



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 17 August 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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www.colchester.gov.uk

COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 17 August 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 Bickersteth	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-Vaughar
Cllr Naylor	Cllr Nissen	Cllr Pearson	Cllr Powling
Cllr Rippingale	Cllr Rowe	Cllr Scordis	Cllr Scott-Boutell
Cllr Smalls	Cllr Smith	Cllr Sommers	Cllr Sunnucks
Cllr Willetts	Cllr J. Young	Cllr T. Young	

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

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

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

Live Broadcast

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

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

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

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

6 **Minutes of Previous Meeting**

The Councillors will be invited to confirm that the minutes of the meeting held on the 27 July 2023 are a correct record.

2023-07-27 CCC Planning Committee Minutes 7 - 10

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 **220526 Land Adjacent to 67, Braiswick, Colchester, CO4 5BQ** 11 - 48

Application for approval of reserved matters following outline approval 191522 - Erection of 27 dwellings and associated development.

7.2 **230031 Land between, 7 & 15 Marlowe Way, Colchester, CO3 4JP** 49 - 74

Application for variation of condition 2 following grant of planning permission of application application 212888 (Daylight and Sunlight report received) reduced ridge height of plot 1 including introduction of two chimneys.

7.3 **231273 Oak House, 1 West Lodge Bungalows, Bounstead Road, Colchester, CO2 0DE** 75 - 84

Extension of existing garage to facilitate granny annex to rear of garden.

Planning Committee Information Pages v2 85 - 96

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).

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

PLANNING COMMITTEE

27 July 2023

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

1006. Site Visits

A site visit was conducted on the 27 July 2023 attended by Councillors Lilley, Barton, Davidson, and Hogg. The Member visited the following site:

- 231007 1 & 3 Keelers Way, Great Horkesley, Colchester, CO6 4EE

1007. Minutes

The minutes of the meeting held on the 6 July 2023 were confirmed as a true record.

1008. 231007 1 & 3 Keelers Way, Great Horkesley, Colchester, CO6 4EE

The Committee considered an application for the change of use of no.3 Keelers Way from residential to commercial. Connect numbers 1 and 3 at Keelers Way into one Dental Practice. Add two treatment rooms (5 in total) resubmission 222808. The application was referred to the Planning Committee as the officer's recommendation is to approve the application despite a strong objection from the Highway Authority on grounds of inadequate on-site parking and displaced patient parking on street.

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

Simon Grady, Planning Officer, presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown photos of the site and the surrounding area, the location of the site and, the detailed drawings of the internal changes to the properties which would accommodate 5 treatment rooms and how they would be laid out if the application was approved. The Planning officer detailed that the staircases in each property would be retained so that numbers 1 and 3 Keelers Way could be converted back to dwellings in the future if required. An external elevation of the site was presented to the Committee Members who heard that the proposal would help provide NHS dental services to the area and asked Members to note that there was a reported shortage of Dental provision across the Country and that there had been no objection based on the proposed works to the building. The Committee heard that there was an outstanding objection from Essex County Council's Highways Authority regarding the parking and possible impact on

the road network, but that Officers had recommended the application for approval as the benefits of the Dental Provision outweighed the harm as detailed by the Highways Department. The Planning Officer concluded by detailing the officer recommendation was for approval as detailed in the report.

Chris Arnold (Great Horkesley Parish Council) addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that they did not object to the proposal but confirmed that large vehicles were unable to access Keelers Way due to vehicles being parked on the pavement. This was a well-known issue in the area that had been documented and outlined that the concerns of the Parish Council had been included within the report. The speaker outlined that the Committee had the opportunity to go back to the Highways Authority and resolve the issue of the junction. It was noted that the proposal could cause people to park in an inconsiderate way if they were late to an appointment and concluded by asking the Committee to consider the highways implications further and to improve the Highways issues in the area or to defer on this issue.

Lynn Wright (Applicant) addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in support to the application. The Committee heard that they were the practice manager for the site of the application and asked that the application before the Committee be approved as detailed in the report. The speaker outlined that the surgery was receiving requests all the time to take on new patients and confirmed that the issues of access to Dentists were dire with some people resorting to using superglue on dentures and that there were deserts where people could not register. The Committee heard that the investment in the surgery was to expand the number of patients they could treat and noted that a new housing development would be coming forward nearby providing a service to the new residents. The speaker concluded by detailing that there were four hundred people on their waiting list, that the proposal would create jobs and asked for the Committee to approve the proposal.

At the request of the Chair the Planning Officer and Development Manager responded to questions that were raised by the Committee following the Have Your Say speakers. The Committee heard that there was an informal agreement with the Half Butt Inn Public House, located adjacent to the proposal, that their car park could be used for staff and customers.

Members debated the proposal and noted that the traffic concerns related to parking on the junction was an issue that the Council was aware of and had been highlighted by Essex County Council's Highways Department through the consultation process. Members discussed the proposal and the parking issues associated with the site with there being a large dependence on the individual driver to park in a considerate manner and asked whether there would be further encouragement for sustainable travel to the site.

The Development Manager and Planning Officer detailed that secure cycle storage and active travel were conditioned within the recommendation but that the Committee did not have the power to amend the Highways parking restrictions. The Planning Manager detailed that the case officer could write to Essex County Council's Highways Department to explain that the Committee had found that the benefits of the scheme outweighed the harm and to place them on notice to monitor potential requirements for on street parking restrictions in the vicinity of the Keelers Way and the A134 (Nayland Road).

Members continued to debate the issues surrounding the proposal on the highways issues and the number of blue badge spaces on the site forecourt the as all four parking bays were proposed to be reserved for disabled access.

At the request of the Chair, The Development Manager commented that it was a very high percentage reserved for disabled blue badge holders and confirmed that the Committee could amend this should they wish to. The debate concluded with some Members detailing that they would like to see yellow lines added to the junction but noted that this was not within the Committees remit.

A proposal was made and seconded to approve the application as detailed in the officer recommendation with the additional conditions as follows:

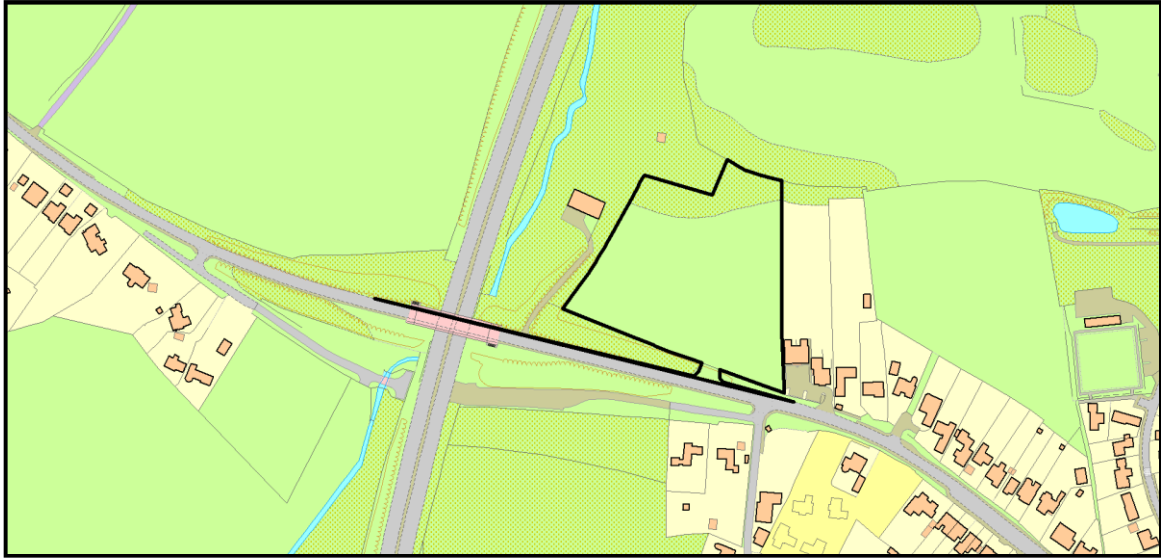
- That a maximum of 3 parking spaces be reserved for blue badge holders (disabled).
- That the case officer will write to Essex County Council's Highways Department to explain the decision of the Committee and how they felt that the public benefits of dental healthcare provision outweighed the harm identified by the Highways Authority. Furthermore the letter would put the County Council's Highways Department on notice to monitor potential requirement for on street parking restrictions in the vicinity of the Keelers Way / A134 junction.

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation the additional conditions as follows:

- That a maximum of 3 parking spaces be reserved for blue badge holders (disabled).
- That the case officer will write to Essex County Council's Highways Department to explain the decision of the Committee and how they felt that the public benefits of dental healthcare provision outweighed the harm identified by the Highways Authority. Furthermore, the letter would put the County Council's Highways Department on notice to monitor potential requirement for on street parking restrictions in the vicinity of the Keelers Way / A134 junction.

1009. 230031 Land between, 7 & 15 Marlowe Way, Colchester, CO3 4JP

The Chair of the meeting informed Members of the Committee that application 230031 had been withdrawn by Officers following publication of the agenda and would not be considered at the meeting. It was noted that this item would be brought back to a future meeting.



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Item No: 7.1

Application: 220526

Applicant: Arbora Homes

Agent: Nikki Dawney

Proposal: Application for approval of reserved matters following outline approval 191522 - erection of 27 dwellings and associated development.

Location: Land Adjacent To 67, Braiswick, Colchester, CO4 5BQ

Ward: Lexden & Braiswick

Officer: John Miles

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Sara Naylor for the following reason:

I doubt that high quality design can be delivered as required with a density of 27 houses.

2.0 Synopsis

- 2.1 The site forms part of a wider allocation for residential development under the adopted local plan. The principle of this development has been established through the outline planning approval (with all matters except access reserved) granted at appeal, following an appeal against the decision of the Council to refuse application 191522.
- 2.2 The key issues for consideration under this application are appearance, landscaping, layout and scale, namely “the reserved matters” and how these relate to wider material planning considerations, including design, the character and appearance of the surrounding area and residential amenity.
- 2.3 The proposals have been previously considered by members at the Planning Committee meeting on 15th June 2023. Following deliberations the application was deferred for the following reasons:

Deferred to allow the development manager to seek amendments to the design and layout of the site and to consider the danger of the location of the children’s play area location, public open space, and connectivity within the site, lack of community space and that a reduction in dwellings would enhance the design.

- 2.4 Following the deferral the applicants have provided a response to each of the matters raised in the reasons for deferral, a copy of which is held on the planning file. The proposed site layout plan has also been updated to confirm that public stepped access is provided across the south of the site, while level access to the public open space is provided across the north of the site. Following the deferral, supplementary consideration of issues around the location and form of the proposed public open space, connectivity within the site and the possibility for a reduction in dwelling has also been provided at Paragraphs 16.59 - 16.75 of the Committee report.
- 2.5 Consistent with the conclusions drawn within the report previously presented to members, it is considered that the scheme, as revised since the original submission, achieves an acceptable quality of design, on balance, and is for the reasons outlined in the main body of the report otherwise acceptable with regards to wider material planning considerations. On that basis the application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 Braiswick Road (B1508) runs in a north-west direction from the centre of Colchester leading to the village of West Bergholt and ultimately Sudbury. The application site lies to the north of Braiswick Road just before it crosses the A12. The site is located on the outskirts of Colchester City but inside the A12 which provides a firm border around the north of the City.

3.2 There is frontage development along Braiswick Road to the east of the application site, on both sides of the road. Further to the east there is recent development in the form of a residential estate along Keepers Green. There is also a bowling green. South of Braiswick Road, opposite the application site, is Westhouse Wood which has a public footpath along its western boundary alongside the A12. To the east of the woodland is development in depth behind the frontage housing. To the north of the application site is Colchester Golf Club.

3.3 The site itself is rough grassland sloping steeply down to the north and northwest into a wooded area lying alongside the A12 which is raised above the lowest land at this point. St. Botolph's Brook runs along the western boundary of the site adjoining the A12. Within the wooded area there is a commercial building with access leading down a steep track from Braiswick Road. This lower area - beyond the application site's boundary - is susceptible to localised flooding.

4.0 Description of the Proposal

4.1 The application seeks reserved matters approval for the erection of 27 dwellings and associated development: namely the matters of appearance, landscaping, layout and scale.

5.0 Land Use Allocation

5.1 The site is allocated for residential development.

6.0 Relevant Planning History

6.1 As identified the outline permission for the development was granted at appeal (Ref: APP/A1530/W/20/3245754), following the refusal of application 191522.

6.2 The appeal was allowed on 15th October 2020 and outline permission granted for up to 27 dwellings on the application site.

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)

- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 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
- and Impact Mitigation
- SG8 Neighbourhood Plan
- ENV1 Environment
- ENV3 Green Infrastructure
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM13 Domestic Development
- DM15 Design and Amenity
- DM16 Historic Environment
- DM17 Retention of Open Space
- DM18 Provision of Open Space and Recreation Facilities
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water Waste and Recycling

7.4 Some "allocated sites" also have specific policies applicable to them. In this case adopted local plan policy NC3 is of direct relevance to the decision making process:

Policy NC3: North Colchester

Land at Braiswick

In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the area identified on the policies map, which must be comprehensively planned setting out how any proposal will provide:

- (i) Up to 70 dwellings, and*
- (ii) Access from Braiswick (road), and*
- (iii) Contributions to highway improvements on the local road network, in particular at North station, and*
- (iv) The retention and enhancement of existing tree belts within the site in addition to a landscape appraisal to look at opportunities to further improve other landscape features within the site, and*
- (v) Effective noise mitigation measures, and*
- (vi) No residential development in the area of site within Flood Zone 3, and*
- (vii) Retention and improvements to the existing Public Right of Way which runs along the eastern boundary of the site.*

Paragraphs 14.41 and 14.42 set out some context to the policy also.

7.5 The Neighbourhood Plan for Myland and Braiswick is also relevant. This forms part of the Development Plan in this area of the City. The following NP policies are considered particularly relevant:

- HOU1
- ENV1
- SPL2
- DPR1

7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
 The Essex Design Guide
 EPOA Vehicle Parking Standards
 Backland and Infill
 Affordable Housing
 Community Facilities
 Open Space, Sport and Recreation
 Managing Archaeology in Development.
 Myland Parish Plan and Myland Design Statement

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 Archaeological Advisor

No objection.

