



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 14 December 2023 at 18:00**

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

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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Access

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COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 14 December 2023 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

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

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

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

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

Live Broadcast

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

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

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

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

6 Minutes of Previous Meeting

No minutes have been submitted for approval by the Committee.

7 Planning Applications

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

7.1 231412 Land to the rear, 3 Highfield Drive, Colchester, CO3 3QA 7 - 24

Application for the demolition of the double garage, relocation of existing car parking and creation of a two bedroom detached bungalow.

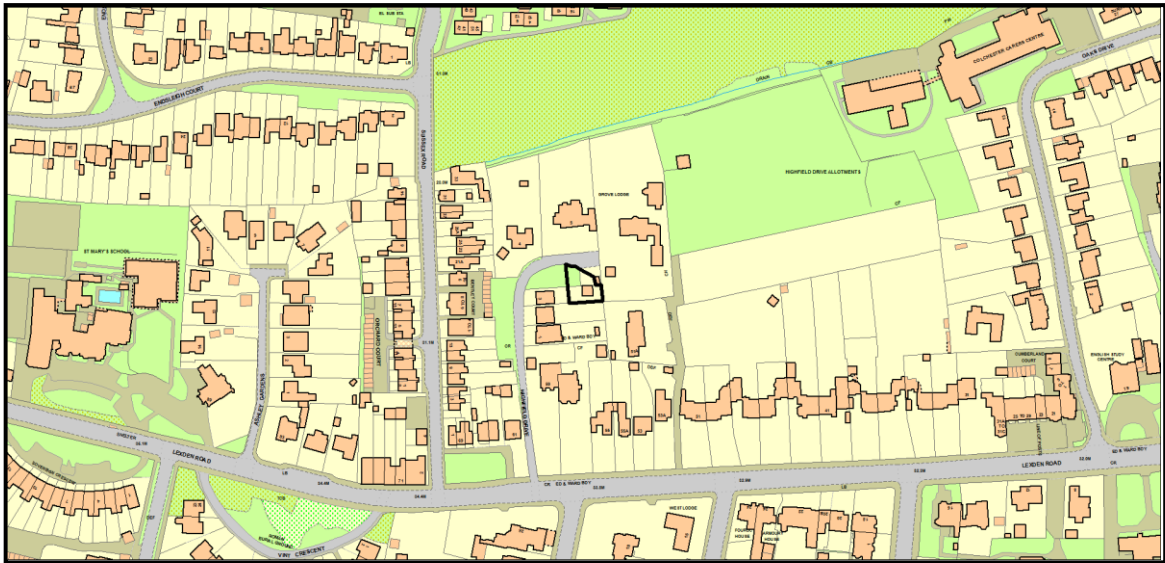
8 Exclusion of the Public (not Scrutiny or Executive)

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

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



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Item No: 7.1

Application: 231412

Applicant: Marguerite Haddrell

Agent: Michael Smith

Proposal: Demolition of the double garage, relocation of existing car parking and creation of a two bedroom detached bungalow.

Location: Land to the rear, 3 Highfield Drive, Colchester, CO3 3QA

Ward: Loxden & Braiswick

Officer: Nadine Calder

Recommendation: Approval subject to signing of a Unilateral Undertaking

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee in the interests of consistency and because it was called in by Councillor Willets in the event of a recommendation for approval. The reasons for the call in are as follows:

1. This application is located on a narrow private drive and has negligible sight splay at its junction with A1124 Lexden Road, and no remedial action is proposed as part of this application. While the traffic volumes are unlikely to cause concern to Essex County Council in regard to vehicle flow on Lexden Road, the existing access is already a hazard to pedestrians passing-by on the footway of Lexden Road. Further development at this unsuitable location will exacerbate the conflict with pedestrians using the footway. This matter of public safety is neither addressed by ECC highways policy nor by the City Council Planning Policy. Therefore in making a decision, the Planning Committee needs to take into account the wider issues of public safety pertaining to the access to this development.
2. The proposed site is very small and tightly constrained and the proposed development extends over land that was a designated a vehicle turning area for this private lane, as the Planning Committee can see on previous planning applications for this site. This impedes the safe flow of traffic to the other houses in what is already a cramped geometry. Again this is not directly covered by CCC Planning Policy and needs determination by the Planning Committee.
3. While each application must be determined solely on its merits, local residents point to the history of refusal of applications and appeals on this site for broadly similar developments. Planning Inspectors conclusions on previous applications need to be carefully weighed for relevance by the Planning Committee in regard to this application, including their statement that the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area.

2.0 Synopsis

2.1 The key issues for consideration are the impact of the development upon its surroundings in addition to any issues concerning neighbouring residential amenity, highway safety and impact upon vegetation.

2.2 Having assessed the application against local and national legislation, policy and guidelines, and having considered the planning history on this site in detail, it is your Officers' views that this proposed development is appropriate in this location, would not cause harm to neighbouring amenities, highway safety or existing landscape features and would provide an opportunity to enhance the visual amenity of the site for the benefit of the wider area.

2.3 The application is subsequently recommended for approval.

3.0 Site Description and Context

3.1 The site lies within the settlement limits for Colchester as defined in the Colchester Borough Council Local Plan and currently comprises the detached

single storey garage and part of the rear garden to No. 3 Highfield Drive, which is located off an unmade lane leading from Lexden Road and beyond the Conservation Area. The site slopes down to the adjacent lane. The host property is one of a series of three mid 20th century houses on this lane, with a further two properties at the bottom. The lane is relatively well screened with trees, especially along the western side. No trees of any merit are present on the site itself although a group of trees subject to preservation orders are found on the other side of the lane.

4.0 Description of the Proposal

4.1 The proposal comprises the demolition of the existing detached double garage associated with No. 3 Highfield Drive, the construction of a modest detached two bedroom bungalow and the creation of two off street parking spaces to the front of No. 3 Highfield Drive. The L-shaped bungalow would be positioned adjacent to the newly created shared boundary with No. 3 Highfield Drive, provide an enclosed private garden to the east of the dwelling and two off street parking spaces to the front. The front elevation of the bungalow is shown to face Highfield Drive to the north of the site.

5.0 Land Use Allocation

5.1 The site lies within the defined settlement limits for Colchester.

6.0 Relevant Planning History

6.1 There is a long planning history associated with this site, as outlined below:

222971	Creation of a three bedroom detached house	Refused 03.02.2023
211117	Erection of four bedroom detached house	Refused 09.07.2021
201371	Lawful Development Certificate for Proposed Erection of Garage and Store Building	Refused 30.07.2020
200847	Erection of four bedroom detached house	Withdrawn 17.06.2020
151993	Two storey side extension	Approved Conditional 20.11.2015
146416	Erection of two bedroom detached bungalow (Resubmission of application 145426)	Refused 21.01.2015 Appeal dismissed 24.06.2015
145559	Renewal of planning permission 111460 for a two storey side extension	Withdrawn 27.11.2014
145426	Erection of three bedroom detached house	Refused 09.10.2014 Appeal dismissed 24.06.2015
111460	Two storey side extension	Approved Conditional 15.09.2011

102315	One detached three bedroom house and replacement garages. Resubmission of 101564.	Refused 16.12.2010 Appeal dismissed 04.04.2011
101564	One detached four bedroom house and replacement of existing detached garage.	Refused 21.10.2010

6.2 In the interests of consistency, despite the current proposal differing materially from previous applications for planning permission on the site, the Inspector's comments for dismissed appeals 145426 and 146416 relating to the construction of a detached dwelling to the side of No. 3 Highfield Drive include (emphasis added by your Officers):

