Monkwick Avenue. I wish to see homes built for families, but safety of our School Children is paramount. I trust this walk out can be conducted within the 8 week determination so that the opportunity for modification can be taken up”.

Officer Note: These comments have been considered in the main report. A walk around the site at school pick up times was also organised, but this will not have taken place until after this report is written. Any update will be provided on the amendment sheet or at the Committee meeting if necessary.

8.2 The Highway Authority has stated that, “having regard to the fact that without recourse to the planning process all garages could be renovated and occupied, the proposal is not going to intensify the amount of traffic associated with the site. In this regard the Highway Authority would not wish to raise an objection”. They caveat that this is on the basis of conditions being included which have been set out in the recommendation below where they can be justified. The requirement to provide the preferred space dimensions has not been included as the spaces shown on the plans meet the minimum standards and these are acceptable. The preferred space dimensions would result in less spaces overall. Similarly, the County Council suggested travel pack condition has been amended to an acceptable version for Colchester Borough Council policies as the Local Planning Authority.

8.3 The Council’s Tree Officer has no objection. The main concern is protecting trees in the neighbours rear garden and this requires details about the lifting of the ground surface and for fencing to be in place throughout construction.

Officer note: Condition suggested have been included in the recommendation

8.4 The Landscape Officer originally recommended revised proposals to better complement the existing landscape (revisions have been received since, although some issues require conditions). These revisions included the knee rail fronting plots 1 to 4 and running down the eastern side of plot 1 to be replaced with a low brick wall and tree positions to be slightly realigned to avoid potential conflict, as they mature, with hard landscape and pedestrian/vehicular movements. Overall, the Officer consultation concluded that they were satisfied with the landscape content of the proposal subject to the above amendments although these could be dealt with through conditions (included in the recommendation)

8.5 The Environmental Control Team has raised no objections as the team who look at complaints resulting from contamination, noise, light and other pollutants. The EHO has requested the use of model condition ZPA on "Construction Method" Statement. The contaminated land officer has added that they note that the reports submitted in support of this application include:

1) Walter Environmental Ltd Asbestos Refurbishment Survey, Ref GP-3377, dated 31/5/13

2) RSA Geotechnics Ltd Interpretative Report, ref 13599SI, dated July 2013.

Both reports are acceptable for Environmental Protection purposes.

1) Has not identified the presence of any asbestos, however, access was limited.

2) Includes a Desk study and some basic intrusive investigation. This report has concluded that there is a negligible risk to end users from any identified potential contaminants of concern and that there is no requirement for remediation.

Based on the information provided, it would appear that the site can be made suitable for the proposed use and should permission be granted for this application, the Contaminated land Officer would recommend inclusion of the following condition:

- Reporting of Unexpected Contamination

8.6 Parks and Recreation have raised no comments as the team who maintain the Council's grassed areas.

8.7 The Council's Urban Designer suggested some amendments to the original plans which have either been shown on the amended plans received or can be conditioned. Therefore, they have no objections to the scheme.

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

9.0 Representations

9.1 There have been 2 letters of objection received. The majority of these are from residents in Coronation Way, who share a boundary with the rear of the site. Issues raised all relate to the removal of the wall that forms the rear of the garages backing onto these properties. The specific concerns that the removal of the wall causes to neighbours are summarised as below:

1. The lower height of the replacement fences harms privacy
2. The lower height and less solid construction of fences harm security
3. Brick walls require less upkeep and maintenance, being more stable in the long run
4. The lower height of the fence make the unsightly pylons more visible
5. A fence does not provide as much sound proofing as a wall from schoolchildren noises

6. The removal of the wall might kill a tree to the rear of number 20

9.2 A third objection was received from 1 Prince Charles Road but was also resolved outside of the planning process. The neighbour here has an accrued access through the garage site, which will be closed of by this development. Instead CBC are providing a dropped kerb access to Monkwick Avenue, which does not require planning permission (as an unclassified road) and is not part of this application.

9.3 The full text of all of the representations received is available to view on the Council's website. The officer's consideration of these issues is set out in the final paragraphs of the main report body below.

10.0 Parking Provision

10.1 The dwellings proposed have parking spaces that comply with the Borough's adopted policies TA5 and DP19, as well as adopted minimum standards. Originally the spaces were shown to the Essex Design Guide standards for size; however this has since been corrected to the EPOA Parking Standards adopted since 2009. These require 2 spaces per dwelling and a visitor space. 20 spaces have been provided for the 4 dwellings, and for the displaced vehicles from the occupied garages and/or local residents. Parking standard require 9 as a result of the new dwellings, meaning that 11 parking spaces are compensatory for the demolished garages. There are now only 5 garages in use for parking vehicles at this site, meaning that 14 spaces would neutralise the impact of this development and satisfy planning requirements. This ensures that there are no additional on-street pressures as a direct consequence of this development. However, the site has an overprovision of parking and therefore 6 spaces should remain spare at any one time, unless people who currently do not have parking space locally take advantage of these post-development (i.e. this development should allow 6 cars parked in Monkwick Avenue to be relocated off-street within this site). Garages are very often used for the storage of domestic items and when remote from dwellings are used less and less for the parking of cars. The additional spaces that this scheme provides are significantly more useable than the garages they replace and will be publically available. Due to the significant overprovision of off street parking, a refusal on the grounds of intensified high safety issues could not be sustained at appeal.

10.2 In terms of the space sizes, these are shown at 2.5 x 5.0m which is the minimum spaces acceptable. The Highway Authority have asked for the preferred standards of 2.9 x 5.5m, but this would alter the layout and actually decrease the number of spaces provided on site. A space of 2.5 x 5.0m is entirely workable as a parking space and therefore officers consider that reducing the number of spaces to accommodate larger spaces is unnecessary. Without a policy to justify that change the scheme remains acceptable as it is submitted.

11.0 Open Space Provisions

11.1 The proposals generally have adequate amenity space, although they do fall below the required 60 square metres. The mid-terrace gardens are as low as 51 square metres, owing to the inability to move the dwellings further forward due to existing underground constraints. However, the 9 square metre shortfall in these gardens can be accepted as the private amenity spaces provided are very regular and useable in shape. Furthermore the dwellings face a playing field which is highly likely to be utilised by future residents for play. No contribution towards public open space is proposed. See main body of report for more detail.

12.0 Air Quality

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

13.0 Development Team and Planning Obligations

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

14.0 Report

14.1 The key issues are;

- Affordable Housing Need
- Policy Context
- Design and the Impact on the Character of the Area
- Impact on Local Residents
- Parking and Highway Safety
- Private Amenity Space & Public Open Space, Sport and Play Areas.

14.2 Affordable Housing Need

14.2.1 Until recently, Councils had lost their powers to build council houses. Given that a percentage delivery taken from private market housing will never provide the numbers of affordable dwellings that are needed by residents of Colchester this has caused a serious shortfall and affordable housing provision remains one of the key corporate priorities of the Council. As s106 is reliant on the economy, on the delivery of major schemes by private developers, and is increasingly undermined by the viability of developments and other matters, housing delivery has been well below targets for several years. Now that Councils have been re-empowered with the ability to build their own housing schemes for the first time in approximately 25 years has allowed this batch of 5 concurrent applications to be the first such projects since these powers were reintroduced.

14.2.2 Housing need evidence is provided by the results of CBC’s Strategic Housing Market Assessment (November 2007, updated April 2010). This need is clearly set out in the Cabinet Approved SPD (see extract below):

“The SHMA forms the main Evidence Base for the Council’s assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites”.

14.2.3 In fact, with the economic downturn, higher lending rates and higher expected profitability from banks before they will lend, viability has often meant that the current 35% affordable housing target is hard to achieve. Consequently, the figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	260	-822
2011/12	1,082	370	-712
2012/13	1,082	133	-949
2013/14	1,082	30 (at Q2)	-1052

14.2.4 The table speaks for itself in showing the scope of need that exists now for affordable housing, illustrating just why it is a key priority. It demonstrates that in the current economic climate when viability of new development is stretched and Central Government is instructing Local Planning Authorities to be as flexible as possible with regards to renegotiating s106 planning obligations, it is an almost impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations.

14.2.5 This scheme would deliver 4 of the 34 proposed affordable housing units to be built and maintained by Colchester Borough Council as part of this current project. If these are successful it will act as a catalyst for similar projects in the future. Therefore, the need for affordable housing must be given significant weight as a material planning consideration. This should be balanced against the need to protect the amenities of the areas where development is proposed, however it is noted that this scheme does raise significant issues in this regard.

14.3 The Policy Context

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

14.3.2 These dimensions give rise to the need for the planning system to perform a number of roles

- an economic role, helping to build a strong economy by supporting growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure
- a social role, providing vibrant and healthy communities through the supply of housing required to meet the needs of present and future generations; creating a high quality built environment, with accessible local services that reflect need
- an environmental role, protecting and enhancing our environment; mitigating and adapting to climate change including moving to a low carbon economy.

14.3.3 Planning decisions should start with a presumption that development should be approved where it accords with the development plan; and permission should be granted unless there are any adverse impacts that would “significantly and demonstrably outweigh the benefits” of a scheme, when assessed against policies and taken as a whole. In this instance the benefits of providing affordable housing must be considered against any adverse impacts, but with a presumption that they should be approved.