8.3 Arboricultural Officer

No objection raised.

8.4 Contaminated Land Officer

No objection.

8.5 Environmental Protection

No objections, subject to conditions, including conditions covering the provision of a construction method statement, limits to hours of work and internal noise levels.

8.6 Essex County Fire & Rescue Service

No objection - Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. This development appears to meet the provisions detailed in ADB Vol 1 B5 for Fire Service Access. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

8.7 Essex Place Services Ecology (4th July 2022) (response on document specified below):

We have reviewed the Ecological Mitigation and Enhancement Strategy (ACJ Ecology, May 2022) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures. This meets the details of Condition 32 of the outline decision notice issued following being allowed at Appeal so would support partial discharge by design.

We are now satisfied that the revised documentation contains sufficient ecological information for the determination of this Reserved Matters application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Ecological Mitigation and Enhancement Strategy (ACJ Ecology, May 2022) should be implemented in full. This is necessary to conserve and enhance protected and Priority species particularly reptiles and bats.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures have been outlined with in Ecological Mitigation and Enhancement Strategy (ACJ Ecology, May 2022) and should be implemented in full. If the developer wishes to improve the biodiversity onsite further, we recommend the addition of flowering lawns, log pyramids and a wildlife pond.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of [the mitigation and enhancement measures outlined in the submitted Ecological Mitigation and Enhancement Strategy and a Reptile Receptor Agreement] should be a condition of any planning consent.

8.8 Essex Police

No objection - would like to see the applicant seek to achieve a Secured by Design award in respect of this development and are willing to provide impartial service to the applicant to support them to achieve the requirements to gain the nationally acknowledged Secured by Design accreditation.

8.9 Essex SuDs

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the reserved matters planning application, we do not object to the granting of planning permission:

We have no comments on this application, the drainage conditions will need to be discharged at the DOC stage.

8.10 Highway Authority

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

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Colchester Road Braiswick shall be provided with 10m radius kerbs returned to an access road carriageway width of 5.5m and flanking footways 2m in width returned around the radius kerbs and extending 25m westwards and eastwards. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.

Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

All footways should be provided at no less than 2.0m in width.

All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Each internal estate road junction shall be provided with a clear to ground level visibility splays with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.

Prior to the occupation of the proposed development the applicant/developer shall provide a village gateway feature at or in the vicinity of the existing speed restriction signage west of the proposed development site erected on both sides of the carriageway of Colchester Road, Braiswick to alert drivers and highlight the change in speed limit from derestricted to 30mph, incorporating appropriate signage and any associated measures of a design that shall be approved in writing by the Local Planning Authority.

Prior to the occupation of the proposed development the applicant/developer shall provide:

A) One new bus stop in the vicinity of the proposed vehicular access to the site eastbound

including 1x new shelter, raised kerbs, timetables, post and flag

B) The provision of 1x bus stop west bound opposite and adjacent the vehicular access including level entry kerbing, new post, flag and timetable and pedestrian waiting hardstanding. Both new bus stops will require pram crossings to connect to each other and should be included.

8.11 Landscape Advisor

In order to accord with the Council's Landscape strategy for development sites the landscape deposit needs to fully comply with the Council's Landscape Guidance Notes LIS/C (this available on this CBC landscape - Colchester Borough Council under Landscape Consultancy by clicking the 'read our guidance' link), in particular the following clauses of LIS/C (*with additional site specific comments added in blue*) need to be addressed:

3.10 Hard landscape/external works:

- Details (type & manufacturers product reference or detail illustrative drawings) and location/line of all artefacts, enclosure and structures (railings, walls, fences, furniture, bollards, litter/dog/cigarette-end bins, other storage units, signage, lighting etc.) need to be clearly identified on the proposal drawing and included within its 'key'. These need to be compatible to the sensitivities of their location,

DC0901MWeV9.3

robust (e.g., wooden bollards need to be specified as hardwood) and generally clearly illustrated as being set within complementary hard landscape to simplify future maintenance. – *Detail drawings or manufacturers ref for all enclosure and street furniture needs to be submitted, including for the bow-top fencing. – No landscape objection to applicants’ suggestion this be addressed under bespoke condition provided this is achievable in planning terms.*

- All lighting positions (including those to be adopted by Highways) need to be identified on plan.

All lighting, where proposed, requires these notes against the lighting symbol(s) key confirming (verbatim) that:

‘All lighting proposals comply with [Colchester Borough Council’s External Artificial Lighting Guidance 2012](#)’; and

- *‘Where unacceptable light incursion into adjacent units is identified (particularly to bedroom windows) shuttering sufficient to minimise light incursion will be implemented.’; - include on [drawing AH013_305_08](#).*

Lighting columns need to be clearly set outside the mature crown spreads of any existing and/or proposed trees.

– *No landscape objection to applicants’ suggestion the above lighting detail/positions/specifications be addressed under bespoke condition provided this is achievable in planning terms.*

- It needs to be confirmed with a (verbatim) note on plan that:
‘All over-ground or underground service routes (including those for lighting) have been designed to not conflict with and lie outside the Root Protection Areas of any retained trees/hedges and the mature crown spreads of retained or proposed trees/hedges on or adjacent to the site’

Where this is not the case this needs to be clarified and any conflicting service run areas will then need to be supported through an Arboricultural Impact Assessment submitted for agreement, this in accordance with BS 5837 Recommendations. – *this standard clause needs to be included on drawings JBA.21/311-03.H & 04.H unless agreed otherwise by the Arboricultural Officer.*

- 3.18** Clear proposals need to be made when specifying specific items, ambiguous terms such as 'or similar' (in the drawings key, specifications, etc.) will not be permitted. This as revisions to specific items within the landscape proposals post condition discharge can only be made with the LPA's agreement so as to help prevent unauthorised value engineering that might be detrimental to the landscape. – *consider revising any ‘or similar’ note to “or similar with LPA consent’ – Planning Officer to take a view on the validity of the applicants’ planning justification for not complying with this standard CCC requirement.*

- 4.1** An Implementation and Monitoring Programme (IMP) needs to be submitted and agreed, either on the drawing(s) or as a separate specific document (generally a simple A4 sheet.

– *No landscape objection to applicants’ suggestion this be addressed under bespoke condition provided this is achievable in planning terms.*

- 5.1** A landscape management plan needs to be submitted and agreed,

– No landscape objection to applicants' suggestion this be addressed under bespoke condition provided this is achievable in planning terms.

- 1.3 In addition to the above generic requirement(s) the following site-specific requirement(s) need(s) to be applied to any revised proposals in order to allow reserved matters to be agreed:
1. As recommended at application stage, the trees to the POS bounding the western access road will need to form a comprehensive linear feature of large broader crowned native trees all along that western boundary, the number and spacing of proposed *Car bet* will need to be increased to fulfil this requirement. This in order to help protect, conserve and enhance views into the site from the west by, at maturity, filter screening the development whilst complementing the sites wooded ridge setting.

Planning Officer response: The changes, additional information and clarification requested have either been carried out and/or or provided or are to be controlled through suitably worded conditions.

8.12 National Highways

No objection.

8.13 Natural England

A Habitats Regulations Assessment (HRA) is required to secure any necessary mitigation.

8.14 Planning Policy

Colchester Local Plan

Section 1 of the Colchester Local Plan provides a shared strategic policy context and addresses cross boundary matters for North Essex together with Braintree and Tendring Councils. This was adopted by Colchester Borough Council on 2 February 2021. Section 2 of the Colchester Local Plan 2017-2033 provides the policy framework, site allocations and development management policies for the Borough up to 2033. This was adopted by Colchester Borough Council on 4 July 2022.

Section 2 of the Local Plan allocates land to meet the housing targets up to 2033 in accordance with the Spatial Strategy set out in Policy SG1. The site subject to this application forms part of an allocation in the Local Plan as outlined in Policy NC3 North Colchester. Policy NC3 supports development on Land at Braiswick within the area identified on the policies map for up to 70 dwellings. The outline permission for the site prescribes the site area, the point of vehicular access and the maximum number of units (up to 27 units).

Policy NC3 states:

In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the area identified on the policies

map, which must be comprehensively planned setting out how any proposal will provide:

- (i) Up to 70 dwellings; and
- (ii) Access from Braiswick (road); and
- (iii) Contributions to highway improvements on the local road network, in particular at North Station; and
- (iv) The retention and enhancement of existing tree belts within the site in addition to a landscape appraisal to look at opportunities to further improve other landscape features within the site; and
- (v) Effective noise mitigation measures; and
- (vi) No residential development in the area of site within Flood Zone 3; and
- (vii) Retention and improvements to the existing Public Right of Way which runs along the eastern boundary of the site.

In addition to Policy NC3, other Colchester Local Plan Development Management Policies are relevant including (but not limited to):

Policy DM8: Affordable Housing – which requires 30% of new dwellings on housing developments of 10 or more dwellings (major developments) in urban areas should be provided as affordable housing (normally on site).

Policy DM9: Development Density – this policy requires all residential development to be at an appropriate density and massing, having regard to a number of factors including the character of the site and its immediate surroundings, as well as the wider locality and the existing landscaping, trees and hedgerows on the site and the need for further landscaping.

Policy DM12: Housing Standards – supports residential development where high standards of design and layout are promoted. The policy sets out a number of criteria that the LPA will have regard to in considering proposals for new residential development.

Policy DM15: Design and Amenity – requires all development be designed to a high standard, positively respond to its context, achieve good standards of amenity and demonstrate social, economic and environmental sustainability. Criteria is included to help achieve high quality design.

DM18: Provision of Public Open Space – all new residential development will be expected to provide new public areas of accessibility open space.

Policy DM19: Private Amenity Space

Policy DM21: Sustainable Access to Development – all new developments should seek to enhance accessibility for sustainable modes of transport.

Policy DM23: Flood Risk and Water Management

Policy DM24 – Sustainable Urban Drainage Systems

Policy DM25: Renewable Energy, Water, Waste and Recycling

Myland and Braiswick Neighbourhood Plan

The Myland and Braiswick Neighbourhood Plan is also relevant to this application. The Myland and Braiswick NP was adopted in December 2016 and covers the plan period 2016-2032. The Myland and Braiswick NP forms part of the Development

Plan and therefore the proposal should be in accordance with all relevant policies in the adopted Colchester Local Plan and the Myland and Braiswick Neighbourhood Plan. A number of Myland and Braiswick NP policies are relevant to this proposal including (but not limited to):

HOU1 – ‘Housing in Myland and Braiswick will have a variety of choices, design and living styles that meet the needs of residents, including the elderly, and respect the scale and character of the existing street scenes and environment. Developers should achieve the highest quality of design commensurate with current national and local design guidance.’

ENV1 – Environment policy that includes criteria that attention should be given to in order to maximise opportunities for the creation, restoration, enhancement, expansion and connectivity of Green Infrastructure within and between development sites.

SPL2 - ‘As amenities that facilitate both sustainable transport and bringing benefit to health and well-being, Myland and Braiswick footpaths and public rights of way will be maintained and protected (if necessary by authorised diversion) and new rights of way, including bridleways, encouraged commensurate with the Essex Public Rights of Way Improvement Plan. This will include Public Rights of Way suitable for vulnerable users.’

DPR1 - ‘Developments will aim to attain the highest quality and design standards and where appropriate encourage the use of relevant national standards by developers in order to achieve the highest possible levels of overall sustainability in the design and layout of new developments.’

Review of the Myland and Braiswick Neighbourhood Plan

A Review of the Myland and Braiswick Neighbourhood Plan has commenced, and a Regulation 16 consultation was held between 27 March 2023 and 15 May 2023. As the Myland and Braiswick Neighbourhood Plan Review is not sufficiently advanced in its progress, limited weight can be given to the Review Neighbourhood Plan at this stage. This will increase once an Examiner has issued a Final Report on the Review Plan and either confirmed that the modifications are appropriate and not so substantive that they change the intent of the Plan, or it can proceed to a referendum if one is required.

Although at the present the Draft Review NHP is a relevant material consideration which can only be afforded limited weight it is helpful to refer to following policies (or extracts) which are relevant to this application:

Draft Policy HOU1 sets out some specific considerations identified as being locally important. The supporting text in the draft plan refers to the relevance of these policy considerations in relation to a matters including development on the site allocated in the Local Plan at Braiswick (including this site).

HOU1 – *Housing in Myland and Braiswick will have a variety of choices, design and living styles that meet the needs of residents, including forms of sheltered housing for the elderly. There will be respect for the scale and character of the existing street scenes and environment by matching the predominant use of brick*

and tile construction such that they blend with the existing design and skyline. This includes the use of predominantly pitched roofs, sufficient off-street parking, and housing extensions that are also sympathetic to the surrounding street scene and design materials. Developers should achieve the highest quality of design commensurate with current national and local design guidance. This to address the challenge of climate change and improving sustainability by, for example, electric charging points and alternative fuel sources such as air-source heat pumps that do not impact on existing neighbouring residents.....

Policy HOU3 of the draft Myland and Braiswick Neighbourhood Plan Review is more specifically related to the site allocation under policy NC3 of the CLP. states:

'Sites for housing proposals in Braiswick should be comprehensively planned as set in Colchester Local Plan Policy NC3 to respect the scale and character of the existing street scenes and environment and should protect existing public open spaces and bowling green.'

Planning Balance and Conclusion

The proposal site, which has outline planning permission for up to 27 dwellings, forms part of an allocation in the adopted Colchester Local Plan and Policy NC3 provides the policy requirements for the site. The principle of development on this site at this scale has already been established through the outline planning permission already granted.

Policy NC3 applies to the whole site area subject to the allocation for up to 70 houses overall. Whilst the intention of the policy and preferred approach would be to consider proposals for the site as a whole comprehensively, it has to be acknowledged that the opportunity to follow such an approach for the whole site is limited as a result of the appeal decision resulting in the outline consent (191522).