6. The area includes a number of small cul-de-sacs and although it is within the built up area I consider it has **retained a sylvan character** with a significant number of trees and shrubs. The site is mainly grassed with a fence separating it from No 3 and the garages and along the road edge there is a low timber rail. Although partly fenced and somewhat unkempt at the time of my visit it **nevertheless provides an important feature that contributes to the character of the Drive and area.**

7. The developments proposed are for the erection of a detached two storey, 3 bedroom dwelling or a detached 2 bedroom bungalow. These would be sited within the open area and **would erode the feature that gives the area its quality. They would provide a discordant element that would fail to retain the attractive character by further urbanising the area.**

8. Furthermore, the existing properties on the Drive are set well back from the road frontage and whilst the areas in front of the properties are used for parking there is also a considerable amount of vegetation. The **combination of the set back and verdant appearance contributes to the character of the area.** However, the proposed developments would result in the **flank wall of the dwellings being considerably closer to the Drive. This would provide a cramped form of development that would detract further from and harm the character of the area.** Although the proposals include retention and reinforcement of landscaping on the site I do not consider any scheme of landscaping would reduce the harm caused by a dwelling on the site.

9. The submissions refer to previous proposals to extend No 3 and to erect a new dwelling on the appeal site. Planning permission has previously been granted for a **two storey extension** to No 3 and the proposal was subsequently amended. This consent has not been implemented and has now lapsed. In any event this permission did not authorise a new dwelling and it differs significantly from the current appeal proposals as the extension was subservient to the existing house and, as it was not freestanding, **it would not intrude** to any great degree into the open space.

10. There have also been a number of applications refused for a new dwelling and one appeal for the erection of one detached three bedroom house and replacement garages was dismissed in 2011. Although this decision predates

the Framework I consider the Inspector's conclusions regarding the effect of a new dwelling on the site still to be relevant. **I consider the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area.**

11. A number of matters have been put forward by the appellant to support the proposals. The site is vacant and untidy and it is suggested the proposals would improve the appearance but such arguments could easily be replicated elsewhere to justify a proposal that is otherwise unacceptable and there are other options open to the Council if the condition of the site deteriorates.

12. My attention has also been drawn to a relatively recent development comprising a new dwelling sited to the rear of No 1 and 2 Highfield Drive. From my visit this development differs in a number of ways from the appeal proposals as the site is considerably larger allowing space around the building to be retained and it is not a prominent corner site. I therefore do not consider the development provides support for the appeal proposals. Reference is also made to a number of other developments within the Borough but I do not have the full details nor do I know the circumstances that led to the developments. **In any event I must determine these appeals on their merits.**

13. I have noted the Council has not raised concerns regarding the external appearance of the dwellings, the effect on living conditions of nearby residents, amenity space provision or that the developments would create a highway hazard. A number of interested parties have raised concerns regarding highway and parking matters but I am satisfied that one additional dwelling would not lead to an increase in additional traffic or congestion that would justify dismissal of the appeals. The design of the proposed dwellings is pleasant and from my visit I am satisfied would not result in a loss of privacy or other impacts that would detract from the living conditions of nearby residents. However, these factors do not outweigh my concerns regarding the effect of the development on the character and appearance of the area.

14. Having considered carefully all the points made **I do not consider the benefits of the proposal outweigh the harm to the character, quality and appearance of the area. I therefore conclude both proposals conflict with CS Policy UR2, DP Policy DP1 and the SPG.**

6.3 Inspector's comments for dismissed appeal 102315 (emphasis added by your Officers) include:

4. As I saw it at my site visit, this part of Colchester has a character which relies heavily on the interaction of the built environment with the significant amount of trees and shrubs. This character is present in Highfield Drive, where trees and bushes provide the backdrop to the dwellings making a substantial contribution to the attractive quality of the area. The site comprises part of a garden and the double garage to number 3 Highfield Drive. At the front of the site, alongside the existing dwelling, there is an

area of lawn that it fairly open with a recently erected fence at the boundary. Behind this, to the east, there is a substantial amount of reasonably dense and tall planting. **At present I judge that this plays a full part in defining the attractive character of the cul-de-sac. The appeal proposal would change the character of this part of Highfield Drive, reducing the very quality which makes this an attractive living environment.** I conclude that it would be contrary to Policy UR2, which resists developments which are discordant with their context and fail to enhance the character, quality and function of the area."