14.3.4 The local, Colchester Borough Council policies, follow this positive approach and are discussed in more detail against the individual issues raised below, as relevant. However, they ensure that developments must be designed to a sufficient standard to be approved, taking into account the need to maintain a good quality built environment, protect neighbouring amenity and ensure that the safety of the highway is preserved. It is considered that the proposals meet these needs in a satisfactory manner.

14.4 Design and the Impact on the Character of the Area

14.4.1 The general design approach is one that seeks to establish a project “brand” across the 5 sites, through a contemporary design that reflects the era of the buildings as opposed to trying to mimic the date of its surroundings. The usual starting point for all design is to look for visual reference from the local context and to reflect local characteristics in new buildings. However, where there are no strong local characteristics and the context lends itself to other design possibilities then more flexibility can be given in the design philosophy. Additionally, where the architecture of the area reflects its own period it is not unusual to divert from pastiche approaches and attempt to be unashamedly different. That in itself reflects that the infilling of an area was not original and should not be mistaken as part of the original development – it forms part of the evolutionary story of an area. In this instance simply copying a pastiche of the existing built form would result in a real missed opportunity in design terms.

14.4.2 At this site, the land is split into two halves by electricity lines. The new dwellings are sited in a terrace row to the west of these, whilst the eastern half is given over to parking. This ensures that the existing point of access is retained whilst providing a built form (terrace of 4) in keeping with the locality. It also helps isolate the contrasting design in a block of its own, with the adjacent properties not lying continuous from the development proposed.

14.4.3 Whilst the new dwellings exhibit a contemporary aesthetic, the dwellings proposed reflect the traditional pattern of terraces in the area, taking a similar footprint and width to depth ratio to give narrow plots. Policy is quite clear that planning should not dictate architectural styles, but judge development against broader considerations such as the rhythms of the streetscene, the scale and height of development, and such issues. Policy DP1 is a key consideration, and this sets out a requirement that all development should be well designed and preserve or enhance the character of the built environment.

14.4.4 Overall, the proposed design is considered to significantly enhance the quality of the built environment over and above the value of the existing garages, and when considered in the local context, and it is acceptable on its own merits when considered against policies such as DP1, UR2 and PR2.

14.5 Impact on Local Residents

14.5.1 Policy requires new development to avoid an unacceptable impact on neighbouring amenities including loss of privacy, loss of light and loss of outlook. This scheme has been sensitively designed to ensure the requirements of the Council's adopted Policy and Supplementary Planning Guidance are easily met herein.

14.5.2 In terms of the first, overlooking is avoided primarily by good distances to properties and by orientating the dwellings in line with the existing rows along Monkwick Avenue. The combinations of angle and distance from neighbouring windows mean that there are no concerns whatsoever in this regard.

14.5.3 Similarly, the proposal also accords with policy on angles of outlook from neighbouring windows, therefore ensuring that it will not be overbearing. With regard to light, there are also no concerns whatsoever over adverse loss of light to any neighbour.

14.5.4 In summary, there is no conflict with our policies that seek to avoid any adverse impact on the amenities of neighbours. This is reflected by the consultation responses, where such issues are not controversial in any way.

14.6 Parking and Highway Safety

14.6.1 Of greater interest is the traffic congestion around school times. The garage site is frequented by a handful of parents; three have been parked in the entranceway at the school time site visits that the case officer undertook over the last few weeks. The road is also a bus route. Planning can only require that the development mitigates its own impact. It is not reasonable for planning applications to be required to resolve existing problems caused by off-site issues. In this instance the school causes some congestion, but provided that the new development would not make this worse from itself, it is not possible to insist that it makes the existing problem better.

14.6.2 Adopted parking standards require two parking spaces per dwelling for new dwellings. This has been achieved by the proposal. The same standards also require 0.25 visitor parking spaces per dwelling, which would necessitate one visitor space on this site. That results in a need for 9 spaces from the 4 new dwellings. This scheme has provided 20 off street spaces on site, far in excess of the adopted standards.

- 14.6.3 However, 11 additional spaces are provided because there are displaced vehicles from the demolition of the garages. The Highway Authority have no objection to this level of parking and have pointed out that if the garages were put into full use then there would be 39 cars using this site at present without the need for planning permission. This is a material factor in the consideration of parking provision here. Similarly, it is a matter of fact that some of the cars parked at the site at present would be forced into the highway itself should the garages be demolished.
- 14.6.4 Prior to the submission of the planning applications the applicants undertook a parking survey to assess the existing parking capacity of the highway, and to ensure that a suitable level of parking could be provided through this development so as to avoid any detrimental impacts on local safety. Following surveys, it was concluded that only 5 of the garages are currently used for parking vehicles and therefore only 5 cars would be displaced from the demolition of the 39 garages. The 11 spare spaces provided would therefore be sufficient to accommodate the existing traffic at the site and its surroundings. On that basis a refusal on highway safety grounds would be unjustifiable.
- 14.6.5 In fact, Members may even consider that an “over provision” of 6 spaces has been offered unnecessarily, where if some of the front tandem parking spaces were removed from the plans this would allow for larger grassed open space areas. However, in this instance, given the playing field is opposite and that there are concerns about traffic congestion at school times it is suggested that the parking may be more valuable to the local community than extra open space.
- 14.6.6 The site has been visited on 2 occasions at school times, with a third visit scheduled with Cllr Harris before the Committee meeting (but post this report). On both occasions 3 drivers were observed using the garage site to wait for schoolchildren. At least 2 of these 3 drivers were the same ones on the two occasions. Most parents park in the road. On both occasions at least 6 spaces have been observed within sight of the garage site (i.e. within easy walking distance). The parking survey concluded that there are 49 suitable roadside parking spaces within 100m of the development site at peak times in the evening, showing that other than at school times there are no parking issues. This would reflect the limited consultation response levels.
- 14.6.7 Looking at the data from the submitted parking surveys that were later submitted in response to initial comments on the application, Ingleton Wood supplemented their surveys from June 2013 to explore the issue of school times in early October. This survey data assesses the direct impact the parking associated with parents dropping off and picking up children from Monkwick Infant School, which is located in School Road and who park within 100m of the proposed garage development site. This survey also included observations of parents turning their vehicles around within the garage site itself. Surveys were undertaken on Monday 7th, Wednesday 9th, Friday 11th and Monday 14th October during the peak dropping-off and picking-up times.

14.6.8 For survey purposes, a suitable parking space was based on a 6m zone, although vehicles were parked closer than at 6m intervals. This has led to parking stresses being in excess of 100% at certain times, but parking stress (based on car levels after the development would be in place) would only exceed 90% for a short interval near 3.00pm. This falls back to around 40% by 3.30pm where it stays relatively consistent. In the morning peak the parking stress does not exceed 73%. It is clear from the results that parents picking up their children from school at 3.00pm creates a high level of parking stress, however this is only for a very short period of time. The garage site development would not make this situation worse, as it provides more space for parents to utilise should they wish to. However, the surveys also concluded that the garage forecourt area is currently not generally used to drop-off or pick-up children or for turning purposes. However, a few parents do utilise this space at present.

14.6.9 The full survey text can be seen online.

14.7 Private Amenity Space & Public Open Space, Sport and Play Areas.

14.7.1 A provision of 51 square metres or more of private amenity space is proposed for each dwelling. This does not quite comply with the level required by Development Policy DP16 but is considered to be acceptable nonetheless. The issue lies with the two central plots, where a shortfall of approximately 9 square metres exists. However, the properties cannot be sited further forwards, and a rear access has been retained for an existing resident to the rear. Combined, these two factors limit the garden sizes, but it is considered to be acceptable given that there is a large playing field immediately opposite.

14.7.2 Policy DP16 also states that “all new residential development will pay a commuted sum towards open space provision and maintenance. No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “The standards, outlined above, are to be applied to all additional new residential Units... New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”

14.7.3 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Darwin Close, Gloucester Avenue, and the several Estuary Housing Schemes given permission in the last year the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. This is based on the pressing need for the delivery of affordable housing being a greater priority. It does not set a precedent for private market housing as this does not provide 100% affordable housing.

14.7.4 In addition, the “Monkwick 2” application is opposite an existing field and also makes small gains in public open space to enhance the landscape value of the area. Furthermore, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council’s overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.

14.7.5 In conclusion, given the specifics of this location in Monkwick Avenue, the scheme provides acceptable private amenity space and open space provisions.

14.8 Other Consideration and Matters

14.8.1 Adopted policy would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved. It is noted that all registered social landlords that usually provide affordable housing are required to build to this standard or higher. In aiming to lead by example to others the Council has decided to aim for a higher level of Code 4. This has been designed into the scheme and is the intention for the tender and subsequent construction process that it will be achieved in constructing this project. However, as the Council’s policy requires Code 3 only this level of Code for Sustainable Homes could be reasonably conditioned. Despite this condition (which will state level 3 as a minimum), the scheme should achieve Code 4 levels in due course anyway.

14.8.2 Similarly, the Council proposes to seek a Local Apprenticeship Scheme so that there are jobs created for local people, helping to up skill people and increase their chances of gaining employment in future. This is a socio-economic benefit of the scheme. The tender process is also open to local construction companies to submit bids, alongside others, to build the homes should the development be approved as recommended. That process runs outside of the planning process but is nonetheless within the Council’s overall control.

14.8.3 The final issue is that of the objections received from neighbours. They have said that the removal of the wall causes concerns, although this wall belongs to CBC and they are entitled to remove it as the landowners. The residents are also entitled to erect their own boundary treatments on their land, but have until now relied upon the garages as their boundary treatment. Planning does not require like for like replacement, although some form of boundary treatment is required for amenity reasons.