To be afforded support from Policy NC3 the proposal needs to ensure it meets the listed criteria where it is relevant including; Access from Braiswick (road) (already established as part of the outline consent); Contributions to highway improvements on the local road network, in particular at North Station; The retention and enhancement of existing tree belts within the site in addition to a landscape appraisal to look at opportunities to further improve other landscape features within the site; Effective noise mitigation measures; No residential development in the area of site within Flood Zone 3; and Retention and improvements to the existing Public Right of Way which runs along the eastern boundary of the site. It is also important that the layout of the development does not preclude development coming forward on the remaining part of the allocated site. It is not appropriate to make any judgement about the density which may be suitable on the remaining allocation and the capacity for the site to deliver up to the total anticipated 70 dwellings as part of this application. This will be for future applications to address and the suitability to be tested against evidence and policies prevailing at that time.

The other policies in the CLP listed above provide the test for the suitability of the proposed development in respect of detail. The consideration of issues related to density, design and layout and high-quality design are particularly important and

the views of Specialists in respect of this to inform the consideration of any adverse impacts are central to a decision.

The adopted Neighbourhood Plan and the emerging Review NHP both contain policies which are relevant. In respect of the adopted Plan, in order for support to be afforded, it is necessary for the proposal to demonstrate that it will *achieve the highest quality of design commensurate with current national and local design guidance, respect the scale and character of the existing street scenes and environment and deliver enhancements to the environment and green infrastructure as well as deliver opportunities that facilitate both sustainable transport and bringing benefit to health and well-being.*

The emerging Review NHP is more specific in respect of this site and the need to not only achieve high quality design and to respect the scale and character of the existing street scenes and environment and also to protect existing open spaces and bowling green.

Consideration of these matters is a relevant consideration although only limited weight can be afforded to the relevant policies at this time due to the stage of progression of the Review NHP.

8.15 Urban Design Officer

Due to the homogeneity of the proposed layout and built environment the proposal lacks several significant features that contribute positively to placemaking. However, proposed built form broadly complies with policy requirements in terms of form and materiality, but fails to achieve a high degree of visual interest or distinctive character and identity across the wider scheme. Nevertheless, the permeability of the proposal has been increased and improvements have been made to the proposed built environment, increasing its consistency. Additionally, the accessibility and functionality of the POS has been enhanced, and an appropriate level of amenity appears deliverable. Notwithstanding issues regarding levels, it is therefore considered the proposal could establish an adequate sense of place.

9.0 Parish Council Response

9.1 Responses have been received from both Myland Community Council and West Bergholt Parish Council.

Myland Community Council:

This application falls within the Myland and Braiswick Neighbourhood Plan Area and the following comments are made on that basis.

1. It is noted that Essex Highways have no objection to the development but it is unclear how cyclists are specifically catered for. This is confusing because the Design and Access Statement Part 1 page 18 states "Vehicle access is achieved by a single main access point from Bury Road. However, pedestrians and cyclists have the option to use a designated pathway providing safe and direct access onto the Village Green". This appears to be an extract from another development and does not therefore provide any clarity on how cyclists in particular will be catered for at St Botolphs Farm.?

2. It is noted that Fire and Rescue comments raise concerns that plots 07 and 08 are outside the 45m requirement, there is an inadequate turning point and additional fire hydrants will be required.

3. Whilst the design of individual properties may be in-keeping with the locality, the density of the development is less so and bearing in mind the point at 2 above, a reduction in house numbers should be considered. It should also be noted that the appeal decision on this application suggested a reduction in housing density. This could also be an important factor on vehicle numbers accessing Bergholt Road if other potential development sites in Braiswick are activated. This application fragments Colchester Borough Council's original desire to see all 'call for sites' submissions in Braiswick dealt with as a single development plan. Dealing with individual sites in close proximity to each other is an ineffective way of ensuring developments are compatible with their surroundings.

4. The attention to climate change considerations is welcomed, e.g., electric charging points, heat pumps high performance insulation etc.

5. The mitigation measures for affected animals, i.e., bats and common lizards are welcomed.

6. The Design and Access Statement Part 1 page 12 refers to an area adjacent to the development site where there are opportunities for creation of new footpath links, wildlife corridors, mitigation and biodiversity gain. The Neighbourhood Plan Steering Group remains in place and would be pleased to engage on these opportunities.

Officer response: As outlined in the section above, further consultation comments have been received from both the Highway Authority and Essex Fire and Rescue, since the consultation comment from Myland Community Council. Both consultees have confirmed they have no objections and Essex Fire and Rescue have confirmed the scheme, as revised, makes suitable access provisions from their perspective.

West Bergholt Parish Council:

This proposed development lies outside of the parish of West Bergholt, but the Parish Council would recommend that Colchester Borough Council listens to any concerns raised by Myland Community Council.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties, and in respect of both the original and revised proposals. These consultation exercises resulted in 34 objections. 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.

Objections:

- Noise from the A12
- Loss of privacy for neighbours
- Noise and disturbance being caused to neighbours
- Vehicles often speed along Braiswick Road
- The scheme is too dense
- Building on open space

- The proposal is not “Arcadian” in style
- Impacts on wildlife, including the ‘wildlife corridor’
- Landscape impacts
- Street lighting has not been addressed, potential issues with light pollution.
- How will access by emergency vehicles be ensured?
- Increased pressure on local facilities (doctors, schools etc.)
- Lack of infrastructure
- Loss of view
- Urbanising impacts
- Impacts on the road network (congestion)
- Highway safety concerns (proposed access)
- Lack of parking
- Internal roads too narrow
- Poor design
- Need for surface water drainage and sewage infrastructure
- Lack of green spaces
- Need for affordable housing met elsewhere

11.0 Parking Provision

11.1 The scheme is held to meet the adopted standards in terms of on-plot and visitor parking.

12.0 Accessibility

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

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

12.3 While the site has some challenging topography, efforts have been made to minimise gradients and avoid stepped access where possible. Car parking is also considered to be conveniently located in relation to the home it serves. These matters are also discussed further in the main body of the report.

13.0 Open Space Provisions

13.1 The proposed development is considered to provide open space provisions in accord with the minimum 10% requirement.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. Contributions are already secured under the Section 106 agreement completed pursuant to the outline permission and Development Team have confirmed that no further contributions are required,

beyond those already secured. Contributions secured by the Section 106 agreement already in place includes 30% affordable housing.

16.0 Report

16.1 The main issues in this case are:

- The Principle of Development
- Design, layout and impact on the Character of the Area
- Landscaping and Public Realm
- Residential Amenity
- Arboriculture and Canopy Cover
- Biodiversity Net Gain, Ecology and Climate Change
- RAMS
- Flood risk
- Highways and Parking
- Other Matters
- Previous Reasons for Deferral

Principle

16.2 Policy SP3 of the Section 1 Plan sets out the Spatial Strategy for Colchester which retains the urban area of Colchester as a focus for growth. Policy SG1 of the Section 2 Plan sets out the Council's strategy for delivering housing ensuring that developments are directed towards accessible locations and also to ensure the character and vitality of villages is sustained. Policy SG2 sets out how this will be delivered with the majority of new housing development located in Colchester with a smaller proportion within the villages.

16.3 Notwithstanding that the application site is within the settlement boundary of Colchester, in a highly sustainable location, close to both public transport links, shops and other facilities, as already noted, the proposal site has outline planning permission for up to 27 dwellings. This extant outline planning permission and the site's allocation for residential development under Policy NC3 of the adopted Colchester Local Plan establishes the principle of development.

16.4 The proposed development is therefore considered acceptable in principle, subject to further consideration in respect of wider material planning considerations, as outlined below.

Design, layout and impact on the Character of the Area

16.5 Government guidance on design is provided by the National Design Guide and National Model Design Code, both of which form part of the governments Planning Practice Guidance. The National Design Guide seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice. Whilst the National Model Design Code sets out clear design parameters to help establish what good quality design looks like and provides a common overarching framework for design. These documents are intended to

help create beautiful and distinctive places, with a consistent and high quality standard of design. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance recognise the importance of good design, with specifically paragraph 130 of the NPPF requiring planning decisions to ensure development is visually attractive as a result of good architecture. Paragraph 126 states that the creation of high quality and beautiful buildings and places are both fundamental to what the planning and development process should achieve.

- 16.6 At a local level, Section 1 Policy SP7 states that all new development should respond positively to local character, provide buildings that exhibit individual architectural quality, and enhance the quality of existing places, while Section 2 Policy DM15 sets similar requirements for high quality design.
- 16.7 Myland and Braiswick Neighbourhood Plan [MBNP] Policy HOU1 also requires housing in Myland and Braiswick to respect the scale and character of the existing street scenes and environment and achieve the highest quality of design commensurate with current national and local design guidance. MBNP Policy DPR1 states developments will aim to attain the highest quality and design standards and where appropriate encourage the use of relevant national standards by developers in order to achieve the highest possible levels of overall sustainability in the design and layout of new developments.
- 16.8 The scheme has evolved since first submitted following negotiations and in response to comments from Council Officers, including the Council's Urban Design Officer.
- 16.9 One significant change to the scheme since originally submitted is changes in the layout to the south of the site, including orientating dwellings to face Braiswick Road. As well as improving permeability through establishing pedestrian access around the periphery of the site, these changes establish a clear frontage to Braiswick road. As part of this new built frontage, the revised proposal also now includes a 'gateway pair' of dwellings either side of the access road, forming a legible entrance to the site.
- 16.10 Notwithstanding the screening of the site from Braiswick/Colchester Road which will be provided by existing retained trees to the site's southern boundary, the revised scheme is considered to establish an appropriate frontage to Braiswick/Colchester Road, with the proposed dwellings on the site's southern boundary considered to adopt appropriate scales, forms and materiality, such that they relate satisfactorily to surrounding existing development and the established character of the area.
- 16.11 Across the site as a whole, as well as wider revisions to form and layout, the revised proposed dwellings also include a number of pleasant detailed design features to improve visual interest and help contribute to site identity, including, but not limited to, additional brickwork features, rafter and eaves detailing and feature bay windows and chimneys. The main proposed external materials include red clay tiles, facing brick and timber cladding.

- 16.12 It is recognised the Council's Urban Design Officer considers the scheme could potentially go further in terms of visual interest and achieving a distinctive character. However, taken as a whole it is considered the proposed dwellings through their use of positive modelling and additive design features, coupled with both the dwellings' general form and materiality, will achieve an acceptable quality of design, site identity and ultimately will relate satisfactorily to the character and appearance of the surrounding area, on balance.
- 16.13 The proposed scheme is also considered to provide acceptable public and private amenity provisions and a good standard of public realm, which incorporates appropriate landscaping. These issues are considered further in the sections below.
- 16.14 While it is considered it has been generally demonstrated that the dwellings proposed, their associated amenity spaces and public spaces can be set at appropriate levels within the site and achieve acceptable relationships with one another and the surrounding landscape, with the site to include some significant changes in levels, with associated and observed practical challenges, it is therefore recommended a condition is imposed covering the submission of additional information on existing and proposed levels and how the transition between levels will be achieved, prior to commencement. This will ensure that any changes in levels can only be taken forward where they do not undermine the quality of the public realm, or are otherwise to the detriment of amenity, including residential amenity and the visual amenity of the wider area. It is considered the challenges with regards to levels is symptomatic of the challenging topography of the site and not specifically as a result of the density.
- 16.15 In this regard it is noted that concerns have been raised in representations received about the proposed density. The issue of density was one of the main subjects of discussion under the appeal proceedings for the outline scheme and the below text is an extract from the Inspector's report, under which the appeal was ultimately allowed, and outline permission granted:

Whilst Policy ENV1 seeks to protect the countryside, the Council does not have an objection to the proposed scheme on landscape grounds in line with the policy. Despite the Council's requirement for a landscape led approach to deliver an 'Arcadian' style of development, in line with the Essex Design Guide with densities of around 8 dwellings per hectare (dph) it has suggested that a density of between 10-15dph would be appropriate for this site resulting in up to 20 dwellings. It is my understanding that an Arcadian design would be predicated on the dispersal of dwellings through natural features. However, this site does not immediately lend itself to this form of development as the central part of the site is open with tree coverage confined to its 3 boundaries.

I heard contrasting evidence on density calculations based on the site's constraints and its net developable area. However, when all matters on this issue are taken into account the difference between the parties is around 7 dwellings. I do not think that this difference is excessive given the site area

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and its location. I acknowledge, however, that making the most effective use of land in line with paragraph 123 of the Framework is not just about increasing densities but also seeking an appropriate form of design which reflects local context. However, even with the site's constraints the proposed scheme could be provided to an acceptable design and would not appear out of place subject to careful consideration of outstanding of reserved matters.

- 16.16 Therefore, while the wording of the original consent specifies 'up to' 27 dwellings, the fact that the maximum number of dwellings permitted under the outline permission has now been proposed is not in and of itself a reason for refusal. Furthermore, it is important to note that the density of the site up to 27 dwellings was accepted by the Inspector, albeit subject to a detailed scheme of an acceptable design being provided, to ensure the development would not appear "out of place".
- 16.17 While the quality of the design is ultimately a matter of planning judgement, taking into account the proposed built form, existing natural features and the proposed landscaping (considered further below) it is not considered the proposed development will appear "out of place" or will otherwise be harmful to the character and appearance of the wider area.
- 16.18 In conclusion, following careful consideration by Officers, when taken as a whole and for the reasons outlined above the scheme, as revised, is considered to be acceptable in design terms, on balance.

Landscaping and Public Realm

- 16.19 Policy SP7 requires development to respond positively to local character and protect and enhance assets of natural value, while Policy DM15 requires development to positively integrate with landscape assets. Paragraph 130 of the National Planning Policy Framework [NPPF] requires planning decisions to ensure development is sympathetic to local character, including landscape setting.
- 16.20 The submitted landscaping plans include new tree planting and hedgerow planting and, as well as the more strategic areas of POS, smaller incidental grassed areas, some of which are proposed to be finished with wildflower seeding. The proposed scheme of planting and soft landscaping appears broadly acceptable, while any required changes and final details can be secured by condition, including the provision of a more significant tree belt to the site's western boundary.
- 16.21 Plans submitted detail brick boundary walls to the most sensitive public facing boundaries and a mix of estate rail facing and timber bollards to areas of open space - both incidental and the more strategic formal public open space areas. A majority of hard surfaces are proposed to be finished in block paving (with the exception of the main access road), to limit the use of tarmac, recognising the contribution the form of hard surfacing can make to site identity and improving the quality of the public realm.