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

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

- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- DM12 Housing Standards
- DM15 Design and Amenity
- DM17 Retention of Open Space
- DM19 Private Amenity Space
- DM22 Parking
- DM25 Renewable Energy, Water Waste and Recycling

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Community Facilities
Open Space, Sport and Recreation
Managing Archaeology in Development

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Previous applications resulted in no objection being raised from the Archaeological Advisor, subject to a condition.
- 8.3 The Contaminated Land Officer requested an appropriate risk assessment for the site given that the proposed residential use of the site would be particularly vulnerable to the presence of contamination. It was agreed that this can be secured via conditions.
- 8.4 Environmental Protection raise no objection to the proposal subject to a condition limiting the hours of work and securing EV charging points as well as the inclusion of the Demolition and Construction Advisory Note.
- 8.5 The Highway Authority observes that Highfield Drive is classified as a Private Road and therefore does not object to the proposal.

9.0 Parish Council Response

- 9.1 This area is non-parished.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 The original scheme resulted in five letters of objection. A reconsultation following the submission of a revised scheme has led to the same five households submitting another letter of objection. The reasons for objecting remained largely the same can be summarised as follows:
- Design is modern and out of keeping with existing properties;
 - Development would appear cramped;
 - Smaller gardens compared to more generous plot sizes in the area;
 - Development would change the fundamental nature of the area;
 - Changes to height and location of the proposed new dwelling does not change the reasons for refusing previous applications;
 - Area of open land is unsightly; prior to various applications for planning permission it was well-kept. It has been deliberately neglected;
 - Increase in traffic;
 - Highly likely that residents and visitors will park in the lane, causing potential access problems for emergency vehicles; and
 - Development would impact on turning circle at the end of the private road.

11.0 Parking Provision

- 11.1 The proposal includes the provision of two dedicated parking spaces for both the donor property (No. 3 Highfield Drive) and the proposed bungalow (four spaces in total).

12.0 Accessibility

12.1 The proposal has the ability to comply with the provisions of the Equality Act in respect of access for the new dwelling.

13.0 Open Space Provisions

13.1 The proposal would provide policy compliant private amenity space for the two resultant dwellings. It also provides an opportunity to improve an existing area of incidental private open space (the area to the side of No. 3 Highfield Drive), which has previously been identified as making a positive contribution towards the visual amenity of the surrounding area. This area has been left somewhat unkempt in recent years.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle of Development

16.1 The current Development Plan for Colchester comprises the North Essex Authorities' Shared Strategic Section 1 Colchester Borough Local Plan (adopted 2021) and the Colchester Borough Section 2 Local Plan 2017-2033 (adopted 2022). The Development Plan is up-to-date and compliant with the Framework. The Council is also able to demonstrate an up-to-date 5 year housing land supply. As such, the presumption (at paragraph 11d of the Framework) is not engaged, and the development should be assessed against the Development Plan, unless material planning considerations indicate otherwise.

16.2 The site lies within the development boundary for Colchester and in a reasonably sustainable location surrounded by established residential development. In accordance with Local Plan SP1 and the Framework (which has a presumption in favour of sustainable development), the proposal should be judged on its planning merits. Regard also needs to be had to the planning history of the site as a material consideration, which includes previous refusals and appeal dismissals, together with consideration of the planning merits of the case put forward by the agent.

Design and Impact on Surrounding Area

16.3 From the planning history, as set out in Section 6 of this report, it is obvious that several previous attempts have been made to construct a detached dwelling on land adjacent to (north of) No. 3 Highfield Drive, all of which were refused by the Local Planning Authority and those refusals that were appealed were dismissed by the Planning Inspectorate. These decisions are material planning considerations in the determination of this current proposal.