14.8.4 The concerns are that the 1.8m high fences proposed will offer less privacy and security. At that height, privacy is offered in a common way, with such fences being found regularly. Whilst a fence is easier to vandalise than a wall, the area will benefit from more natural surveillance.

14.8.5 With regard to soundproofing, this is not a justifiable ground for asking for a wall instead of a fence in planning terms. The noise issue here has not been raised by our Environmental Control team, who have not voiced any such concerns when replying to the consultation. Similarly, the tree officer undertook a site visit with the case officer and suggested that a wall, requiring deeper foundations than likely to have been made when these garages were built, would be more harmful to the trees in neighbouring gardens than a fence (which only requires fence posts here and there as opposed to a continuous foundation).

14.8.6 Maintenance of the fences, which would be a CBC concern as land owner, and increased views of the pylons are both not planning matters and cannot be considered.

15.0 Conclusion

15.1 This development would be a positive contribution to the area in general. The current block of garages is harmful to the character of the area. Furthermore, only five are occupied for parking purposes. The removal from the site of these dilapidated buildings and the replacement with four high quality dwellings of a contemporary design is a welcome addition to the street scene. The scheme includes enhanced landscaping and a level of parking far in excess of the adopted standards. This can be achieved without any adverse harm to neighbours when measured against the policies of our Development Plan. It can also be achieved whilst making the area safer for school children and parents who use the site to park at present, and may continue to do so more easily after the development takes place. Two spare spaces are provided for the public to use, in addition to any visitor spaces that are unoccupied at the school times (when residents may be at work). As there are currently no parking spaces provided this provision can only be a positive contribution to the traffic congestion observed on school days.

15.2 The scheme therefore accords with Local and National Planning Policy and will contribute valuably towards the Borough's affordable housing provision.

16.0 Recommendation

16.1 APPROVE subject to conditions set out below

17.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 161-P1, 162-P2, 164-P2 and 165-P2.

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

3 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4 - Residential Code for Sustainable Homes (Part 1 of 2)

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

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

5 - Residential Code for Sustainable Homes (Part 2 of 2)

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

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

6 - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

7 -Removal of PD for Residential Extensions

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

8 - Simple Landscaping Scheme Part 1 of 2

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

9 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

10 - Non-Standard Condition/Reason

carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and subject to the approval in writing of, the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme.

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

Reason: The site has some signs of contaminants and any further unexpected contamination would need to be considered as above.

11 - Construction Method Statement

No works shall take place until including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

12 - Cycle Parking TBA

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

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

13 - Non-Standard Condition/Reason

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

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

14 - No Unbound Surface Materials

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

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

15 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.5 metres x 5.0 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

16 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall have been previously submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

17 - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

18 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall have been previously submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

19 - Non-Standard Condition/Reason

No works shall take place until the following detailed drawings and cross sections at a scale of not less than 1:50 have been submitted to and agreed, in writing by, the Local Planning Authority:

- All joinery and fenestration
- Surface finish interactions.

The scheme shall thereafter be finished in accordance with the agreed details.

Reason: The level of architectural detailing is not adequately described on the submitted drawings.

20 - Tree and Natural Feature Protection: Protected Areas

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

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

21 - Tree and Hedgerow Protection: General

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

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

22 - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

18.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

(2) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

(3) ZTM - Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631 with regard to the necessary application and requirements.

(4) ZTE - Informative on Demolition Notices

PLEASE NOTE that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Team on 01206 282436.

(5) Non-Standard - Landscaping Notes for Applicant/Agent

- It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional.
- In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Landscape Consultant and the Council's Landscape Planning Officer.
- Please refer to planning application number when responding to this consultation.

19.0 Positivity Statement

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



Application No: 131929

Location: Garage Block, Rosabelle Avenue, Wivenhoe

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012

7.5 Case Officer: Andrew Tyrrell

Due Date: 27/11/2013

MINOR

Site: Garage Block, Rosabelle Avenue, Wivenhoe

Application No: 131929

Date Received: 2 October 2013

Agent: Nps Property Consultants Limited

Applicant: Colchester Borough Council

Development: Demolition of 40 existing garages. Construction of five 3 bedroom 2 storey houses with associated parking and displacement parking spaces, external works, drainage and landscaping.

Ward: Wivenhoe Quay

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Colchester Borough Council are the applicants. Additionally, it should be noted that the proposal is not accompanied by a financial contribution towards public open space provision as set out in adopted SPD.

2.0 Synopsis

2.1 This application is one of 5 concurrent schemes submitted to deliver a total combined number of 34 affordable housing units on under-used Colchester Borough Council (CBC) owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council Housing Services to find innovative ways of enabling more affordable housing to be built, in line with the Council's stated key priority objectives. As members will be aware, there is currently a significant shortfall in affordable housing in Colchester with more than 1,000 a year being required. The private market housing can not contribute enough affordable housing to meet this challenge already, with recent Government changes and other factors likely to lead to an ever-reducing number of affordable units coming forward.

2.2 To combat this challenge head on, the Council is seeking to build the first "Council Housing" since the 1990s. For 2 decades the ability to build homes had been taken away from Local Authorities, however this is not possible again and, given the urgent demands, the Council is keen to provide for those on the housing needs register. This application proposes the demolition of 40 existing garages to allow for the construction of five 3-bedroom affordable housing units. The units are all of 2-storey height and of a contemporary design and character. There is also associated parking and landscaping.

2.3 The report below examines the key issues of the impact on the streetscene, the impact on local residents, parking and highway safety in order to balance them against the Government instructions to facilitate sustainable development, as well as CBC's own adopted Development Plan. The report concludes that there are no material reasons to justify the refusal of the application. In fact, the officer's recommendation to the Committee is that it would enhance the quality of the built environment without adverse impacts to neighbours and that it would be a welcome philanthropic project that accords with both local and national policy.

3.0 Site Description and Context

3.1 The application site is currently occupied by 40 garages in 3 rows running north to south down the site. 2 of these rows are back to back, with one facing Parkwood Avenue and one facing into the site, with the third row opposite also facing into the site and forming the eastern boundary. The access into the site is from the north and taken from Rosabelle Avenue, with the garages on Parkwood Avenue being accessed separately from that road.

3.2 The corner plot gives the site two frontages. Character is consistent in age, although Rosabelle Avenue is predominantly two-storey scale whereas the adjacent properties south on Parkwood Avenue are single storey. There are also sheltered housing schemes nearby, so the area has a mixture of residential units. Rosabelle Avenue is tree-lined and the corners of the nearby junction open with grassed areas to their corners. There are trees within the highway verges.

3.3 The adjacent property to 55 Rosabelle has side facing windows, although none of these appear to serve primary habitable rooms. 1 Parkwood Avenue is set on lower ground, with the site sloping north to south gently. Both of these properties are privately owned and impacts upon these will be considered in the main report below. Others in the surrounding roads are also privately owned, although Colchester Borough Council still retains ownership over a reasonable amount of the 1970s Local Authority houses in this locality. The highway verges are primarily Essex County Council owned but maintained by Colchester Borough Council, which is relevant to the open space contribution section below.

4.0 Description of the Proposal

4.1 As stated earlier, the proposal is to demolish each of the 40 existing garages. The site would then be redeveloped to provide 5 dwellinghouses. These would all be 3-bedroom houses of 2-storeys. 2 of them front onto Rosabelle Avenue, whilst the remaining 3 front onto Parkwood Avenue in the form of one detached and a pair of semi-detached properties. There is associated parking for the new dwellings and some displacement parking spaces for communal use by visitors and existing residents, as well as some minor drainage and landscaping improvements.

4.2 The properties are of a contemporary design finished in suitable materials consisting of brick, cladding and smooth render. They have a strong rhythm and that characteristic reflects the repetitive nature of local properties despite the different architectural approach. The proposed dwellings represent a crisp architectural statement that is designed to show the era of this development, in just the same way that the existing houses were unashamedly of their own era when they were built. IN that respect, although the houses may look aesthetically different the philosophy behind them is exactly the same, they are all of their time. Design is also covered in the main report section below.

5.0 Land Use Allocation

5.1 The site is within the defined settlement limits but has no other allocation. As a garage site it would be considered as contaminated land (usually traces of oil and diesel, although the tarmac surface would limit penetration rate) and a survey has been submitted to detail this issue.

5.2 There is a local nature reserve approximately 60m to the south west.

6.0 Relevant Planning History

6.1 There is no relevant planning history to this site and proposal that is pertinent to the decision making process.

7.0 Principal Policies

7.1 The national policy is set out in The National Planning Policy Framework (NPPF). The core thread of national policy is that sustainable developments, that are acceptable in terms of social, economic and environmental impact, should have a presumption in favour of approval. This will be explored further in the main report section below.

7.2 In addition to the above, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

- SD1 – Sustainable development
- H1 – Housing Delivery
- H2 – House Density
- H3 – Housing Diversity
- H4 - Affordable Housing
- TA5 – Parking
- UR2 – Built Design and Character
- PR2 – People Friendly Streets

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

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards

- DP25 Renewable Energy

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

- Backland and Infill Development
- EPOA Vehicle Parking Standards (2009)
- Open Space, Sport and Recreation
- Extending your House?
- The Essex Design Guide (1997)
- External Materials in New Developments
- Affordable Housing

8.0 Consultations

8.1 Essex County Council Education Authority has confirmed that local schools are popularly subscribed. Broomgrove Infant has a net capacity of 180 places and had 175 pupils on roll in the summer term 2013. It is forecast to be full in the current school year 2013-14 with numbers forecast to decline to 166 by the school year 2017-18, including new housing. Broomgrove Junior has a net capacity 233 places and had 232 pupils on roll in the summer term 2013. It is forecast to have 228 pupils on roll in the current school year with numbers increasing to 245 by the school year 2017-18.