- 16.22 Exact details on the above aspects of the scheme and in recognition that some details require further consideration (including in areas where there are more significant changes in ground levels) are recommended to be secured by condition.
- 16.23 Overall, the proposal is considered to either provide appropriate landscaping in terms of the details submitted or, where required, additional details can be secured by way of condition, to ensure any final detailed scheme suitably address any outstanding comments from the Council's Landscape Advisor, and that the proposed development ultimately successfully integrates with the surrounding landscape and achieves a high quality public realm.

Residential Amenity

- 16.24 Paragraph 130 of the NPPF (2021) requires, amongst other things, planning decisions to ensure development promotes health and well-being and provides a high standard of amenity for existing and future users.
- 16.25 Section 2 Policy DM12 states residential development will be supported where high standards of design, construction and layout are promoted, and sets general amenity standards for new dwellings, while Policy DM19 sets specific private amenity space standards. Section 2 Local Plan Policy DM12 and DM15 also require all development to protect the amenity of existing and future residents, including with regards to loss of light, overbearing impacts and overlooking.
- 16.26 In terms on neighbouring amenity, the nearest neighbouring properties are the flats beyond the east of the site. Taking into account the position, scale and orientation of proposed built form the proposed development is not expected to result in material harm to neighbouring amenity through a loss of light, outlook, or through affording unsatisfactory angles of overlooking, with due regards to the relevant tests for assessing these issues, as set out in the Essex Design Guide SPD.
- 16.27 In terms of future occupier amenity it is important to note that the site is located close to the A12. The provision of detailed acoustic information and appropriate acoustic mitigation measures (where found to be required) are however covered by conditions of the outline permission and a further noise levels condition is also recommended to be included to ensure there is appropriate mitigation in place to avoid materially adverse impacts to future occupier amenity from noise. Taking into account these measures and the consultation responses received by Environmental Protection, who have raised no objection to the application, it is not considered residents will be exposed to excessive noise and it is considered suitable levels of amenity will be afforded in this regard.
- 16.28 All the proposed dwellings have internal floor areas that meet or are in excess of Nationally Described Space Standards and while there are some notable changes in levels across the site, it is considered all dwellings can be afforded acceptable levels of light and outlook to all habitable rooms.

- 16.29 The proposed scheme includes private amenity space provisions for each dwelling in accord with minimum size requirements. While the topography of the site also presents challenges in terms of differences in levels between gardens and a subsequent need for retaining walls in addition to standard boundary treatments, conditions are recommended covering both finished levels and further details on proposed boundary treatments to ensure appropriate relationships between gardens are demonstrated and the differences in levels do not unacceptably undermine the quality or functionality of any of the proposed amenity spaces.
- 16.30 Taking into account the size, orientation and shape of the amenity spaces proposed it considered that, subject to the aforementioned conditions covering final site levels and boundary treatments, it can be ensured the scheme delivers private amenity space provisions of an acceptable quality and which are afforded an acceptable degree of privacy.
- 16.31 The proposal includes areas of Public Open Space [POS] and is considered to meet the policy requirement for a 10% minimum of the site area to be POS. The main POS area while located on the site's periphery is considered to remain accessible and will otherwise provide a functional amenity space for residents, while also benefiting from natural surveillance from the proposed properties to the east. The proposed main POS also includes a Local Equipment Area for Play [LEAP].

Arboriculture and Tree Canopy Cover

- 16.32 Section 2 Policy ENV1 requires development to conserve and enhance Colchester's natural environment. Policy DM15 requires development to respect and enhance the landscape and other assets that contribute positively to the site and the surrounding area. Section 1 Policy SP7 requires development to protect and enhance assets of historical or natural value. Central Government guidance on conserving the natural environment is set out in the NPPF. MBNP Policy ENV1 requires the protection of mature trees, shrubs and historical hedgerows and important features that define the local landscape character.
- 16.33 The submitted Arboricultural Impact Assessment details the removal of some of the existing trees within the site, however the Council's Arboricultural Officer has not objected, with the trees proposed to be removed of a relatively low quality, predominantly Class C (low quality) and Class U (unsuitable for retention). The highest quality Class A trees are detailed to be retained, as is the main tree belt to the south of the site. The protection of the existing trees shown to be retained can be ensured through the implementation of appropriate construction and tree protection methods, which can be controlled by condition.
- 16.34 While the proposal does include new planting, including a number of new street trees and trees to areas of POS, the tree canopy cover assessment submitted confirms that on site, the application falls short of meeting the 10% increase in Tree Canopy Cover required by Policy ENV1. This policy

does however make provision for the uplift to be delivered off-site, where it cannot be accommodated on site. This approach has been accepted by officers and securing the necessary tree planting can be controlled through recommended condition 18 which requires the submission, implementation and subsequent management of a detailed scheme for achieving the necessary uplift.

Biodiversity Net Gain, Ecology and Climate Change

- 16.35 Section 40 of the Natural Environment and rural Communities Act 2006 [NERC] places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Paragraph 174 of the NPPF specifically, states development should contribute to and enhance the natural and local environment and minimise impacts on biodiversity, with appropriate ecological surveys required when there is reason to suspect the presence of protected species.
- 16.36 Policy ENV1 seeks to conserve or enhance biodiversity of the Borough and sets a requirement for development to achieve a 10% Biodiversity Net Gain [BNG], where appropriate.
- 16.37 While the proposed development will undoubtedly affect an area which has a biodiversity and habitat value, the change in the main function of the site has been accepted both through the site's allocation and the outline permission.
- 16.38 It is however still important that any proposal suitably protects existing wildlife and takes appropriate opportunities for biodiversity enhancement and mitigation, in order for the scheme to accord with the above policy and statutory requirements.
- 16.39 In this respect the application is supported by an Ecological Mitigation and Enhancement Strategy. This document has been reviewed by Essex Place Services Ecology who confirm they are satisfied that the document contains sufficient ecological information for the determination of the application and with the mitigation measures secured by condition, it can be ensured the development will acceptably mitigate impacts on designated sites, protected and Priority species & habitats.
- 16.40 While it is understood that in this instance it has not been possible to demonstrate measurable biodiversity net gain of at least 10% on site, it is proposed by the applicant's that biodiversity net gain is achieved through a combination of on and off-site provisions. While there is a presumption that measurable net gain in biodiversity is made onsite wherever possible, there are provisions for off-site compensation to be used in both policy and emerging legislation. Taking into account the circumstances of the case the use of off-site provisions is accepted by Officers. Subject to a pre-commencement condition to secure exact details of such and the provision of an appropriate legal agreement to provide certainty and security around

proposed off-site provisions and their long-term management and maintenance, the proposal is considered acceptable from a biodiversity net gain perspective and is in accordance with Policy ENV1 in this regard.

- 16.41 In terms of supporting the transition to a low carbon future and mitigating and adapting to climate change, all dwellings are to be served by dedicated EV charging points and air source heat pumps, while the provision of a detailed SuDS scheme is covered by condition under the outline permission.

RAMS

- 16.42 Development proposals must not have an adverse effect on the integrity of habitat sites. Section 1 Policy ENV1 states that development proposals that have adverse effects on the integrity of habitats sites will not be supported.

- 16.43 A Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has been completed as part of the local plan in compliance with the Habitats Directive and Habitats Regulations. Further to Section 1 Policy SP2, contributions are required from qualifying residential development, within the Zones of Influence as defined in the adopted RAMS, towards mitigation measures identified in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The proposed development has been considered in line with Natural England guidance, which concludes that the whole of Colchester is within the zone of influence for the East Coast RAMS and that, unless a financial contribution is secured (to fund avoidance and mitigation measures in line with the RAMS), the proposed development is likely to have a significant effect upon habitat sites through increased recreational pressure, when considered in-combination with other plans and projects.

- 16.44 A proportionate contribution towards the Essex Coast RAMS is included as part of the existing Section 106 agreement and the proposed development is therefore considered to be in accordance with Policy SP2, ENV1 and is acceptable in respect of its impact upon habitat sites, with appropriate mitigation secured, in accordance with the conclusions of the Habitats Regulation Assessment [HRA] undertaken.

Flood risk

- 16.45 Policy DM23 states the Local Planning Authority will seek to direct development away from land at risk of flooding in accordance with the National Planning Policy Framework and the Planning Practice Guidance. Development will only be supported where it can be demonstrated that the proposal meets flood management requirements in the NPPF, the PPG and Policy DM23.

- 16.46 The application site is located within Flood Zone 1 which has a very low risk of flooding from rivers or the sea (less than 0.1%) according to Environment Agency Long Term Flood Risk Information. The site is also outside any areas at risk of flooding from reservoirs. The site is not, therefore, considered to be particularly susceptible to flooding.

- 16.47 With no residential development proposed in either Flood Zone 2 or 3 the development accords with Policy NC3 in this regard, as well as wider policy requirements in respect of directing development towards areas at a lower risk of flooding.
- 16.48 In terms of surface water flooding, the scheme would result in an overall increase in structures and hard surfacing (the new build and associated pathways/driveways). The provision of an appropriate detailed SuDS scheme is however secured through the conditions of the outline consent and there are therefore no concerns with regards to surface water flooding, or that the proposal will unacceptably increase flood risk elsewhere.

Highways and Parking

- 16.49 Paragraph 111 of the NPPF provides that development may be refused on highways grounds if there would be unacceptable impact on highway safety. Paragraph 112 of the NPPF states that, within this context, applications for development should create places that are safe, secure... [and] minimise the scope for conflict between pedestrians, cyclists and vehicles.
- 16.50 Section 2 Local Plan Policy DM22 relates to parking standards in association with the Vehicle Parking Standards SPD. Section 1 Policy SG1 states that development that reduces the need to travel will be encouraged. Policies DM15, DM20 and DM21 have similar requirements with particular emphasis on enhancing accessibility for sustainable modes of transport.
- 16.51 The scheme provides dedicated parking for each dwelling and visitor parking spaces across the wider site, with the level of both in accord with adopted standards. It is therefore considered that the scheme has sufficient parking to serve the development and will not cause materially harmful on-street parking, either within this site or elsewhere.
- 16.52 The Highway Authority has confirmed that they have no objections to the proposal on highway safety grounds subject to conditions covering the site access, estate roads and footway details, parking, provision of travel packs, bus stop improvements and a new village gateway feature to alert drivers and highlight the change in speed limit from derestricted to 30mph. With the exception of the proposed access junction condition and bus stop condition (which are already imposed on the outline permission), all conditions requested by the Highway Authority are included in the list of recommended conditions. It is also important to note that the site's access onto the B1508 has been established under the outline permission.
- 16.53 Taking into account the above there are no concerns from a parking, highway safety or highway capacity perspective.

Contamination

- 16.54 Section 2 Policy ENV5 states proposals will be supported that will not result in an unacceptable risk to public health or safety, the environment, general

amenity, or existing uses due to the potential of air pollution, noise nuisance, surface / ground water sources or land pollution. Development proposals on contaminated land, or where there is reason to suspect contamination, must include an assessment of the extent of contamination and any possible risks.

- 16.55 Potential contamination risks are addressed under conditions of the original outline permission (conditions 7, 8, 9, 10, 11 and 12) and sufficient information has already been submitted pursuant to the discharge of these conditions, as confirmed by the Council's Contaminated Land Officer and there are therefore no concerns in this regard, with no further contamination work, required at this time. Condition 11 of the original outline consent (reporting of unexpected contamination) provides further security in respect of contaminated land matters, moving forward.

Other Matters

- 16.56 It is noted that comments have been received in respect of the application's bearing on the remainder of the allocation and in particular the possibility for the development to preclude development to the remainder of the allocation. In this respect it should be noted that the outline permission is subject to a Unilateral Undertaking which imposes, amongst other things, covenants on the landowner in respect of the main road within the site which runs south to north-east, and which is referred to within the legal agreement as 'the Access Road', with the area between the Access Road and the remainder of the allocation the 'Easement Corridor'. The covenants imposed by this legal agreement include the following:

Not to Occupy or permit the Occupation of any Dwelling until the Access Road has been constructed and is Practically Complete to an Adoptable Standard.

To use its reasonable endeavours to procure the adoption of the Access Road by the highway authority pursuant to the Requisite Consents.

Following construction of the Access Road and upon the request by the Adjoining Land Owner and the payment of a reasonable consideration (to be agreed between the parties acting reasonably) by the Adjoining Land Owner to enter into a deed of easement to permit the Adjoining Land Owner and all persons authorised by that Adjoining Land Owner (including but not limited to its employees, consultants and all visitors to the Adjoining Land) a right to use the Access Road and the Easement Corridor for the purposes of access and egress between Braiswick and the Adjoining Land for all purposes (by vehicle and on foot) and at all times (subject to appropriate obligations to contribute towards the maintenance of the Access Road) until such time as the Access Road has been formally adopted by the relevant highway authority and for the purposes of connecting into any connections for Services located in the Access Road and the Easement Corridor (subject to capacity) for the purpose of providing Services to the Adjoining Land.

- 16.57 Simply put, the agreement provides a legal mechanism to ensure that the development does not preclude development on the remaining part of the allocated site.
- 16.58 Finally, in terms of other material planning considerations including, but not necessarily limited to, archaeology and heritage impacts, these matters are either suitably addressed under the conditions of the outline permission or there are otherwise no concerns in these regards.

Reasons for Deferral – Supplementary Information

- 16.59 As outlined in this report’s synopsis, the application was deferred by members at the Planning Committee meeting on 15th June 2023. The reasons for deferral are considered to focus on four main issues. These are outlined below, with corresponding additional consideration provided in response to the matters raised.

Danger of the Location of the Children’s Play Area

- 16.60 One area of concern raised was potential danger from the location of the proposed dedicated play area, specifically the Local Equipment Area for Play [LEAP]. Pedestrian access to the play area is afforded by one of two potential routes, the stepped path to the south of the site and/or the sloped shared surface to the west and north of the site.
- 16.61 Particular concerns were raised about potential conflict arising from the use of the shared surface. In this regard it is important to note that shared surfaces are by no means uncommon features within urban environments and the use of shared surfaces are not expected to give rise to any safety concerns in this instance, in what is anticipated to be a relatively calm traffic environment, where the shared surface is not expected to be heavily trafficked, taking into account the modest number of dwellings proposed to be served by the shared surface.
- 16.62 If it were to be considered that the issue of safety is a highway safety issue, as per Paragraph 111 of the NPPF development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In this regards it is important to note that the Highway Authority have raised no objection to the application, on either the grounds of impacts on highway safety, or capacity.
- 16.63 In terms of safety more widely it is also noted that the main strategic area of public open space and the proposed play area benefit from a good degree of natural surveillance, with dwellings facing towards these areas and providing natural surveillance, which is desirable from both a placemaking and safety perspective.