- 16.4 It is however important to note that the current proposal is materially different from the previous applications, in that it comprises the demolition of the existing detached garage and the construction of a bungalow in the rear garden (to the east) of No. 3 Highfield Drive. Some of the previous unsuccessful proposals comprised the construction of a dwelling to the side (north) of No. 3 Highfield Drive, on land which is identified as an area of private open space and an area which has been repeatedly found to make a positive contribution towards the visual amenity of the surrounding area.
- 16.5 The existing detached garage is positioned to the north east (rear) of No. 3 Highfield Drive and the proposal would leave the area of private open space to the side of No. 3 open. The applicant has agreed to improve the appearance of this area of open space, which is currently fenced off and appears unsightly. The details of how the site could be improved can be secured via condition and this current application therefore, contrary to previous applications, provides an opportunity to improve the visual amenity of this existing area of private open space, rather than the complete loss of it. As such, there are clear and material differences between the current and previous applications on this site.
- 16.6 As set out above, the current proposal comprises the demolition of the existing double garage and the construction of a modest two bedroom L-shaped bungalow to the rear of No. 3 Highfield Drive. The existing garden of No. 3 would be subdivided, and the bungalow positioned adjacent to its boundary with No. 3. The proposed bungalow would therefore benefit from an east facing garden, with the bungalow shielding views from neighbouring properties along Highfield Drive. The bungalow would front onto Highfield Drive to the north and two parking spaces are proposed to the front of the building. Due to the loss of the garage, the proposal also includes the construction of two parking spaces in front of No. 3 Highfield Drive, similar to neighbouring properties along Highfield Drive.
- 16.7 The proposed bungalow is simple yet generally well designed. It features traditional materials and includes several architectural features (including, amongst others, a brick chimney, a string course and soldier courses above windows) which seek to elevate the appearance of the built form. The hipped roof to the bungalow's front elevation would aid in reducing the impact of the new built form on the wider area. A gabled roof has been introduced along the building's southern elevation, to avoid potential overlooking of the garden from neighbouring dwellings. The proposed garden area is private and, at 64m², would be policy compliant and make for a secure and usable space. It is noted that sunlight to the south eastern corner of the garden may be reduced by an existing mature oak tree in the neighbour's garden to the east. However, this is not considered to be adversely impacting on the amenities of future occupiers to such a degree that would be unacceptable.
- 16.8 Two parking spaces and soft landscaping are proposed to the front of the bungalow. It has also been agreed that a comprehensive landscape scheme, to improve the existing area of private open space to the side of No. 3 Highfield Drive, would be secured via condition. This would include details of enclosures for the bungalow and the area of open space, landscape features and future maintenance of the site, with the main aim of this being the improvement of the

visual appearance of the area of private open space and to keep the land as open as possible.

16.9 As Members will recall, all previous applications for the construction of a new dwelling on land to the side of No. 3 Highfield Drive were refused on the grounds of the new dwelling's adverse impact upon its surroundings as a result of the loss of an existing area of open space which has been found to positively contribute to the visual amenity of the site. As it is evident from the above, this current application would not only retain the area of private open space, but it would also seek to enhance it, which provides wider public benefits.

16.10 The Inspector, as part of the joint appeal against the refusals of 145426 and 146416, agreed that this area of land was an important open green feature and that a dwelling on this site (as previously proposed) would harm the character, quality and appearance of the area. Previous applications have continuously been refused (and dismissed at appeal) due to the harm they would have caused to this small area of private open space and its contribution to the character, quality and appearance of the area. However, it also has to be noted that the area of land has been neglected over the years and now appears unkempt. Whilst this does not undermine its contribution, it does not maximise its full potential. This current application provides an opportunity to improve the quality of this area of open space and ensure it is maintained in the future. It will be important to ensure that an appropriate landscape strategy is secured via condition which could ensure that the land will remain open in perpetuity and continue to positively contribute towards the visual amenity of the surrounding area. These are benefits that no previous applications could provide and, considering the importance that has been put on this area of open space through previous (appeal) decisions, it is considered that this is a unique opportunity to improve the quality of the immediate area which represents a public benefit that weighs heavily in favour of the proposed development.