Officer Comment: The above shows that there is some capacity in the infant school but both schools will be stretched. However, by law, a school cannot reserve places outside of the normal admissions rounds and therefore it is impossible to state that a child from the proposed development would or would not get a place. However this is not unusual and is not unique to Wivenhoe or to this development and would not be a reason for a planning refusal. Where a place cannot be given at a preferred school, ECC provide places at the nearest available school in line with standard national practice. In this case that would be St. Andrew's in Greenstead, or possibly even Alresford if need be. Where a suitable arrangement cannot be found the County Council can request a school to take placements above its allocated numbers as an exception to the rule and where class sizes do not become unreasonably large.

8.2 The Highway Authority has stated that, "Having regard to the fact that appropriate vehicle visibility splays are available within the highway, and the information submitted by the applicant states that displacement of vehicles can be accommodated within the proposal, or the current on-street parking without creating onerous levels of parking stress, the Highway Authority would not wish to raise an objection to the above subject to the following (conditions then specified)".

Officer Comment: See main report where parking, highway safety and conditions are detailed further. Not all of the Highway conditions are used and some are modified in the officer recommendation.

8.3 The Council's Tree Officer has no objection. The development will not affect the trees in Rosabelle Avenue in any unacceptable manner. The Officer has stated "Generally I am in agreement with the conclusions of the reports. The various sites all require protective fencing and method statements for the bespoke construction techniques such as lifting of hard standings, demolition of structures etc. Conditions are suggested (as included in the recommendation).

- 8.4 The Landscape Officer concluded that they were satisfied with the landscape content of the proposal subject to amendments that could be dealt with through conditions (included in the recommendation)
- 8.5 The Environmental Control Team has raised no objections as the team who look at complaints resulting from contamination, noise, light and other pollutants. The EHO has requested the use of model condition ZPA on “Construction Method” Statement. The Contaminated Land Officer has added that based on the information provided, it would appear that the site can be made suitable for the proposed use and should permission be granted for this application, the Contaminated land Officer would recommend inclusion of the following condition:
- Reporting of Unexpected Contamination
- 8.6 The Council’s Urban Designer suggested some amendments to the original plans which have either been shown on the amended plans received or can be conditioned. Therefore, they have no objections to the scheme.
- 8.7 The Council’s Urban Designer has stated that:
“The layout and elevations are largely as negotiated. The architectural style is visually contemporary yet has some sympathy to the rhythm of houses in the area. There are examples of the mono pitch roofs in the vicinity and the chosen style for these houses updates this form to represent a more modern character that has a sympathetic relationship to houses in the area.
The layout has a typical suburban appearance of semi detached pairs and a single end house. Its scale and massing is therefore acceptable and sympathetic to this location. It would be worth quoting the NPPF with regard to architectural style and how the LPA cannot dictate preferences”.
- 8.8 Their comments were made prior to revised plans being received, but they did also raise concerns that the internal layout of the units may create dark hallways without a window and that the down stairs w/c doesn’t have a window because of the storage cupboard on the outside of the building. Given that each house has a rear access they questioned the need for this external cupboard and suggested that a window be added to the bathroom as there is a shed in the garden easily accessible from the side gate. The front door could also have more glazing to help with the lack of illumination to the hall way, whilst one of each pair of semis could have a window to the stairwell, in instances where there is a neighbour privacy issue this could be obscure glass. They also highlighted that “Technically the parking spaces against two walls should be wider than shown”.
- 8.9 The Urban Designer’s conclusion was that “We should condition details of all joinery and fenestration as well as how surface finishes interact. How does the Eternit boarding finish against other surfaces? The detail of render to brick and other elements that are insufficiently described on the submitted drawings. All materials should also be conditioned too.”

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

9.0 Town Council's Comments

9.1 Wivenhoe Town Council have stated that:

"The Core Strategy indicated that Wivenhoe was one of the 'key district settlements that provided essential services and facilities to their rural hinterland. The historic character and distinctiveness of these settlements will be protected and enhanced.' (page 22)

Policy SD 2 of the Core Strategy indicated that: The Borough Council will work with partners to ensure facilities and infrastructures are provided to support, sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community. This proposed development does not meet the expectations of the Core Strategy neither does it co-exist with the Wivenhoe Town Plan 2008, agreed by Colchester Borough Council. In which, the public, by a clear majority, stated they did not want anymore development within the town, but if it is inevitable, the only acceptable development would either be affordable houses or sheltered accommodation for the elderly.

Epecially, in the role of a developer, Colchester Borough Council have a responsibility to look carefully at infrastructure. The three schools in Wivenhoe are full, with shortfalls rising in the Essex County forecasts, ECC Education Department have not been involved in any form of consultation.

The long awaited new Doctor's Surgery still has not a defined site, and funding has reduced significantly, meaning it can no longer be future proofed for a growth in the community.

DP1 encourages good quality design, that respects and enhances the character of the site, and its context to the surroundings, this clearly does not improve the character of the adjoining bungalow on Parkwood Road and is incongruous to the overall street scene. The proposed landscaping is not in character either.

There are also privacy issues for the existing occupants of the surrounding properties. The proposal is clearly overdevelopment of the site and overbearing in design. The provision for parking is lamentable, with the removal of the 40 garages, and with the totally insufficient parking provision in a road, which is already swamped, will be a nightmare..."

9.2 The Town Council go on to raise some procedural issues but these are not relevant to the decision making process and have not been included in this report. The full text can be seen online.

10.0 Representations

10.1 It is fair to say that of the 5 concurrent schemes for affordable housing, this application has met with the most opposition. Approximately 10 people and the Wivenhoe Society have objected to the application with 8 themes emerging with variations on the specific comments and issues raised including:

- Design generally, and that the angular modern design, half-gables and materials of the development are all out of character and a misfit; the relationship to the adjacent bungalow is poor.
- Parking congestion, with comments that it is already full nearby; the displaced vehicles will increase pressure and cause safety issues, the parking survey is flawed as it shows spaces where the highway code would not; that the school bus picks up from the junction of Rosabelle and Parkwood right next to the site; that

although many of the garages are not used for parking, when the storage is moved to existing residents' garages that will displace more cars; a 100 metre radius is an enormous distance for the mainly elderly residents of this area to walk to cars; emergency vehicles won't be able to pass, nor will the double-decker school bus; that the tiny nature reserve car park is for the users of the nature reserve and often spills out onto Rosabelle Avenue and Vanessa Drive.

- The area surrounding the junction of Rosabelle Avenue, Parkwood Avenue and Vanessa Drive is characterised by spaciousness and these plots are more cramped; that the gardens are too small compared to the tiny allotted amenity space with those of its 1950's neighbours.
- There are existing shortfalls in school places and medical facilities; no new facilities have been added to Wivenhoe despite large numbers of housing on the Cooks Shipyard site along with others.
- The design statement states that no ecological survey has been carried out which is unacceptable so close to a nature reserve - bats roost in the garages, as well as frogs, toads, a hedgehog and snakes.
- A proposal that structure number 5 is removed from the plans and replaced with additional parking that is required, and the materials are brick.
- There will be more noise and disturbance; this type of housing will bring the quality of the area down and lead to crime or "fear of crime" for elderly residents nearby; the occupants of these properties will not show personal interests in either the properties or the local area.
- This development would lead to loss of privacy to neighbours.

10.2 Some of these issues (parking, design, school and health pressures) are material planning considerations that have been covered elsewhere with regard to specific topics in the main report body below. Some are also not material planning considerations and have not been included in this report as they are not relevant to the decision making process. However it is noted here that a theme has emerged in some comments that affordable housing or "social housing" will lead to more crime and a degeneration of the area. Some of these stereotyping issues are not material planning considerations, although it is noted that this area already has "social housing" and yet nobody has claimed this has affected crime in the area to date. There are two sheltered housing schemes here and a number of CBC owned homes on Rosabelle Avenue, Vanessa Drive and Britannia Crescent. The term "social housing" applies to those tenants of either Council owned properties or properties owned by housing associations and all residents including those in the sheltered accommodation would have been on the housing needs register prior to being housed in council owned property.

11.0 Parking Provision

11.1 The dwellings proposed have parking spaces that comply with the Borough's adopted policies TA5 and DP19, as well as adopted minimum standards. Originally the spaces were shown to the Essex Design Guide standards for size; however this has since been corrected to the EPOA Parking Standards adopted since 2009. These require 2 spaces per dwelling and a visitor space. 11 spaces have been provided for the 5 dwellings, and for the displaced vehicles from the occupied garages and/or local residents. Parking standard require 11 as a result of the new dwellings, meaning that there are no parking spaces compensatory for the demolished garages. There are 13 garages in use for parking vehicles at this site, meaning that 13 vehicles will be

displaced from the site, and the expectation would be that some of these are parked in the adjacent streets.