- 16.64 Taken as a whole Officers do not considered that the location of the children's play area/LEAP as proposed presents a specific or material danger to children, or the safety of members of the public more widely.

Provisions of Public Open Space/Community Space

- 16.65 As outlined under Paragraph 16.31 the proposal includes areas of Public Open Space [POS] and is considered to meet the policy requirement for a 10% minimum of the site area to be POS. The proposed main POS also includes a Local Equipment Area for Play [LEAP] which will be accessible to both residents and members of the wider community, with resulting benefits for the wider community in terms of improved local play provisions.

Connectivity

- 16.66 There is vehicular and pedestrian north-south connectivity through the site via the main north-south access road to the east of the site and the shared surface to the west of the site. Connectivity east-west is provided by one of two potential routes: the stepped path to the south of the site which provides pedestrian connectivity, and/or the slopped shared surface to the north of the site which provides both a pedestrian and vehicular connection across the site.
- 16.67 Concerns were raised at the previous Committee meeting that vehicular access was not provided across the site at its southern edge and that the pedestrian access in this location is detailed to be partly stepped.
- 16.68 It is important to note however that the site is relatively steeply sloped and for vehicular and/or step free pedestrian access to be provided, suitable gradients for such would need to be achievable. In this regard, while it is not ideal that a direct step free and vehicular access route cannot be provided across the south of the site, the longer proposed route along the main access road and west along the shared surface provides a longer distance over which the changes in ground levels across the site can be accommodated, in order to form a relatively gradual slope.
- 16.69 The applicant has advised that the changes in levels between the main POS to the south-west of the site and the access point onto Braiswick road, coupled with the relatively short distance between the two, means that it is not feasible to accommodate sloped access across the southern boundary of the site, as it would not be possible to achieve an acceptable gradient.
- 16.70 For additional context the applicant has advised Officers that their engineers have modelled the possibility of providing slopped access across the south of the site and if the currently stepped access to the south of the site were instead to be sloped the gradient would be 1 in 7.5 (a 1 metre change in height per 7.5 metres across). This is understood to be well in excess of the generally accepted maximum road gradient of 1 in 12.5 (a 1 metre change in height per 12.5 metres across). It is understood that the maximum acceptable gradients for wheelchair access, depending on the length of

gradients, is between 1:12 and 1:20 (a 1 metre change in height per 12-20 metres across) (see for example Approved Document M, 2010).

- 16.71 While the absence of vehicular access across the south of the site means vehicles looking to reach the plots to the west will need to use the main access road through the site, it is not considered the absence of a southern vehicular link across the site will place undue pressure on the proposed access roads, or otherwise result in material harm in highway or amenity terms. It is also important to note that the wider allocation is allocated for up to 70 dwellings and the wider allocation is anticipated to be served by the main access road through the current application site and has been designed to accommodate the anticipated vehicle movements associated with such additional development.
- 16.72 Taken as a whole, for the reasons outlined above and in the main body of the report the site is considered to provide sufficient connectivity, while mindful of the site's constraints, and the proposed access arrangements are not anticipated to result in material harm from a residential amenity or highways perspective.

Reduction In Number of Dwellings

- 16.73 Part of the deferral reasons included the possibility of reducing the number of dwellings proposed on the site. Following the deferral, the applicants have however confirmed that they wish for the application to be determined on the basis of the plans submitted.
- 16.74 A scheme for 27 dwellings is proposed and this is therefore the scheme that needs to be considered, on its own merits.
- 16.75 For the reasons outlined in the main body of the report Officer's remain of the view that the proposals, as revised since first submitted, are acceptable in planning terms, when assessed against relevant policies of the development plan and taking into account other wider material planning considerations.

17.0 Planning Balance and Conclusion

- 17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the adopted local plan. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental.
- 17.2 In respect of the first of these, **the economic role**, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy.

- 17.3 The **social role** of sustainable development is described as supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
- 17.4 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in the north of Colchester, including balanced communities through the delivery of 30% affordable housing, is located within walking distance of a number of key local services and facilities required for day-to-day living and will make an important contribution to the Councils' housing land supply. Significant weight should be given to this in the planning balance.
- 17.5 In respect of the third dimension, the **environmental role**, the proposal will provide housing in a sustainable location so that future residents would not be wholly reliant on private car, being able to walk, cycle or use public transport to access necessary services and facilities, thereby minimising environmental impacts. Ecological enhancements and biodiversity net gain can also be secured by condition.
- 17.6 There is also sufficient evidence to be confident that overall the development would not cause material harm to the amenity of nearby residents or have a severe impact upon the highway network. The scheme as amended is held to constitute an acceptable standard of design. Whilst the proposed development would have an impact on the existing character of the site (i.e., by introducing built development where there is none currently) through a general suburbanising effect on the wider setting, which carries some weight against the proposal, notwithstanding that such impacts have been accepted in principle through the outline consent, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme as does the significant weight afforded to the supply of new homes in the Framework.
- 17.7 In conclusion, it is considered that the benefits of the scheme convincingly outweigh any adverse impacts identified and the planning balance tips in favour of an approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. Reserved matters application time limit

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference 191522 (APP/A1530/W/20/3245754) relating to this site and the conditions attached thereto remain in force.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2. Development to accord with approved plans (subject to other conditions)

Notwithstanding the provisions of any other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the details shown on the submitted drawing numbers:

AH013.300.27

AH013.301.11

AH013.302.10

AH013.303.10

AH013.304.14

AH013.310.05

AH013.311.05

AH013.312.05

AH013.313.05

AH013.314.05

AH013.315.05

AH013.316.05

AH013.317.05

AH013.318.05

AH013.319.05

AH013.320.05

AH013.321.05

AH013.322.05

AH013.323.06

AH013.324.05

AH013.325.05

AH013.326.05

AH013.340.05

AH013.341.05

AH013.342.05

JBA 21-311-03 REV J

JBA 21-311-04 REV J

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

3. Site levels

Prior to the commencement of any development detailed drawings illustrating the existing and proposed levels across the site, by way of appropriate spot heights and finished floor levels, shall be submitted to and approved, in writing, by the Local Planning Authority. Where levels are proposed to be altered adjacent to site boundaries, the details should evidence levels on the adjacent land beyond the site boundary. In instances where the details illustrate substantial variances in the proposed levels, details shall be submitted that demonstrate how the transition between the levels will be facilitated. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact on placemaking, public amenity or residential amenity.

4. Material details

No external facing or roofing materials (including surfacing materials and any means of enclosure) shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

5. Architectural Detailing

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

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

6. Utilities

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

Reason: In the interests of good design and visual amenity.

7. Boundary Treatments

Notwithstanding the approved plans, prior to their construction precise details of the position and composition of all boundary treatments shall have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity.

8. Additional landscaping details

Prior to commencement of any development detailed drawings or manufacturers specification illustrating all enclosure, street furniture and hard surfaces (railings,

walls, fences to include bow- top fencing, furniture, bollards, litter/dog/cigarette-end bins, other storage units, signage, driveways, pavements, roads and shared surfaces) shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

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

9. Landscaping (external lighting)

Prior to commencement of any development detailed drawings illustrating the position of all proposed external lighting and manufacturers specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details. Where unacceptable light incursion into adjacent units is identified (particularly to bedroom windows) shuttering sufficient to minimise light incursion will be implemented. The submitted scheme shall also demonstrate proposed lighting columns are set outside the mature crown spreads of any existing and/or proposed trees.

Reason: As there is insufficient information submitted with this application and in the interests of visual and residential amenity.

10. Landscaping revisions

Notwithstanding the provisions of any other conditions attached to this permission, prior to the commencement of development a revised landscaping plan which is broadly inline with drawings JBA 21-311-03 REV J and JBA 21-311-04 REV J, but which includes a linear tree belt to the western boundary of the site, while retaining the functionality of the proposed public open space and avoiding conflict with means of enclosure and street furniture, shall have been submitted to and approved, in writing, by the Local Planning Authority. The trees to the POS bounding the western access road shall form a comprehensive linear feature of large broader crowned native trees all along that western boundary. The approved revised landscaping plan(s) shall subsequently be implemented as approved and otherwise in compliance with the provisions of other conditions attached to this permission.

Reason: To ensure appropriate tree planting is implemented in this location to help protect, conserve and enhance views into the site from the west by, at maturity, filter screening the development whilst complementing the sites wooded ridge setting.

11. Landscaping Implementation, monitoring and management

No works shall take place above slab level until an Implementation and Monitoring Programme (IMP) and a Landscape Management Plan for agreed landscaping works and any landscaping works subsequent agreed pursuant to the discharge of Conditions 7, 8, 9 and 10 of this permission have been submitted to and approved, in writing, by the Local Planning Authority. The landscape works shall thereafter be implemented and managed in accordance with the details approved and in perpetuity.

Reason: To ensure the implementation of a suitable scheme of landscaping and to safeguard the continuity of amenity afforded by the approved landscape scheme.

12. Obscure glazing

Prior to occupation of each dwelling hereby approved, the side facing windows to each dwelling at first floor and above shall be glazed in obscure glass to a minimum of level four on the Pilkington scale and shall be restricted in opening to no more than 200mm. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Reason: To protect residential amenity.

13. Removal of PD - extensions, alterations, outbuildings and raised platforms

Notwithstanding the provisions of Classes A, B, C, and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, improvement or other alteration to any dwelling shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority. With the exception of the dwellings identified on the approved plans as Plots 14 and 15, notwithstanding the provisions of Class A, E and F of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order) no provision of buildings, enclosures, swimming or other pool, or raised external platforms of any height shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity, to ensure the development avoids an overdeveloped or cluttered appearance and in the interests of neighbouring amenity, particularly when taking into account the topography of the site.

14. Removal of pd – means of enclosure between elevations and highway

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than those approved in writing by the Local Planning Authority, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to characteristics of the site, in the interest of place making.

15. Garages retained for parking

The garages hereby approved shall be retained for the parking of motor vehicles at all times and shall not be adapted to be used for any other purpose, including other uses ancillary to the residential use, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To retain adequate intentional on-site parking provision in the interest of public amenity and highway safety.

16. Ecological Enhancements

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Mitigation and Enhancement

Strategy (ACJ Ecology, May 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

17. Receptor Site Agreement

A copy of the signed agreement between the landowner and the developer shall be submitted to and approved by the local planning authority to ensure the receptor site is funded, managed and monitored for the conservation of reptiles. This shall include provision of offsite mitigation to compensate the loss of any reptile territories.

Reason: To allow the LPA to discharge its duties under the NERC Act 2006 (Priority habitats & species).

18. BNG and Tree Canopy Cover

Prior to the commencement of development schemes to deliver 10% uplift in biodiversity (calculated in line with the latest Natural England Biodiversity Metric) and a 10% uplift in tree canopy cover through on and/or off-site provisions shall have been submitted to and approved, in writing, by the Local Planning Authority. Such schemes shall in the first instance include on-site provisions, wherever possible. The submitted schemes shall also include a long-term management plan and be supported by an appropriate legal agreement to secure the off-site habitat creation/enhancement/management and/or tree planting and its future management. The approved schemes shall thereafter be delivered during the first planting season, or in accordance with an alternative timeframe which has previously been agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the impact of the development on the natural environment is mitigated having regard to policies ENV1 and CC1 of the Section 2 Local Plan 2017-2033 and Section 40 of the Natural Environment and Rural Communities Act 2006.

19. Updated AIA

No works shall take place until an updated Arboricultural Impact Assessment which reflects the changes made to site layout post submission of the current AIA (Arboricultural Planning Statement Land at Colchester Road, Braiswick, Dated January 2023, Version H), but is broadly inline with current submitted AIA, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter take place in accordance with the approved updated AIA, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows which are to be retained.

20. Tree and hedgerow protection

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows 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, with 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. Limits to hours of work

No demolition or construction work shall take place 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.

22. Noise levels

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night, 23:00-07:00, outside) enhanced ventilation will be required.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

23. Estate roads

Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing. All footways should be provided at no less than 2.0m in width. All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site.

Reason: To protect highway efficiency of movement and safety.

24. Travel packs

Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Reason: In the interests of the environment and promoting sustainable transport options.

25. Estate road junctions

Each internal estate road junction shall be provided with a clear to ground level visibility splays with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To protect highway efficiency of movement and safety.

26. Village gateway feature

Prior to the occupation of the proposed development the applicant/developer shall provide a village gateway feature at or in the vicinity of the existing speed restriction signage west of the proposed development site erected on both sides of the carriageway of Colchester Road, Braiswick to alert drivers and highlight the change in speed limit from derestricted to 30mph, incorporating appropriate signage and any associated measures of a design that shall be approved in writing by the Local Planning Authority.

Reason: In the interests of highways safety.

19.1 Informatives

19.1 The following informatives are also recommended:

PLEASE NOTE that the outline planning permission reference number 191522 together with this approval constitute the planning permission for this development. All of the conditions imposed on both the outline permission and this approval must be complied with.

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

PLEASE NOTE: It is likely that a protected species may be present at the site, which are fully protected by the Wildlife and Countryside Act (1981). Further advice on surveys and compliance with the legislation can be obtained from Natural England, Eastbrook, Shaftesbury Road, Cambridge CB2 8DR, Tel. 0300 060 3787.