16.11 Taking into account all of the above, your Officers consider that the proposed development makes an effective use of land, is well designed and provides significant landscape benefits to the immediate area. Although it is noted that the donor property and the proposed development would be provided with smaller rear gardens than neighbouring properties, they comply with current policy standards and are not held to diminish the quality of the surrounding area to such a degree that would be visually or materially harmful. In any event, the benefits of the proposed development, as identified above, are held to outweigh any harm that may be caused to the character, quality and appearance of the area.

Impact upon neighbouring residential amenity

16.12 The proposed development is capable of being provided without causing material harm to the residential amenities of the donor property or any other neighbouring dwellings due to its positioning and single storey height. There is sufficient distance between the proposed development and neighbouring properties to ensure that no harm would be caused as a result of loss of light or overbearing impacts. Additionally, the orientation and single storey nature of the proposed bungalow would ensure that no loss of privacy to neighbouring occupiers would occur, nor would there be any overlooking of the bungalow or

private garden from neighbouring occupiers. The development is therefore held to be acceptable with regards to its impact on residential amenities.

Highway Matters

- 16.13 The development would include the provision of two parking spaces to the front of No. 3, similar to Nos. 1 and 2 Highfield Drive, with the proposed bungalow being provided with two parking spaces on the frontage, thus complying with current policy requirements.
- 16.14 Similar to previous applications, local objection comments (and the call in request from Councillor Willets) have raised a number of concerns about the access on to Lexden Road, the width of the lane, current congestion and highway safety issues. However, as repeatedly noted in previous applications, the access to Lexden Road exists and the introduction of one dwelling would not substantially intensify vehicular traffic along this private road. The Highway Authority do not object to the proposed development and none of the previous applications which related to the construction of an additional dwelling have been refused on the basis of highway safety impacts. The development would retain sufficient space for vehicles to turn at the end of Highfield Drive, thus ensuring that no highway users are put at risk. The residual cumulative impacts of the proposed development on the road network would not be severe as referred to in paragraph 111 of the Framework. Consequently, it is not considered that there is a justification to refuse the application on highway safety or parking provision grounds.

Other Matters

- 16.15 The proposed development is situated within the area of archaeological interest that has been defined in the Colchester Historic Environment Record, is within the area of a Roman cemetery. A Roman inhumation burial is recorded less than 75m to the southwest of this property (Colchester HER no. MCC2504). Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist. There however are no grounds to consider refusing planning permission in order to achieve preservation in situ of any important heritage assets subject to any permission granted being the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 16.16 It is not considered there is a justification for refusal on site specific wildlife grounds. This is a relatively small parcel of land with no particular wildlife value.
- 16.17 A Unilateral Undertaking (UU) is in the process of being signed which would secure contributions towards access improvements to Highfields allotments (£3,749.02) and the improvements of St Leonard's Church Community Hall (£1,641.62). Should the UU not have been completed by the date of the Planning Committee, it is suggested that Members delegate powers to Officers following the Committee to issue a decision on the application once the UU has been completed (subject to this being completed within a reasonable timeframe).

16.18 The UU would also include the RAMS wildlife mitigation payment (1x £156.76) which is required by all new residential developments to mitigate against recreational disturbance to designated coastal wildlife sites.

16.19 There is a mature oak tree covered by a Tree Protection Order in the neighbour's garden to the south east of the site. The existing garage, which is considered to be a newer structure than the tree, sits within the root protection area of this tree and the ground in this area has therefore previously been disturbed. The proposed bungalow would be located further away from the tree, with the tree not overhanging it, and it is therefore considered that the development could be built without causing significant harm to the protected tree. However, no formal assessment has been submitted as part of this application, and in order to secure the long term protection of the tree, it is suggested that an appropriate Arboricultural Impact Assessment, Method Statement and Tree Protection Plan is secured via condition, to be submitted to, and approved in writing by, the local planning authority prior to any work commencing on site.