11.2 Whether or not 13 cars can be added into the highway without causing unacceptable congestion is a recurring theme of the objections. It was also an anticipated issue prior to the application being submitted, drawing on past experiences from the Estuary Housing schemes last year. Therefore, in June Housing Services commissioned a parking survey to be undertaken to inform their decision whether or not to develop the site. This parking survey has been submitted as part of the planning application and is considered in detail in the parking and highway safety section below, however the summary is that the highway authority has agreed that the displaced vehicles can be parked in the street without causing excessive stress or creating danger to highway users.

11.3 In terms of the space sizes, these are shown at 2.5 x 5.0m which is the minimum spaces acceptable. The Highway Authority have asked for the preferred standards of 2.9 x 5.5m, but this would alter the layout and actually decrease the number of spaces provided on site. A space of 2.5 x 5.0m is entirely workable as a parking space and therefore officers consider that reducing the number of spaces to accommodate larger spaces is unnecessary. Without a policy to justify that change the scheme remains acceptable as it is submitted.

12.0 Open Space Provisions

12.1 The proposals all surpass the minimum 60 square metres required for 3-bed houses. The smallest garden is approximately 65 square metres; whilst the largest is double that. This meets adopted policy.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 The key issues are;

- Affordable Housing Need
- Policy Context
- Design and the Impact on the Character of the Area
- Impact on Local Residents
- Parking and Highway Safety
- Private Amenity Space & Public Open Space, Sport and Play Areas.

15.2 Affordable Housing Need

15.2.1 Until recently, Councils had been removed of their powers to build council houses. However, these have been reinstated by the current Government. This is quite important given that a percentage based delivery taken from private market housing (via s106) will never provide the numbers of affordable that are needed by residents of Colchester and this has caused a serious shortfall in affordable housing provision. Meeting the need of residents for affordable housing remains one of the key corporate priorities of the Council.

15.2.2 With the current 35% affordable housing policy, s106 has proved to account for only part of the demands. It is reliant on the economy, on the delivery of major schemes by private developers, and is increasingly undermined by the viability of developments and other matters gaining more weight in national planning guidance and appeals. Consequently, housing delivery has been well below targets for several years and housing those in need is one of the biggest national and local planning challenges. Now that Councils have been re-empowered with the ability to build their own housing schemes for the first time in approximately 25 years this has allowed this batch of 5 concurrent applications to come forward in an attempt to make headway into the demands in alternative ways.

15.2.3 Housing need evidence is provided by the results of CBC's Strategic Housing Market Assessment (November 2007, updated April 2010). This need is clearly set out in the Cabinet Approved SPD (see extract below):

"The SHMA forms the main Evidence Base for the Council's assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites".

15.2.4 In fact, with the economic downturn, higher lending rates and higher expected profitability from banks before they will lend, viability has often meant that the current 35% affordable housing target is hard to achieve. Consequently, the figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	260	-822
2011/12	1,082	370	-712
2012/13	1,082	133	-949
2013/14	1,082	30 (at Q2)	-1052

15.2.5 The table speaks for itself in showing the scope of need that exists now for affordable housing, illustrating just why it is a key priority. It demonstrates that in the current economic climate when viability of new development is stretched and Central Government is instructing Local Planning Authorities to be as flexible as possible with regards to renegotiating s106 planning obligations, it is an almost impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations.

15.2.6 This scheme would deliver 5 of the 34 proposed affordable housing units to be built and maintained by Colchester Borough Council as part of this current project. If these schemes are successful it will act as a catalyst for similar projects in the future. Therefore, the need for affordable housing must be given significant weight as a material planning consideration. This should be balanced against the need to protect the amenities of the areas where development is proposed, however it is noted that this scheme does raise significant issues in this regard.

15.3 The Policy Context

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

15.3.2 These dimensions give rise to the need for the planning system to perform a number of roles

- an economic role, helping to build a strong economy by supporting growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure
- a social role, providing vibrant and healthy communities through the supply of housing required to meet the needs of present and future generations; creating a high quality built environment, with accessible local services that reflect need
- an environmental role, protecting and enhancing our environment; mitigating and adapting to climate change including moving to a low carbon economy.

15.3.3 Planning decisions should start with a presumption that development should be approved where it accords with the development plan; and permission should be granted unless there are any adverse impacts that would "significantly and demonstrably outweigh the benefits" of a scheme, when assessed against policies and taken as a whole. In this instance the benefits of providing affordable housing must be considered against any adverse impacts, but with a presumption that they should be approved.

15.3.4 The local, Colchester Borough Council policies, follow this positive approach and are discussed in more detail against the individual issues raised below, as relevant. However, they ensure that developments must be designed to a sufficient standard to be approved, taking into account the need to maintain a good quality built environment, protect neighbouring amenity and ensure that the safety of the highway is preserved. It is considered that the proposals meet these needs in a satisfactory manner.

15.4 Design and the Impact on the Character of the Area

15.4.1 The general design approach is one that seeks to establish a project “brand” across the 5 sites, through a contemporary design that reflects the era of the buildings as opposed to trying to mimic the date of its surroundings. The usual starting point for all design is to look for visual reference from the local context and to reflect local characteristics in new buildings. However, where there are no strong local characteristics and the context lends itself to other design possibilities then more flexibility can be given in the design philosophy. Additionally, where the architecture of the area reflects its own period it is not unusual to divert from pastiche approaches and attempt to be unashamedly different. That in itself reflects that the infilling of an area was not original and should not be mistaken as part of the original development – it forms part of the evolutionary story of an area. In this instance simply copying a pastiche of the existing built form would result in a real missed opportunity in design terms.

15.4.2 At this site, the proposal has some sympathy to the rhythm of houses in the area. There is regular built form along the roads, with repetition being characteristic of the area. Although the aesthetic varies this basic form does not. There are also examples of the mono pitch roofs used in the development within the immediate vicinity and the chosen style for these houses updates this form in a more modern manner that has a sympathetic relationship to houses in the area. The layout also has a typical suburban feel that is expected of this type of location. Similarly, the scale and massing is appropriate. Attention has been given to the relationship between the end property and the adjacent bungalow in Parkwood Avenue, where there is a difference in height but the composition that results would correspond suitably to any person walking past the site (where perhaps the 2-D drawings do not communicate this. At the committee meeting this will be demonstrated through some computer modelling which the urban designer will be undertaking post-report.

15.4.3 Whilst the new dwellings exhibit a contemporary aesthetic, the dwellings proposed reflect the traditional pattern of properties in the area. Policy is quite clear that planning should not dictate architectural styles, but judge development against broader considerations such as the rhythms of the streetscene, the scale and height of development, and such issues. Policy DP1 is a key consideration, and this sets out a requirement that all development should be well designed and preserve or enhance the character of the built environment.

15.4.4 Overall, the proposed design is considered to significantly enhance the quality of the built environment over and above the value of the existing garages, and when considered in the local context, and it is acceptable on its own merits when considered against policies such as DP1, UR2 and PR2.

15.5 Impact on Local Residents

15.5.1 Policy requires new development to avoid an unacceptable impact on neighbouring amenities including loss of privacy, loss of light and loss of outlook. This scheme has been sensitively designed to ensure the requirements of the Council's adopted Policy and Supplementary Planning Guidance are easily met herein.

15.5.2 In terms of the first, overlooking is largely avoided. Concern has been expressed about loss of privacy to the adjacent properties but the officer's opinion is that these are satisfactory on balance. The adjacent property in Parkwood Avenue has a 1m by 1m section of sitting out area that has partial overlooking when considered against policy in plan form. However, this section of garden is immediately behind a wall and therefore would be obscured in elevation form, additionally it is the area immediately adjacent the neighbours rear access way and therefore would not be suitable for a table and chairs and sitting out purposes because this would obstruct their own access.

15.5.3 To the east, the adjacent property in Rosabelle Avenue also has a tight policy consideration against policy. The Essex Design Guide requires 25m from back to back window that face one another, reducing down where the angle of outlook becomes more oblique. Plot 3 provides 18m distance at an angle of 40 degrees, which would offer partial views if a future resident were to stand at the window and face out at an angle. Given the frequency, the site levels and the angles and distance it is considered that this is borderline, but would be acceptable. However, should members be concerned at this it would be possible to condition the window to the first floor bedroom to be moved to the side elevation. This would then face towards one of the other new dwellings at closer range, but would comply with policy as we do not protect new properties from overlooking in the same fashion that we protect existing residents. When considered holistically, the case officer has not recommended this change despite it being an option to consider.

15.5.4 The proposal accords with policy on angles of outlook from neighbouring windows, therefore ensuring that it will not be overbearing. With regard to light, there are also no concerns whatsoever over adverse loss of light to any neighbour.

15.5.5 In summary, these policies that seek to avoid any adverse impact on the amenities of neighbours are considered to be met on balance. There have been concerns about privacy raised by neighbours and this issue is one that perhaps merits greater consideration than some of the other points raised.

15.6 Parking and Highway Safety

15.6.1 Of greatest interest to the majority of objectors is the traffic congestion. Representations have tended to focus on this issue more than any other. The main point of contention is that there are already parking pressures in the area and that this scheme would create an intolerable stress level to the road network.

15.6.2 The application included parking surveys undertaken by Ingleton Wood, an independent assessor. The data from the submitted parking surveys was based on 13 garages being tenanted and used for parking purposes. This is because surveys undertaken by CBH showed that 8 were known to be for parking, whilst 5 did not reply, others were stated to be for storage or were “void” (unoccupied). On the basis of working to the worst case scenario the 5 surveys not answered were all taken as being a parked car to relocate. Thus, where this report also refers to there being 13 cars displaced into the surrounding streets this could be as few as 8 cars. However, for the avoidance of doubt the parking surveys, highway comments and officer report are all based on there being a potential 13 cars. The full survey text can be seen online.