Essex County Fire & Rescue Service Informative: There is clear

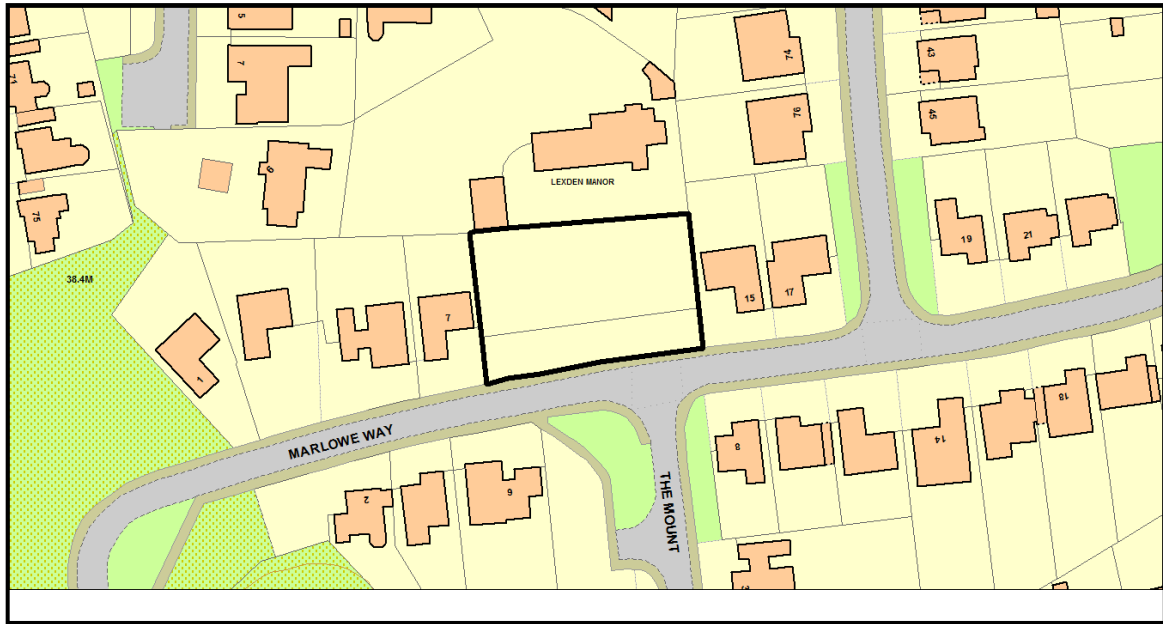
evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.

Highways Informative 1: The applicant should open dialogue with Essex Highways via the link below and submit drawings for Technical Approval (TA) for the Approval of details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage).

Highways Informative 2: 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.

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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.



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Item No: 7.2

Application: 230031

Applicant: Mr John Beton

Agent: Mr Robert Pomery

Proposal: Application for variation of condition 2 following grant of planning permission of application 212888 (DAYLIGHT AND SUNLIGHT REPORT RECEIVED) Reduced ridge height of plot 1 including introduction of two chimneys.

Location: Land between, 7 & 15 Marlowe Way, Colchester, CO3 4JP

Ward: Prettygate

Officer: Chris Harden

Recommendation: Approve

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it has been called in by Councillor Buston who raises the following concerns:

1. Over development

2. Ignoring the Planning Conditions imposed in 21 2888 approved 21 Apr 21

3. Development over a former publicly accessible Open Green Space

4. The previous Application for development on this site (21 0304) was dismissed on 10 Sep 21 , citing , as reason for dismissal (inter alia) :

" 1. The proposed three dwellings, by reason of their detailed design, form and scale (including being higher than the adjacent properties) would be out of keeping with and harmful to the character of the established street scene and surroundings."

Thus that the current buildings have been erected on the site without reference to the plans Approved in 21 2888 , in particular the height of these buildings .

Policies UR 2 and DP1 , and the (Borough) Council's adopted "Backland & Infill Development" SPD, are in particular infringed.

1.2 The application was deferred at the Planning Committee of 27th April 2023 to enable officers to discuss options with the developer for lowering the roof ridge of the constructed dwellings. Plot 1 was subsequently lowered but the application was then deferred at the Planning Committee of 25th May 2023 to enable officers to discuss with the developer the lowering of the roofs on plots 2 and 3 as well.

1.3 As requested by committee, amended drawings have since been submitted to show a reduction in the ridge heights of plots 2 and 3 and neighbouring properties were reconsulted on the 24.07.23 with a 14-day period lapsing on the 7 August. Additional representations received on these plans will be reported to committee for consideration.

2.0 Synopsis

2.1 Since the last Planning Committee of 25.5.23, further revised plans have been submitted to reduce the ridge height of the roofs on plots 2 and 3 (in addition to plot 1 as proposed previously). This revised scheme now seeks approval for a reduction in the ridge heights of all 3 dwellings as requested by the committee. The revised plans show the roof ridge height of the dwelling on plot 2 reduced by 0.374m (to 7.420m) and the main roof ridge on plot 3 reduced by 0.309m (to 7.470m), by the introduction of a flat roof strip along the ridges hidden by chimneys either end. The same was previously shown to be proposed for plot 1 which would result in the roof ridge on plot 1 being 0.300m above the ridge height of No.7 compared to 0.715 m above as built. As before, the key issue for consideration of the overall scheme is the relationship of the new elevations as built with the previously approved dwellings in relation to neighbouring properties, particularly in respect of the comparative height which has been corrected on the street scene drawings to show the neighbouring properties at the correct, lower height (condition 2 of 212888) compared to the previous approval.

- 2.2 The application is subsequently recommended for approval subject to consideration of any further consultee responses received in respect of the latest revised plans. In summary, the site is within the settlement limits and is in a sustainable location so remains in accordance with latest adopted Local Plan settlement Policy. On the previously approved scheme, the neighbouring properties were drawn taller than they exist and the street scene drawings consequently showed the three new dwellings with roof ridge heights no higher than the neighbouring dwellings. This application corrects the street scene plan to show the neighbouring dwellings at their correct height and the relationship as constructed on site.
- 2.3 It is considered that the newly constructed dwellings are now shown correctly (with proposed revision on plot 1) and modestly higher than the neighbouring dwellings which, in the opinion of officers, does not undermine the character of the street scene in a significant or material way. They are not considered to be overly dominant in the street scene and remain relatively modest in height for two storey dwellings. The issue has arisen because the heights of the neighbouring properties were drawn incorrectly on the street scene drawings. Consequently, it is not considered that a refusal can be justified or sustained on the grounds that the new dwellings as built are between 0.3 (plot 1) and 0.587 metres (front gable only on plot 3) higher than the neighbouring properties. The developer's agent has submitted a statement to explain his client's position in this matter. This is reproduced below at Appendix A to this report.
- 2.4 It should also be noted that the neighbouring dwelling No. 7 Marlowe Way was originally shown sited slightly further away than as existing and this has been corrected on the submitted drawings. This in itself is not considered to be materially detrimental to the street scene nor to undermine residential amenity. The rear flat roofed kitchens were also built to a height of 3.3 m, + 0.7 m higher than approved so the drawings have been corrected to reflect the scheme as built. This element is considered to be acceptable in height and sited sufficiently far enough away from neighbouring properties to avoid any detriment to neighbouring residential amenity, including loss of light.
- 2.5 Other issues relating to the application including impact upon neighbouring residential amenity, layout, design, impact upon vegetation, provision of amenity space and highway issues remain acceptable in the opinion of officers.

3.0 Site Description and Context

- 3.1 The site lies within the settlement limits and was partly a gap site comprising an open grassed area with two TPO'd trees. It lies within an established housing estate that dates from the late 60's early 70's. Adjacent to the site are two storey dwellings on either side (nos.7 and 15 Marlowe Way) and to the rear is the property known as Lexden Manor which has received permission for extension works and conversion. Residential development on the site for

three dwellings approved under 212888 is very advanced, including up to roof ridges for each dwelling. The TPO trees have been retained.

4.0 Description of the Proposal

- 4.1 The current application is for variation of condition 2 following grant of planning permission of application 212888. Application 212888, which was approved at the Planning Committee was for the construction of three No. 4-bedroom detached houses, each with an integral garage, plus individual private driveways connecting to Marlowe Way. It included the demolition of a modern brick boundary wall to Lexden Manor, which had already been partly removed. This element was permitted development. The two protected (TPO) trees at the front of the site are retained. Street scene elevation drawings were submitted that showed the new dwellings were proposed to be no taller than the existing neighbouring properties on either side of the site, as displayed at the Planning Committee.
- 4.2 During construction of the approved scheme 212888 it became apparent that the roof ridge heights of the newly constructed dwellings were higher than the ridge height of the neighbouring dwellings. Instead of being in line with the roof ridge height of the neighbouring properties as shown in the approved street scene drawings, the ridge height of the new dwellings appeared higher. This is as a result of the neighbouring property heights not being shown correctly on the approved street view drawings. The new dwellings are constructed in accordance with the approved elevations for each unit.
- 4.3 The agent on this current application originally submitted front elevation street scene drawings showing the following:
- Plot 1 built to 7.790 m to roof ridge, +0.715m higher than the adjacent No. 7
 - Plot 2 built to 7.790 m to roof ridge
 - Plot 3 built to 7.671 m to roof ridge, +0.587m higher than the adjacent No. 15

The subsequent first revision submitted and considered by members at the last Committee shows the ridge height of plot 1 to be lowered to 7.379 m with a flat roof element, with chimneys set on either end so that the ridge height would be 0.3 m higher than the ridge height on the adjacent dwelling, No.7 Marlowe Way.

- 4.4 The second submitted revision since the last Planning Committee of 25.5.23, shows the roof ridge height of the dwelling on plot 2 reduced 0.374 (to 7.420 m) and the main roof ridge on plot 3 reduced by 0.309mm (to 7.470m), by the introduction of a flat roof strip along the ridges hidden by chimneys either end.
- 4.5 As condition 2 of the planning approval states that the development must be built in accordance with the approved drawings, this application now seeks to vary condition 2 (approved drawings) in order to reflect what has currently been built on site in relation to neighbouring properties and the proposed reduction

in ridge heights now proposed. The submitted plans also accurately illustrate the height of the existing neighbouring properties and the proposed reduction in the ridge height of plots 1, 2 and 3 from the scheme as built.

4.6 In the submitted planning statement the agent states:

“The drawing of relevance to this matter is 6817 / 1606 Rev E, which shows an illustrative streetscene. The drawing illustrates the proposed houses with a height or ridgeline, which is marginally lower than the two dwellings that flank the site, nos. 7 and 15 Marlowe Way. As built, the ridgeline of each house is now slightly taller than was illustrated on the streetscene drawing 6817 / 1606 Rev E, and taller than the two neighbouring dwellings nos. 7 and 15. As the houses have taller ridge lines than those shown in the approved drawing 6817 / 1606 Rev E, it can be said that the dwellings have not been carried out in accordance with the details shown on the submitted drawings. Therefore, this change from the approved plan needs to be regularised via an application to vary condition 02, to substitute approved plan 6817 / 1606 Rev E with the proposed plan 6817 / 1612, which illustrates the houses as built.”

4.7 In additional information submitted the agent also states: “the dimensions from the ridge to the DPC on each of the as built properties is broadly the same as the approved elevation drawings for each plot. That said, there is some minor variation, but it is inconsequential. Plots 1 & 2 are 116mm (4.5 inches) taller, so the height of one brick and Plot 3 is 3.0mm lower than was approved, so de minimis in planning terms.”

4.8 It should also be noted that in addition, through consultation on this application, a resident has highlighted a further inconsistency with the approved drawings in relation to the gap separating no. 7 Marlowe Way and Plot 1 of the development. This relates to approved drawing 6817/1105 Revision A, which was a drawing submitted showing the proposed layout of the development, including the siting of the new and existing dwellings and spaces between the new and existing neighbouring dwellings.

4.9 In response to this issue the agent states “This drawing was based on a digital Ordinance Survey map (OS map), purchased from a licensed seller of Ordinance Survey data. Since raising this concern, the applicants have looked into the point made by the resident and have discovered that the Ordinance Survey information is inaccurate, this is not unusual, as Officers will know; the OS map data is not a topographical survey. The resident is correct to point out that the gap between properties shown on drawing 6817/1105 Revision A, was 4.888m. The actual as built gap recently measured is actually 4.382m. It has been discovered that no. 7 is not shown on the OS Map in its correct position, it is in fact 506mm closer to the common boundary than is shown on the OS Map. This accounts for the discrepancy identified by the resident, however, what is important, is that Plot 1, is positioned no closer to the common boundary with no. 7, than was approved and that the gap remains consistent with the spaces between dwellings in the location.”

4.10 A Daylight/Sunlight report has also been submitted.

- 4.11 It should also be noted that drawings have been submitted to show the revised heights of the single storey, flat roofed rear kitchens as built.

5.0 Land Use Allocation

- 5.1 Settlement Limits

6.0 Relevant Planning History

- 6.1 212888 Construction of three 4-bedroom detached houses, each with an integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees. - Approved

- 6.2 210304 Demolition of brick boundary wall to Lexden Manor. Construction of three 4-bedroom detached houses, each with integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees.

Refused: "The proposed three dwellings, by reason of their detailed design, form and scale (including being higher than the adjacent properties) would be out of keeping with and harmful to the character of the established streetscene and surroundings."

- 6.3 210331 land adj Lexden Manor – Erection of 1 No.5 bed house. Approved & implemented.
- 6.4 192337 Conversion of Lexden Manor to create 5 flatted units. Approved
- 6.5 COL/89/1308, Conversion of the main dwelling into flats and additional cottages and apartments in the grounds. Refused. Appeal dismissed

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 two sections as 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)

- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP6 Infrastructure & Connectivity
- 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
 SG5 Centre Hierarchy
 SG6a Local Centres
 SG7 Infrastructure Delivery and Impact Mitigation
 SG8 Neighbourhood Plan
 ENV1 Environment
 ENV3 Green Infrastructure
 ENV5 Pollution and Contaminated Land
 CC1 Climate Change
 PP1 Generic Infrastructure and Mitigation Requirements
 DM1 Health and Wellbeing
 DM2 Community Facilities
 DM3 Education Provision
 DM4 Sports Provision
 DM9 Development Density
 DM10 Housing Diversity
 DM12 Housing Standards
 DM15 Design and Amenity
 DM16 Historic Environment
 DM17 Retention of Open Space
 DM18 Provision of Open Space and Recreation Facilities
 DM19 Private Amenity Space
 DM20 Promoting Sustainable Transport and Changing Travel Behaviour
 DM21 Sustainable Access to development
 DM22 Parking
 DM23 Flood Risk and Water Management
 DM24 Sustainable Urban Drainage Systems
 DM25 Renewable Energy, Water Waste and Recycling

7.4 Some "allocated sites" also have specific policies applicable to them but this is not applicable to this site.

7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
 The Essex Design Guide
 External Materials in New Developments
 EPOA Vehicle Parking Standards
 Backland and Infill
 Affordable Housing

Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future

7.6 5 Year Housing Land Supply

Section 1 of the Colchester Local Plan 2017-2033 was adopted by the Council on the 1 February 2021, with Section 2 being adopted in July 2022. The complete Local Plan carries full statutory weight as the development plan.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

The Tendring Colchester Borders Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements which has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings (5 x 920 + 5%).