16.20 The Contaminated Land Officer requested an informal risk assessment to be carried out and submitted by the applicant/agent as the proposed use will introduce vulnerable new receptors (people) to the site, so it is essential to ensure there are no contamination risks present. The information provided as part of this application does not cover the requirements in full. Therefore, an appropriate risk assessment will have to be secured via conditions. This must be submitted and agreed upon prior to undertaking any works.

16.21 The relevant pre-commencement conditions, as suggested below, have been agreed by the agent as per the requirements of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

17.0 Planning Balance and Conclusion

17.1 The Framework makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposal would provide minor economic benefits through the creation of temporary jobs during the construction phase. The social role of sustainable development is described as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The proposal is considered to meet these objectives. In respect of the environmental dimension, the proposal would provide the opportunity to improve the quality of an existing area of private open space, which has repeatedly been found to make a positive contribution towards the visual amenity of the area, despite its somewhat neglected state. This would enhance the landscape and biodiversity of this site and provide significant public benefits which weigh heavily in favour of the proposed development.

17.2 The proposed development is therefore considered to represent sustainable development. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway

network. The proposal is therefore considered to be acceptable subject to the recommended conditions below.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement (UU) under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. Delegated authority to make non-material amendments to planning conditions as necessary. The Permission will also be subject to the following 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 in accordance with approved plans

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

OC206-PL-01 Rev A (Location Plan)

OC206-HT-01 Rev J (Proposed House Style Floor Plans & Elevations)

OC206-01-PL-02 Rev K (Proposed Site Layout)

OC206-PL-03 Rev J (Detailed Site Layout)

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

3. Archaeology

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. Provision to be made for analysis of the site investigation and recording.
- c. Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation.
- d. Provision to be made for archive deposition of the analysis and records of the site investigation.
- e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and

presentation of archaeological assets affected by this development, in accordance Colchester Local Plan 2017-2033 policy DM16 and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

4. Materials As Stated in Application

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

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

5. Arboricultural Impact Assessment

No works 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.

6. 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 (including the private area of open space shown on land edged in blue) has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels, means of enclosure 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.

7. 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.

8. Landscape Maintenance Schedule

No works shall take place until a schedule of landscape maintenance for a minimum period of ten years has been submitted to and agreed, in writing, by the Local

Planning Authority for the area of private open space to the north of No. 3 Highfield Drive, as outlined in blue on the approved drawings. The schedule shall include details of the arrangements for its implementation and the development shall thereafter be carried out in full accordance with the approved schedule.

Reason: To ensure that there is a satisfactory schedule for the maintenance of this development in order to establish and integrate the development within its setting.

9. Contaminated Land Part 1 of 4 (Site Characterisation)

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

10. Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other offsite receptors

11. Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

12. Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

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

13. Validation Certificate

Prior to the first occupation of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 12.

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

14. Parking Laid Out Prior to Occupation In Accordance With Plan

Prior to the first occupation of the development hereby permitted, the four parking spaces shall have been laid out within the site in accordance with the approved plan OC206-PL-03 Rev J. The approved parking spaces shall thereafter be maintained free from obstruction and available for parking use at all times.

Reason: To ensure that there is satisfactory parking provision at the site at the time when the development becomes occupied.

15. Removal of PD for All Residential Extensions & Outbuildings

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

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

16. Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

19.1 Informatives

19.1 The following informatives are also recommended:

Advisory Note on Construction & Demolition

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

Informative on Conditions Stating Prior to Commencement/Occupation

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

Informative on Archaeology

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk>

Informative on Highways

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

EV Charging points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated).

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a 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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