15.6.3 In considering the conflict of opinion between local residents and the parking analysis, weight should be given also to the Highway Authority opinion. It is noted that ECC highways have no concerns over parking and highway safety as the expert body on this matter. They feel that the information submitted by the applicant is satisfactory evidence that displacement of vehicles can be accommodated on the current on-street parking “without creating onerous levels of parking stress”. Consequently, the Highway Authority would not wish to raise an objection to the above subject to conditions.

15.6.4 Having visited the site several times on different days, weeks and in different months, the case officer would concur with these views. Rosabelle Avenue is unrestricted and on street parking is available for its length, except for junctions and dropped kerbs. A number of properties have hard surfaced front gardens where cars are parked off-street. In evenings visits by the case officer it was observed that more than 20 spaces were freely available for parking on each occasion and that there was no-through traffic making the road busy. That would be consistent with both the parking surveys and the highway authority views, meaning that the issues raised by objectors could not reasonably justify a refusal.

15.6.5 Furthermore, in addition to the 13 cars being a worst case scenario (which would be acceptable), the reality of that 13 cars will not be displaced into Rosabelle Avenue and Parkwood Drive but spread more thinly across a larger area. It is known that of the 8 cars known to park in the existing garages, only 3 people who park cars in the garage block live in either Parkwood Avenue or Rosabelle Avenue. A fourth resident from Vanessa Drive close by also park a car in a garage here. However 4 of the other cars are from Belle Vue, Spring Chase, Ernest Road and Broome Grove. None of these cars would have reason to be parked in the immediate vicinity if they were on the roadside, with 3 of these roads being more than half a mile away. Therefore, even if the 13 cars could not be safely accommodated in the highway, the reality is that this level of cars will not be added to the immediate streets anyway.

15.7 Private Amenity Space & Public Open Space, Sport and Play Areas.

15.7.1 Policy DP16 is satisfied by the level of private amenity provision. The smallest garden exceeds the required 60 square metre threshold and the largest is more than double this size. This is because the site has not been over developed and the design is led by the context and layout of the area, so some of the gardens are reasonably large when compared against some typical developments.

15.7.2 Policy DP16 also states that “all new residential development will pay a commuted sum towards open space provision and maintenance. No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “The standards, outlined above, are to be applied to all additional new residential Units... New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”

15.7.3 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Darwin Close, Gloucester Avenue, and the several Estuary Housing Schemes given permission in the last year the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. This is based on the pressing need for the delivery of affordable housing being a greater priority. It does not set a precedent for private market housing as this does not provide 100% affordable housing.

15.7.4 In addition, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council’s overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.

15.7.5 In conclusion, given the specifics of this location in Rosabelle Avenue, the scheme provides acceptable private amenity space and open space provisions.

15.8 Other Consideration and Matters

15.8.1 Adopted policy would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved. It is noted that all registered social landlords that usually provide affordable housing are required to build to this standard or higher. In aiming to lead by example to others the Council has decided to aim for a higher level of Code 4. This has been designed into the scheme and is the intention for the tender and subsequent construction process that it will be achieved in constructing this project. However, as the Council’s policy requires Code 3 only this level of Code for Sustainable Homes could be reasonably conditioned. Despite this condition (which will state level 3 as a minimum), the scheme should achieve Code 4 levels in due course anyway.

15.8.2 Similarly, the Council proposes to seek a Local Apprenticeship Scheme so that there are jobs created for local people, helping to up skill people and increase their chances of gaining employment in future. This is a socio-economic benefit of the scheme. The tender process is also open to local construction companies to submit bids, alongside others, to build the homes should the development be approved as recommended. That process runs outside of the planning process but is nonetheless within the Council’s overall control.

15.8.3 One objection raised the issue of bats being present along with some other non-protected species. Although this was doubtful, a bat survey was requested in order to have expert opinion on this matter and this was provided by Essex Ecological Services (EECOS). The report concluded that the surveyed garages have “no bat roost potential, as they lacked the kind of features used by bats as roost sites”. Therefore, no further bat surveys are considered necessary and the potential presence of bat roosts is not a material consideration for the proposed re-development of the site.

16.0 Conclusion

16.1 This development would be a positive contribution to the area in general. The current block of garages is harmful to the character of the area. The garages are under used, economically unviable to maintain and do not make the most efficient use of the land. The redevelopment of the site to provide 5 high quality dwellings of a contemporary design is a welcome addition and a much needed contribution to the affordable housing provision. In fact, where the s106 gains in affordable housing have delivered 30 homes to date this financial year, this scheme would deliver 5 units on its own and would deliver 34 from CBC if the concurrent schemes are all approved. That is an important contribution to the Borough as a whole and should be given some weight.

16.2 The benefits are not just for others, at the price of local residents. There are also benefits to the site itself, where the scheme enhances landscaping, helps turn the corner with frontage property and sits more comfortably with the predominantly residential estate use of these streets. This can be achieved without any adverse harm to neighbours when measured against the policies of our Development Plan.

16.3 The scheme therefore accords with Local and National Planning Policy and will contribute valuably towards the Borough’s affordable housing provision. In reaching this recommendation the comments received have been considered, however no material planning consideration has been raised that could justify the refusal of this application in your officers opinion.

17.0 Recommendation

17.1 APPROVE subject to conditions set out below

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2- *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 101-P1, 102-P2, 104-P2 and 105-P1.

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

3 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4 - Residential Code for Sustainable Homes (Part 1 of 2)

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

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

5 - Residential Code for Sustainable Homes (Part 2 of 2)

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

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

6 - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

7 -Removal of PD for Residential Extensions

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

8 - Simple Landscaping Scheme Part 1 of 2

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

9 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

10 - Non-Standard Condition/Reason

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

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Reason: The site has some signs of contaminants and any further unexpected contamination would need to be considered as above.

11 - Construction Method Statement

No works shall take place until including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

12 - Cycle Parking TBA

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

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

13 - Pedestrian Visibility Splays

Prior to the first use of the vehicular access to the development, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall thereafter be retained free of any obstruction at all times and must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

14 - Non-Standard Condition/Reason

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

Reason: To ensure that vehicles can enter and leave the highway in a safe and controlled manner in the interest of highway safety.

15 - No Unbound Surface Materials

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

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

16 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.5 metres x 5.0 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

17 - No Gates to Access

At no point shall gates be provided at the vehicular access and the access shall remain open and free from obstruction for use in perpetuity.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

18 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall have been previously submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

19 - Non-Standard Condition/Reason

No works shall take place until the following detailed drawings and cross sections at a scale of not less than 1:50 have been submitted to and agreed, in writing by, the Local Planning Authority:

- All joinery and fenestration
- Surface finish interactions.

The scheme shall thereafter be finished in accordance with the agreed details.

Reason: The level of architectural detailing is not adequately described on the submitted drawings.

20 - Tree and Natural Feature Protection: Protected Areas

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

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

21 - Tree and Hedgerow Protection: General

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

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

22 - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

23 - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

18.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

(2) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

(3) ZTM - Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631 with regard to the necessary application and requirements.

(4) ZTE - Informative on Demolition Notices

PLEASE NOTE that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Team on 01206 282436.