The Council's latest published Housing Land Supply Annual Position Statement (July 2022) demonstrates a housing supply of 5,074 dwellings which equates to 5.25 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2022/2023 through to 2026/27.

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

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 **Highway Authority** states:

The Highway Authority does not object to the proposals as submitted.

Informative1: 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.

8.3 **Environmental Protection** has “No comments.”

8.4 **Tree Officer** has raised no concerns.

8.5 **Archaeologist** has raised no concerns.

9.0 Parish Council Response

9.1 Not 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 **17 letters of objection** have been received (some multiple representations from a single household) which make the following points:

- Architectural drawings do not fully represent close proximity of plot 3 to 15 Marlowe Way and don’t clearly state what the measurement differential is for the higher ridge line compared to neighbouring properties.
- Application claims that neighbouring properties are marginally impacted by the revised height but no evidence to support that claim.
- Planners, committee and neighbouring properties need to see the BRE sunlight report before we can comment or decide on this application.
- House on plot 3 is 1 metre from the boundary of the existing neighbouring property (at the front of the build) and is a good 2-3 metres advanced of the living areas of 15 Marlowe Way. The higher ridge line on the gable end

building on plot 3 may impact the amount of daylight in the living areas of that house.

- Bricks and design are totally out of keeping with the estate.
- clear when entering the estate that the roofs of the new houses are clearly not in align to the existing houses;
- Not aware that windows were going to be on the side of the first house; again not in keeping with the estate.
- Regulations need to be upheld by the project managers rather than allow new houses to be built which are clearly higher than stated in the plans. They must have known the height before they put the roofs on as now difficult to remove and we are left with their mistake.
- Development on a plot that is far too small.
- House will overlook others
- The plot has been used to hold communal events, since to my knowledge the 1970s this open space would be a great loss to local people.
- Gross, over development. Open spaces are at a premium due to the rising population Should be preserved for future generations.
- Speculative proposal.
- Ruins the open aspect which we now have and promoting more on.
- Street parking
- Houses are currently taller than permitted. Taller than all the other houses in the street.
- Extremely dominating and harmful to the character of the established street scene and surroundings.
- Original plans submitted by the developer featured houses that were taller than all the existing houses. This was refused.
- Enforcement action should now be taken so that these buildings reflect the drawings presented by the developer on which permission was granted.
- Deliberate flouting of the regulations. What are the penalties? Has this company done this before?
- Planning statement completely ignores the Planning Committees rational for refusal of their original application for this site under reference 210304.
- Height of the three dwellings is closer to original application reference 210304.
- Daylight and Sunlight Report” does not specifically address the increase in height.
- Report that is commissioned by a developer will favour their position.
- No doubt neighbouring properties had a lot of sunlight throughout the year but have probably now lost 100% of sunlight into back gardens during the winter equinox.
- Why has the report totally ignored the other neighbouring property apart from the overshadowing to garden (ie Garden 5 of Lexden Manor)?
- Single storey area at the rear of the properties, which again looks higher than the drawing approved by the Committee.
- Hope the committee stand up and make an example of developer and their professional advisors for blatant reach of planning permissions.
- Drawings are now known to be misleading, evident from the houses ridge heights being considerably higher than those either side.

- Built position of no. 9 is not in accordance with approved documents. The drawing, entitled Proposed site plan dated Sept/2021 revision A 6817/1105, of the planning permission shows a measurement between the houses which promised a distance of 4.888 meters at the closest point. A very specific dimension shown in red. This measurement has now been checked by me and the new house found to be some 0.548 metres (1.8 feet) closer.
- Not known if the daylight calculations were based on actual as built dimensions or those shown on the drawing.
- Height difference is not inconsequential.
- Pictures don't show gaps between properties.
- Object to colour of bricks doors and windows.
- Cttee asked the developer to come up with a proposal to reduce all 3 plots. Recent proposal is now to reduce the height on 2.5 of the plots and not what the Committee requested.
- Hadn't realized this is a gradual negotiation process between planners and the developer to come up with cheapest option to rectify developer's error.
- Plot 3 ridge height on the gable end facing the street remains at 0.587 higher than the adjacent property and has not been reduced. Unfortunately due to the advance location of plot 3 and closer proximity to its neighbouring property the height differential is more pronounced.
- Redesign of these houses is based on an easy fix to cut off the roof ridge, instal a flat roof and disguise the flat roof with false chimneys, which is not the most attractive look and not in keeping with the other houses in the street.
- Bodge job to minimize the cost of the developers mistake. If only the developer had reconsidered the ridge heights in November 2022.
- Suspect the planners will just accept this proposal and the city committee will not have the stomach any further dispute with the developer. This entire process is farcical.

10.3 **One letter of observation** states:

- Question if additional height significantly affects the appearance of the buildings.
- Appreciate that those living immediately adjacent to the site may feel differently, but new ridge line is not excessively above the adjacent roof lines, certainly nothing like the original plans that were refused.
- To make alterations at this stage will both delay period of construction and are likely to affect the simple lines that currently exist. Rather than carry out major alterations could Developer be asked to offer local community an upgrade in landscaping in and around site?

11.0 **Parking Provision**

11.1 2 car parking spaces per dwelling.

12.0 **Accessibility**

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DM21 (Sustainable Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

13.0 Open Space Provisions

13.1 N/A

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. A Unilateral Undertaking is required to secure the appropriate contributions.

16.0 Report

Principle

16.1 The principle of three dwellings on this site has previously been approved under application 212888. Since the time of the previous approval, the new Local Plan has been fully adopted and the former Local Plan fully superseded. However, settlement policies remain essentially the same in respect of this application. Thus the site remains within the settlement limits and Policy SP1 of the Local Plan aims to direct such development to the most sustainable locations such as this site. Accordingly, the proposal should be judged on its planning merits, having regard to the difference between the current application and the previously approved plans. The differences relate to the neighbouring dwellings not being shown at the correct relative height on the approved street scene drawing and the neighbouring dwelling of No.7 not being correctly plotted, as detailed in the introduction section of this report. The layout, scale and design section of this report below will assess these differences and the planning implications.

16.2 It should be noted that the NPPF indicates a presumption in favour of sustainable development (which includes this site). The Council is able to demonstrate a five year housing land supply and as such paragraph 11(d) of the NPPF is not engaged.

16.3 For information, Appendix 1 contains an extract of the Committee report for the previously approved 212888 which explains why it was considered acceptable to develop on this partly open site with the three dwellings.

Layout, Scale and Design in respect of differences between the approved street scene and layout drawings.

- 16.4 The absolute heights of the three dwelling are essentially deemed to be virtually the same as previously approved. Just to reiterate, Plots 2 are 116mm taller, and Plot 3 is 3.0mm lower than was approved. Plot 1 would be lower, at 0.3 m above No.7. These minor differences are normally considered as de-minimis in planning terms, and generally an allowance of up to 300 mm is considered to be de-minimis and not requiring any enforcement action in respect of compliance with approved plans. Accordingly, the height of the dwellings as constructed is deemed to accord with the approved plans.
- 16.5 The key issue is therefore consideration of the incorrect height plotting of the neighbouring dwellings shown on the previously approved streetscene drawings. The originally approved drawings showed that the ridge height of the three new dwellings would be no higher and very slightly lower than the ridge height of the neighbouring dwellings either side (numbers 7 and 15 Marlowe Way). To reiterate, the dwellings were built with ridge heights as follows:
- Plot 1 built to 7.790 m to roof ridge, **+0.715m** higher than the adjacent No. 7
 - Plot 2 built to 7.790 m to roof ridge
 - Plot 3 built to 7.671 m to roof ridge, **+0.587m** higher than the adjacent No. 15
- 16.6 The subsequent first revision since Committee shows the ridge height of plot 1 to be lowered with a flat roof element, with chimneys either end so that the ridge height would be 0.3 m higher than the ridge height on No.7.
- 16.7 The second more recent revision submitted following the last Planning Committee of 25.5.23, shows the roof ridge height of the dwelling on plot 2 reduced by 0.374m (to 7.420 m) and the main roof ridge on plot 3 reduced by 0.309m (to 7.470m), by the introduction of a flat roof strip along the apparent ridges, yet hidden by chimneys either end.
- 16.8 The fact that the new dwellings are higher than the neighbouring dwellings is unfortunate as at the time of the previous approval it was considered that having the dwellings no taller in height than neighbouring properties would help them to relate satisfactorily to the character of the street scene and surroundings and help ensure they were not overly dominant in the street scene.
- 16.9 However, the extent to which the newly constructed dwellings are higher than the neighbouring properties is comparatively small and has been reduced further in respect of the 2 plots (nos.2 and 3) since last Committee. It is considered the dwellings would still visually relate satisfactorily to the character of the area without being visually dominant or intrusive in the street scene. The dwelling on Plot 1 being +0.3 higher than No.7 would still relate well to the scale and height of that neighbouring property and would certainly not tower over it or be overly dominant. Street scenes often contain dwellings that vary in height so there is nothing unusual in a dwelling being slightly higher than an adjacent dwelling. Similarly, the main ridge of the dwelling on plot 3 is now only marginally taller

than the ridge of number 15 and the front projection remains only +0.587m higher than the ridge of number 15 and this too looks visually acceptable in terms of its height and relationship to the neighbouring dwelling in the opinion of officers.

- 16.10 The new dwellings are still comparatively modest in height for two storey dwellings, being between 7.379m and 7.470 m in height with the exception of the forward gable of plot 3 which is 7.6 m high. Often, two storey dwellings are approved between 8.4 - 8.5 metres in height. Nevertheless, the neighbouring dwellings are significantly lower than this so the context of the site clearly needs to be carefully assessed. The constructed dwellings have been viewed on site and it is considered all three dwellings relate satisfactorily to the character of the street scene and that the different height relationship to the neighbouring property does not materially harm the character of the area. The revised lowering of plots 1, 2 and 3 would improve the relationship compared to what is built whilst still being visually acceptable, with chimneys either end hiding the flat roofed ridges. It should be noted that if the ridge height of the new dwellings is lowered further than as now proposed, this could result in shallower pitched roofs which would be a retrograde step in aesthetic visual design terms. Uncharacteristically shallow roof pitches could appear alien and incongruous.
- 16.9 Overall it is considered that the fact that the newly constructed dwellings are modestly higher in ridge height than the neighbouring dwellings does not undermine the character of the street scene in a significant way. They would not be overly dominant in the street scene and would still be of relatively modest height for two storey dwellings. The issue has arisen because the heights of the neighbouring properties were drawn incorrectly on the street scene drawings and it is not considered that a refusal can be justified or sustained on the grounds that the new dwellings are between +0.587m and +0.3 metres higher to their ridge than the neighbouring properties.
- 16.10 Other issues remain acceptable as outlined in the original committee report précised in Appendix 1. In particular, there will still be visible separation gaps between the dwellings and between the side boundaries notwithstanding the fact that the dwelling (No.7 Marlowe Way) was plotted slightly further away from plot 1 owing to an ordnance survey error. There is no consequential terracing effect. The difference is +0.548m which does not undermine in a significant way the visual separation between the properties. Accordingly, the proposal will still not appear cramped or represent an overdevelopment.
- 16.11 The rear flat roofed kitchens were also built to a height of 3.3m, 0.6-0.7m higher than approved so the drawings have been corrected. They remain visually acceptable and not obtrusive in the street scene. They also remain acceptable in terms of impact upon the neighbours as will be discussed below.
- 16.12 The positioning and layout of the three dwellings remains very similar to the density of other development in the vicinity and garden sizes comply with and indeed exceed the standards outlined in Policy DM19. Glimpses of Lexden Manor beyond will still also be possible. It should be noted that Lexden Manor is neither Listed nor Locally Listed and, as before it is not considered that the proposal could be refused on the grounds of the proposal's impact upon its

setting, particularly having regard to the presumption in favour of sustainable development embodied in the NPPF. In planning terms, there is no duty to provide glimpses of an unlisted property set to the rear of a residential development outside a conservation area.

- 16.13 As before, two TPO trees at the front will also be retained and protected. A condition to ensure the front areas are not fenced off will once again be applied and so the site would retain a significant element of open, green spaciousness. It was concluded previously that the existing open space is not of such significance in the street scene in terms of its amenity value or contribution to the character of the area that would warrant its retention in its entirety and this view is maintained having regard to the latest adopted Local Plan. The loss of this open space did not form part of the original refusal reason (210304) as the Planning Committee overall did not object in principle to its development.
- 16.14 Overall, in terms of layout, design and impact on surroundings it is still considered the proposal would therefore comply with adopted Local Plan Policies SP7, DM15 and DM17 which provide that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.
- 16.15 The proposal remains compliant with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide. It is also considered to comply with the revised NPPF section 12 which promotes well-designed places.

Garden space:

- 16.16 As before, adequate amenity space for the new dwellings has been shown to be provided in accordance with Policy DM19, unchanged from the original approval. Indeed, garden space compares favourably with neighbouring properties. Policy DM19 provides that for dwellings with four or more bedrooms, a minimum of 100m² should be provided and in this case the dwellings are provided with over 100m² each (ranging from 136-150m²) which further emphasises that this is not an overdevelopment of the site.

Impact on Neighbour Amenities:

- 16.17 As previously concluded, it is not considered there is a significant adverse impact upon neighbouring residential amenity resulting from the development as built. The dwellings are positioned in the approved location, which is far enough from the side boundaries of neighbouring properties to avoid an overbearing impact. The Council policy sets out that a 45-degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement. This includes an assessment of the corrected position of number 7 Marlowe Way which is +0.548 closer than as shown on the originally approved plans.
- 16.18 There are also no concerns with regard to loss of light to neighbouring properties. The new dwellings have essentially been constructed as previously approved with only minor differences as previously clarified that are deemed *de minimis*.

The combined plan and elevation tests are not breached, and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.