(5) Non-Standard - Landscaping Notes for Applicant/Agent

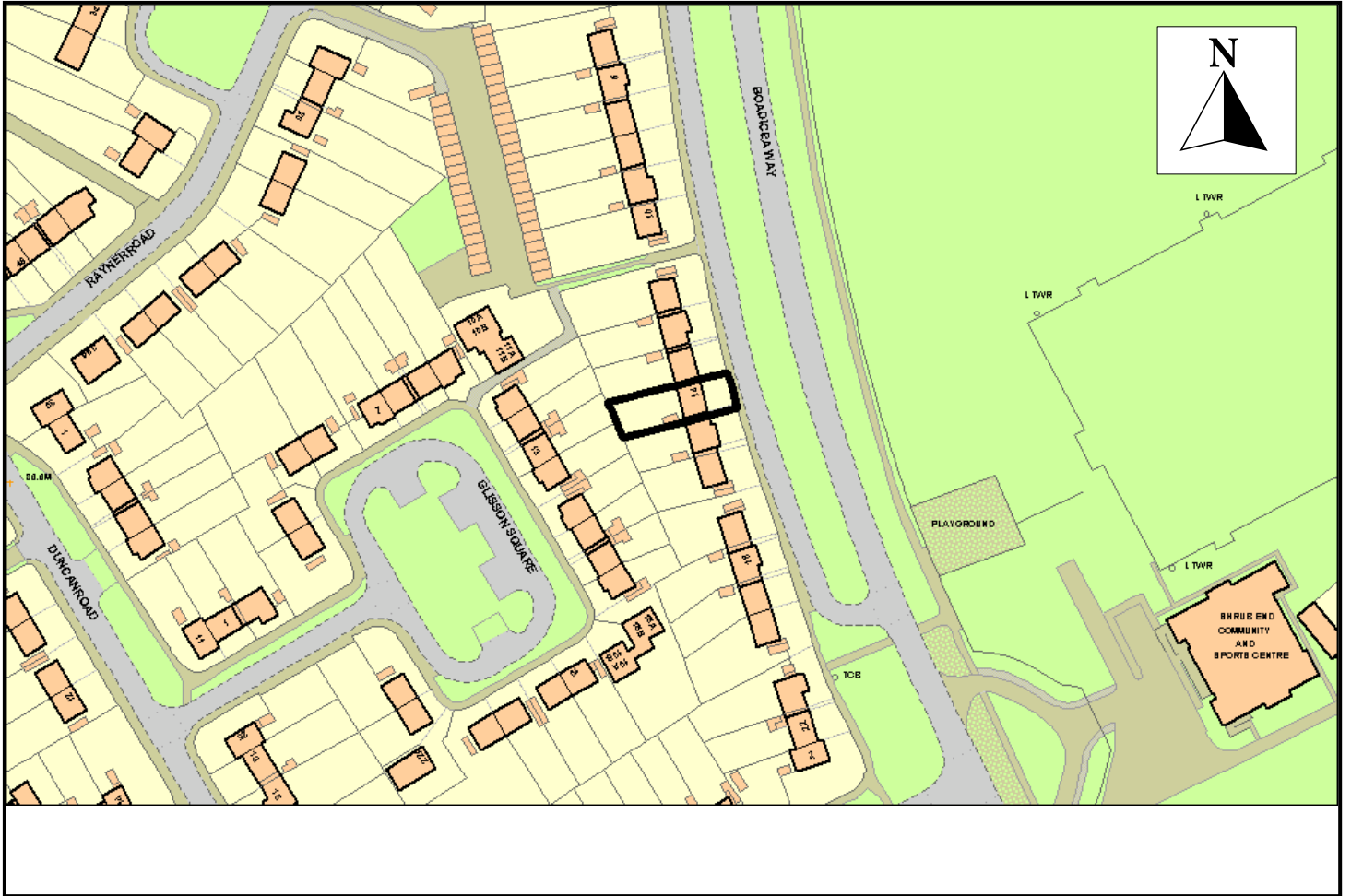
- It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional.
- In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Landscape Consultant and the Council's Landscape Planning Officer.
- Please refer to planning application number when responding to this consultation.

(6) Non-Standard (Change of use from Highway)

The proposed use should not be commenced and the subject land should not be annexed from the Highway until such time as an Order has been confirmed extinguishing all Highway rights therefrom and the Applicant has established title to the land and to protect the public's right and ease of passage over the Highway. Please contact Essex County Council Highway Authority regarding this matter.

19.0 Positivity Statement

19.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. It has taken into account all of the comments received from consultation and weighted the material planning issues in order to give a decision that accords with the Development Plan. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 131931

Location: 14 Boadicea Way, Colchester, CO2 9BQ

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2012

7.6 Case Officer: James Ryan Due Date: 27/11/2013

HOUSEHOLDER

Site: 14 Boadicea Way, Colchester, CO2 9BQ

Application No: 131931

Date Received: 2 October 2013

Agent: Gateway Partnership

Applicant: Colchester Borough Council

Development: Single storey rear extension with front and rear disabled ramp.

Ward: Shrub End

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

2.1 The scheme is acceptable in design terms and will not be materially harmful to neighbouring amenity. It is therefore acceptable.

3.0 Site Description and Context

3.1 The site is a mid terrace dwelling in Shrub End. The area is mainly residential and the West End Sports Ground is located opposite. There is an existing vehicular access and hardstanding on the frontage. The dwelling has an existing flat roofed outbuilding on the boundary with the neighbour to the south.

4.0 Description of the Proposal

4.1 A ramp to facilitate wheelchair access to the front door is proposed on the frontage and one is also proposed on the rear to serve the rear garden. A flat roofed extension of wheelchair accessible internal dimensions is also proposed. This will house a lobby, bedroom and accessible bathroom/shower area.

5.0 Land Use Allocation

5.1 The site is within the settlement boundary where development such as this is acceptable in principle.

6.0 Relevant Planning History

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

7.0 Principal Policies

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Sustainable Construction
Extending Your House?
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 None received.

9.0 Parish Council Response

- 9.1 No parish.

10.0 Representations

- 10.1 None received.

11.0 Parking Provision

- 11.1 The site has off street parking already and this scheme will not change that.

12.0 Open Space Provisions

- 12.1 As this application is for two ramps and a flat roofed rear extension the provision of open space is not relevant.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Design

- 15.1 This is a simple householder scheme that is only being reported to Members as the application has been made by Colchester Borough Council. The extension takes a flat roofed form. This replicates the existing outbuilding which sits in a similar location to the proposal. Flat roofs are common on the outbuildings that form part of the character of the area.
- 15.2 The ramps proposed are of a simple form, with a brick dwarf wall and handrail. This is acceptable in the context in which they are proposed to sit. The brick will be conditioned to match the existing. No elevational drawing has been provided for the ramp on the frontage so this will be conditioned to replicate the one on the rear where an elevational drawing has been provided.

Impact on Amenity

- 15.3 The ramps will have no material impact on neighbouring amenity and are acceptable.
- 15.4 The proposed extension is deeper than the existing outbuilding at 7.1 metres in rear projection. The Council’s ‘Extending your house?’ SPG requires extensions on the boundary such as this one to be no more than 3 metres in depth. The existing outbuilding which is connected to the dwelling by a wall is already deeper than this at 5m hard up to the common boundary. In this instance the proposal does not cause material harm to neighbouring amenity due to its flat roofed nature which limits the impact of the scheme in terms of oppressiveness. The 45 degree test set out in the Council’s ‘Extending your house?’ SPG is passed in elevation form.

15.5 No windows are proposed that would cause material overlooking of neighbours dwellings or private amenity areas. The scheme is set hard up to the boundary of the neighbour to the south which prevents overshadowing to the neighbour to the north due to the orientation of the proposal. No neighbour representations have been received. Therefore the scheme is considered to be acceptable in terms of its impact on neighbouring amenity.

16.0 Conclusion

16.1 The scheme is acceptable in design terms and will not be materially harmful to neighbouring amenity and therefore an approval is warranted.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 10 and 981/02 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Materials to Match

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

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

4 - Non-Standard Condition/Reason

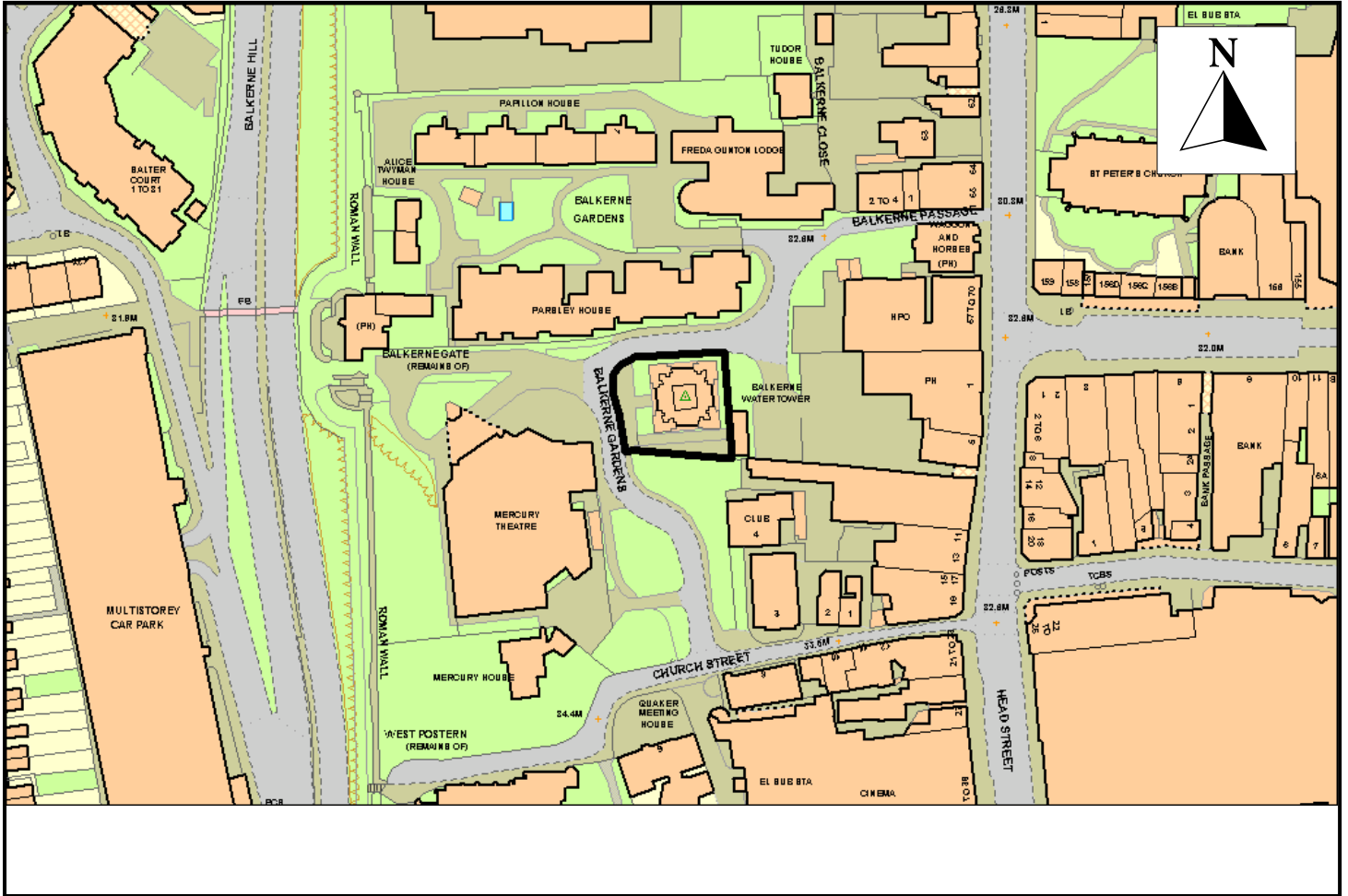
The front ramp shall match the proposed rear ramp as set out on plan 981/02 in elevational form.

Reason: This condition is required in the interests of clarity as no drawing of the front ramp has been provided.

20.0 Informatives

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

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



Application No: 131020 & 131023

Location: The Jumbo Water Tower, Balcerne Passage, Colchester, CO1 1PA

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012

Planning Committee

Item
8

14 November 2013

Report of	Head of Commercial Services	Author	Simon Cairns ☎ 01206 508650
Title	Planning application nos 131020 and Listed Building Application no: 131023 Site: Jumbo Water Tower, Balkerne Passage, Colchester, CO1 1PA Development: Change of Use and alterations to provide a mixed use development comprising: three apartments (C3), restaurant (A3), offices (B1a) and observatory/museum (D1) with ancillary shop/café and erection of ancillary building (boiler house) and associated works.		
Wards affected	Castle		

Report by Head of Commercial Services in response to Delayed Decision Protocol (DDP) invoked at Committee on 31.10.2013 under items 7.3 and 7.3

1.0 Background:

- 1.1 The Delayed Decision Protocol is intended to address situations where an officer recommendation is overturned and there is a need for Officers to provide technical support to ensure that the intended course of action is sound and any potential risk implications are minimised; in terms of policy, statute and circular advice. In this case, the refusal of planning permission and listed building consent needs to be securely founded on material considerations and Development Plan policy having regard to any risks posed by the intended course of action.
- 1.2 Having regard to the complexities of this case, both in terms of the impact of the development on the special qualities of the listed building and the character and appearance of the conservation area, your officers are satisfied that the proposed grounds for refusal are justifiable and the refusal of planning permission and listed building consent is not unreasonable behaviour. These are set out below to inform the committee's detailed consideration of the reasons for refusal.
- 1.3 Circular 03/2009 confirms that *"Planning authorities are not bound to accept the recommendations of their officers. However, if officer's professional or technical advice is not followed, authorities 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."*

- 1.4 In relation to reasons for refusal, the Circular confirms that LPA's must "*properly exercise their development control responsibilities, rely only on reasons for refusal that stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason.*" In this instance, the debate on these items identified serious adverse impact upon the significance of the listed building and the wider conservation area. The debate highlighted that the public benefits associated with the scheme and that the majority of the committee did not consider that these benefits outweighed the harm as required by paragraph 133 of the NPPF. Furthermore, it was also not generally accepted that the harm was necessary to deliver these public benefits.
- 1.5 The key issue of relevance to the decision to overturn the officer recommendation is whether this would be reasonable in the circumstances. In this case, there were substantive objections submitted by several statutory historic environment consultees including English Heritage, the Victorian Society and SAVE Britain's Heritage. Whilst their opinions differed from that of your officers, nevertheless their submissions confirm that there are reasonable grounds to warrant the refusal of planning permission and listed building consent relating to the adverse impact on the significance of the listed building and the necessity of this harm. The original Officer recommendation was based on a different weighting of the same issues, but it remains entirely reasonable to attach different weight to these issues and make a different judgement.

2.0 Risks

- 2.1 It is not considered that a refusal of permission would lead to exposure to costs associated with unreasonable behaviour in the light of Circular 03/2009. There are unquantified corporate risks identified that are associated with the ability of the owner to serve a Purchase Notice on the Council under S.137(2) of the Town and Country Planning Act 1990. This arises where planning permission to develop any land is refused thereby rendering the land incapable of reasonably beneficial use in its existing state. A legal opinion has been sought on this issue and a verbal update will be provided at committee on this issue.
- 2.2 However, it is essential that committee only takes into account material planning considerations relating to the development and use of land and not matters relating to corporate financial exposure. Therefore this report does not need to be held back and the information would only serve as background matters. The material planning considerations are set out for reference in the information section preceding this Agenda.

3.0 Reasons for refusal:

- 3.1 In line with the content of the deliberations of the Planning Committee on 31 October 2013, the following reasons are suggested:

Planning application no: 131020

The Balkerne Water Tower is a grade II* listed building which it is desirable to preserve together with any special features which it possesses. The building is a prominent feature of the Colchester Town Centre Conservation Area. The infilling of the important void between the corner piers of the tower by the introduction of multiple stories of accommodation with associated curtain planar glazing within each of the arched openings, together with the removal of associated pipework would serve to substantially harm the significance of the listed building and detract materially from the character and appearance of the wider conservation area; including the introduction of prominent and intrusive light pollution. In the opinion of the lpa, having regard to the provisions of

paragraph 133 of the NPPF, it has not been demonstrated that the harm is necessary nor will the associated public benefits outweigh the harm identified. In the opinion of the lpa, inadequate information has been provided regarding the delivery/operation of the museum element of the scheme. Accordingly, the proposals are contrary to the provisions of adopted local plan policies ENV1 and UR2 of the Core Strategy (2008) and associated Development Policies (2010) DP1 and DP14.

Listed Building application no: 131023, suggested reasons:

The Balcerne Water Tower is a grade II* listed building which it is desirable to preserve together with any special features which it possesses. The infilling of the important void between the corner piers of the tower by the introduction of multiple stories of accommodation with associated curtain planar glazing within each of the arched openings, together with the removal of associated pipe work would serve to substantially harm the significance of the listed building. In the opinion of the lpa, having regard to the provisions of paragraph 133 of the NPPF, it has not been demonstrated that the harm is necessary nor will the associated public benefits outweigh the harm identified. The proposed development therefore represents unjustified substantial harm in terms of paragraph 133 of the NPPF.

4.0 Positivity Statement

- 4.1 The local planning authority has acted positively and proactively in seeking to resolve the fundamental and adverse impacts upon the significance of this grade II* listed building through collaborative working with the applicant seeking to resolve the concerns identified. However, despite this approach, it has not been possible to overcome the overriding negative impacts of the scheme nor consequently to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the NPPF.

AMENDMENT SHEET

**Planning Committee
14th November 2013**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.3 131957 – Garage Site 1, Monkwick Avenue, Colchester

The following condition should be added:

“No works shall take place until the following detailed drawings and cross sections at a scale of not least 1:50 have been submitted to and agreed, in writing by, the Local Planning Authority:

- All joinery and fenestration
- Surface finish interactions

The scheme shall thereafter be finished in accordance with the agreed details.

Reason: The level of architectural detailing is not adequately described on the submitted drawings.

7.4 131956 – Garage Site 2, Monkwick Avenue, Colchester

Since the report was published a second letter has been received from one of the objectors. This letter raises no new material planning considerations, but provides some more information on artefacts within the neighbours' side of the boundary and the depth of the garage footings. An additional visit was made to the site on 7 November and whilst it was busy at school pick up times, it was the same 3 vehicles parked in the garage site as previous visits. From conversations on site it is now known that one of these vehicles belongs to a resident who lives in Prince Philip Road and is not parked there in relation to the school activities.

7.5 131929 – Garage Block, Rosabelle Avenue, Wivenhoe

Since the report was written we have received information relating to the current health care provision for Wivenhoe. The NHS Wivenhoe Surgery Practice Manager has confirmed that the surgery was understaffed earlier in the year, but is now fully resourced with 5 partners/doctors. It is understood that *there are routine appointments with all GPs that can be booked up to 5 weeks in advanced and if patients have urgent medical problems then they will be given an appointment and seen on the same day.* The surgery has stated that: “The building of five social houses would not have any significant strain on the provision of medical services provided by Wivenhoe Surgery for the residents of Wivenhoe.”

In addition, it has been confirmed that another 2 garages have been vacated by departing tenants since the report was written. 1 of these was known to park a vehicle in the garage, so the number of displaced vehicles resulting from the application can be discounted by another vehicle to the figure stated in the original report, i.e. there is now a maximum of 12 vehicles to be displaced.

On p82 in paragraph 2.2 the word NOT should read NOW.

On p94 in paragraph 15.6.4 the word FEELY should read FREELY.

A further email was received from Chris Kinslow at 55 Rosabelle Avenue – the neighbour to the site. His email was sent to numerous Members and stated:

“As the owner of 55 Rosabelle Ave, I wish to point out an assumption made in section 3.3 that is incorrect.

“The adjacent property to 55 Rosabelle has side facing windows, although none of these appear to serve primary habitable rooms ”.

These windows refer to one of our main bedrooms, kitchen, and conservatory.

All these rooms are used full time and could be looked into from the proposed development. It would have been better if the planning department had bothered to consult us before making these assumptions and I apologise for having to email you to correct this.”

Officer Note: Mr Kinslow was consulted and has made representations included in the agenda item report. The term primary habitable rooms was used to distinguish that these rooms are not living rooms, lounges etc where someone may spend the majority of their day. In addition, it is worth noting that there is vegetation screening above the fence to the boundary and this blocks views into the site. This screening is in the control of the neighbour and they can therefore ensure it is retained if they wish. This also protects their privacy.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

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

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

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

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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