- 16.19 A Daylight/Sunlight report has been submitted which has been undertaken by a chartered surveying company "following the guidelines of the RICS." The report states that "The assessment is limited to assessing daylight, sunlight and overshadowing to neighbouring windows, gardens and open spaces as set out in section 2.2, 3.2 and 3.3 of the Building Research Establishment (BRE) Guide" further to a site visit undertaken on 9 January 2023.
- 16.20 The report concludes the following: "All neighbouring windows (that have a requirement for daylight or sunlight) pass the relevant BRE diffuse daylight and direct sunlight tests. The development also passes the BRE overshadowing to gardens and open spaces test. In summary, the numerical results in this assessment demonstrate that the proposed development will have a low impact on the light receivable by its neighbouring properties. In our opinion, the proposed development sufficiently safeguards the daylight and sunlight amenity of the neighbouring properties."
- 16.21 Given the conclusions of this Daylight/Sunlight report that has been undertaken by Chartered Surveyors in accordance with BRE guidelines, it is not considered that an objection can be raised in terms of the impact from the development upon the amenity provided by daylight and sunlight to the existing neighbouring properties.
- 16.22 As concluded previously, the development does not include any additional new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. There is no change in this respect compared to the previous approval. The first floor windows on the side elevation of plot 3 would face onto the blank gable of the neighbouring property rather than look into private amenity space or habitable rooms. With regard to first floor openings on the side elevation of plot 1, a condition imposed as before can be applied to ensure that openings are obscure glazed and non-opening where they are not above 1.7 m above floor level. These serve a landing and bathroom. The same condition can be applied to the rear first floor openings on Plot 1-3 plot 3 (which have been minimised in any case) in order to avoid overlooking the amenity space of Lexden Manor and its rear windows. The residential amenity of the occupants of the new dwellings would still be acceptable with the application of the obscure glazing condition at 1.7 m.
- 16.23 The rear flat roofed kitchens were also built to a height of 3.3 m, 0.6-0.7 m higher than approved so the drawings have been corrected. They remain of an acceptable height and far enough away from neighbouring properties to avoid a detriment to neighbouring residential amenity, including loss of light. They do not breach the 45-degree angle of outlook from the mid-point of the nearest neighbouring windows as they are still single storey and are some way off the neighbouring boundary. The relevant test for impact upon neighbouring properties would consequently be satisfied.

- 16.24 Overall, in term of impact upon neighbouring residential amenity, the development thus complies with policy DM15 which provides that all development should avoid unacceptable impacts upon amenity (part V), including the protection of residential amenity with regard to noise and disturbance and overlooking.

Highway Matters:

- 16.25 As before, the Highway Authority have raised no objection to the scheme which is unchanged in respect of layout so the previous conditions will be applied. The proposal thus still complies with Policy DM22, with space for 2 car parking spaces for each dwelling.

Impact Upon Vegetation:

- 16.26 As previously concluded, the proposal is considered acceptable in terms of its relationship to the two TPO trees at the front of the site and the scheme is unchanged in this respect. Once again a condition can be applied to secure a schedule of arboricultural monitoring and site supervision. The scheme complies with adopted policy DM15 i).

Wildlife issues:

- 16.27 The application does not have any additional implications for wildlife so does not conflict with Local Plan Policy ENV1 which aims to protect and enhance biodiversity.
- 16.28 A RAMs wildlife payment can be referenced in a new Unilateral Undertaking as new dwellings would be created in a Zone of Influence for coastal sites subject to national designations as required by the Habitat Regulations to mitigate any adverse impacts. This payment will need to be made prior to commencement of development. An appropriate Habitat Regulation assessment has been undertaken.

Unilateral Undertaking:

- 16.29 The contributions required under the original Unilateral Undertaking have already been made so a new Unilateral Undertaking to secure developer contributions for community facilities and sport & recreation facilities is not required.

Environmental and Carbon Implications

- 16.30 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that, on balance, the application can contribute

to achieving sustainable development. The site is considered to be in a sustainable location and would minimise carbon emissions from trips generated to access services.

Other

16.31 Finally, in terms of other material planning considerations, the proposed development does not raise any concerns.

16.32. It should be noted that a reconsultation of neighbouring properties was undertaken on the further revised plans submitted in response to the deferral of the item at the committee of 25.05.23 showing the revised proposed ridge height for all 3 plots and newly annotated heights of the street scene drawings and any further consultation responses received will be reported to the Committee.

17.0 Conclusion

17.1 In conclusion the proposal is considered acceptable for the following reasons:

- The site is within the settlement limits and is in a sustainable location so remains in accordance with latest adopted Local Plan settlement Policy.
- On the previously approved scheme, the neighbouring properties were drawn taller than they exist and the street scene drawings showed the three new dwellings with roof ridge heights no higher than the neighbouring dwellings. This application corrects these inaccuracies in the approved street scene plan and also proposes the lowering of the roof ridge heights on all 3 plots. It is considered the fact that the newly constructed dwellings are now shown correctly as modestly higher than the neighbouring dwellings does not undermine the character of the street scene in a material or significant way. The dwellings are not overly dominant in the street scene and would still be of relatively modest height for two storey dwellings. The issue has arisen because the heights of the neighbouring properties were drawn incorrectly on the street scene drawings as approved and is not considered that a refusal can be justified on the grounds that the new dwellings are between +0.3 (plot 1) and 0.587 (front gable only on plot 3) metres higher than the neighbouring properties.
- The rear kitchens, being built at 3.3 m, which is approximately 0.6-0.7 m higher than as approved remain acceptable in terms of their impact upon visual and neighbouring amenity.
- Other issues relating to the application including impact upon neighbouring residential amenity, layout, design, impact upon vegetation, provision of amenity space and highway issues remain acceptable.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

Approve subject to consideration of any further consultation responses received and subject to the following conditions (restated from the previous approval and adapted where necessary to reflect subsequently cleared details.)

1. ZAM – 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: To be confirmed.

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

2. ZBC- Materials

Only materials approved under condition 3 of 212888 shall be used in the development.

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

3. Non Standard Condition- Vehicular Access

Prior to first occupation of the proposed development, each of the proposed vehicular accesses shall be constructed at right angles to the highway boundary and to a width of 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway.

4. Non Standard Condition - Visibility Splays

Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

5. Non Standard Condition - Parking/Turning Area

The development shall not be occupied until such time as the car parking areas for each dwelling, indicated on the revised drawings on application 221288 has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

6. Non Standard condition - Cycle storage.

The approved bicycle storage facility agreed under clearance of condition application 221184 shall be provided prior to the first occupation of the proposed development hereby permitted within the site and shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

7. Non Standard Condition- Travel Information Packs.

Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

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

8. Non Standard condition- No Unbound Materials

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

9. ZPA Construction Method Statement

The approved Construction Method Statement agreed under clearance of condition application 221184 shall be adhered to throughout the construction period.

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 and in the interest of highway safety.

10. Non Standard Condition - Construction and Demolition

No demolition or construction work or delivery of materials shall take place 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.

11. Non Standard Condition - Refuse and Recycling

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with the submitted details agreed under clearance of condition application 221184. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and

recycling storage and collection.

12. ZFI- Tree or shrub planting

The tree and/or shrub planting and an implementation timetable agreed under clearance of condition application 221184 shall be complied with and planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority 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 with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

13. Z00 – Electric Charging Points

Prior to first occupation of the dwellings, one electric vehicle charging point shall be provided for each dwelling and thereafter retained as such.

Reason: To encourage the use of sustainable transport.

14. ZDF- Removal of PD- Obscure Glazing.

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the 1st floor windows in the West side elevation of plot 1, the rearmost first floor window in the East elevation of plot 3 and the rear first floor windows of plots 1-3 shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity both to a level a minimum of 1.7 m above floor level before the development hereby permitted is first occupied and all shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

15.ZCL- Surface Water Drainage

No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage as approved under clearance of condition application 221184 has been fully installed and is available for use.

Reason: To minimise the risk of flooding.

16. ZDD- Removal of RD Rights-

Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no additions, roof alterations, outbuildings or enclosures or other structures (the latter that are forward of the houses hereby approved) shall be erected except in accordance with drawings showing the design and siting of

such structures/alterations res which shall previously have been submitted to and approved, in writing, by the Local Planning Authority. Reason: In the interests of avoiding an overdevelopment of the site preserving the open character of the front of the site.

17. Arboricultural Monitoring

Prior to commencement of development, precise details of a shall be submitted to and agreed in writing by the Local Planning Authority. The approved schedule of arboricultural monitoring and site supervision details agreed under clearance of condition application 221184 shall thereafter be complied with in their entirety.

Reason: In the interests of protecting the amenity value provided by the trees on the site.

18.0 Informatives

18.1 The following informatives are also recommended:

1. 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 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 or by post to:
SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT

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

4.ZTB - Informative on Any Application With a Site Notice

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

5. **The applicant is advised to ensure that existing verges and grassed areas in the vicinity of the site should not be damaged by vehicles associated with the construction works hereby approved.**

WA1 Positivity Statement

Appendix 1 Extract from previous Committee Report of 212888:

Layout, Loss of open space, Design and Impact on the Surrounding Area

- 16.4 With regard to the planning merits of the proposal, it should be noted that the Planning Committee at the time of the previous refusal (210304) decided to refuse the proposal on the design, scale and form of the dwellings being harmful to the character of the street scene. It did not refuse the scheme on the grounds of the loss of the open space itself or the principle of residential development on the site. It is considered that this revised proposal now represents an acceptable layout that is in keeping with the character of the area and does not represent an overdevelopment of the site. Again, the positioning and layout of the three dwellings is similar to the density of other development in the vicinity and garden sizes comply with and indeed exceed the standards outlined in Policy DP16 (eLP DM19). The dwellings have been designed and positioned so that there will be visible gaps between the dwellings and between the side boundaries so the proposal will not appear cramped or represent an overdevelopment. Glimpses of Lexden Manor beyond will also be possible. It should be noted that Lexden Manor is not Listed nor Locally Listed and it is not considered that the proposal could be refused on the grounds of the proposal's impact upon its setting, particularly having regard to the presumption in favour of sustainable development embodied in the NPPF.
- 16.5 As with the previously refused scheme, there will clearly be some loss of open space although there will still be significant grassed areas retained at the front of the site, punctuated by the driveways. The two TPO trees at the front will also be retained and protected. A condition to ensure the front areas are not fenced off will also be applied and so the site would retain a significant element of open, green spaciousness. It is not considered that the existing open space is of such significance in the street scene in terms of its amenity value or contribution to the character of the area that would warrant its retention in its entirety. The loss of this open space did not form part of the previous refusal reason as the Planning Committee overall did not object in principle to its development. The proposal would therefore not conflict with Policies DP1 and DP15 (eLP Policies SP7 and DM15) in this respect.
- 16.6 Consideration of the design, scale and form of the dwellings needs particular care given that they are somewhat visually different from the designs of the surrounding properties. Overall, the dwellings are considered acceptable in this respect. The height of the dwellings has been reduced compared to the

previous scheme so that the new dwellings would be the same height as the existing dwellings either side of the plot. One of the dwellings has a gable facing the road and the other two have front facades and this is considered to give the dwellings an appropriate level of variety. Gable widths have also been narrowed during this submission so that they are similar to gable widths of existing dwellings in the vicinity.

- 16.7 The dwellings are considered to have their own contemporary detailing and styling whilst still relating well to the overall character and scale of existing dwellings on this part of the estate. With the use of high quality materials, it is considered that these dwellings would represent good design that would not detract from the character of the street scene and surroundings. The precise details of materials can be conditioned and there is the potential to introduce a little variety.
- 16.8 Overall, in terms of layout, design and impact on surroundings the proposal it is considered the proposal would therefore comply with Policy UR2 (eLP SP7) of the Local Plan Core Strategy which provides that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.
- 16.9 The proposal is considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout. Policy DM15 of the emerging Local Plan has similar provisions.
- 16.10 The proposal is considered to comply with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide. It is also considered to comply with the revised NPPF section 12 which promotes well-designed places.
- 16.11 It should be noted that if the scheme is implemented, the previously approved scheme for the conversion of Lexden Manor to flats (192337) could not be implemented as the sites overlap and the required communal garden could not be provided for the flats. However, it is understood that it is the approved dwelling within the grounds (210331) that is being implemented.

Appendix A: Statement by Agent on behalf of developer explaining their position

This application was originally submitted under s73 of the Town and Country Planning Act 1990 and involved the substitution of Street scene Drawing 6817 / 1606 Rev E, with Street scene Drawing 6817 / 1612. Condition 02 of the planning consent issued on the 1st April 2022 states: "The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 6817/1103B, 1105A, 1108A, 1109A, 1203B, 1204, 1605, 1606, 1607, 1608, 1609 Received 17.2.22, Arboricultural Impact Assessment (which shall be complied with throughout the lifetime of the development works) Received 29.10.21. Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved".

The application was originally made to replace the street scene drawing which incorrectly represented the height of the two existing houses flanking the site. The 3 houses that have now been built under the planning permission, have been built in accordance with the approved plans, in this respect they are entirely lawful and do not require amendment. However, as built, the house do not represent the street scene drawing approved, as the new houses are taller when compared with their existing neighbours. As such, the applicant cannot comply with the street scene drawing approved, and as listed in condition 2, hence the need to formally replace this drawing to represent the actual as built street scene.

The s73 amendment and any subsequent matters were discussed at a meeting of the Planning Committee on the 27th April 2023. The Council's Planning Officers, having fully assessed the alterations, determined that the houses as built, were as approved, and were not harmful to any interests of acknowledged importance, and thus recommended approval of the s73 application. The Planning Committee subsequently resolved to defer the application to allow Officers to discuss with the applicants the possibility of making changes to the new dwellings, to see if changes could better reflect the approved street scene. Since that committee meeting, discussions took place between Officers and the applicants, and all solutions were considered. It is important for all to recognise that the houses built, have been built in accordance with the approved plans.

There are no enforcement options available to the Council that could enforce an alteration to the houses, as built, they are lawful. Obviously, the applicants cannot increase the height of the neighbouring dwellings to reflect the original street scene drawing. So, any changes to the as built scheme are entirely reliant on the voluntary actions of the applicants. On the basis that the Planning Officers have not found there to be harm to the street or living conditions of neighbouring homes, the applicants are of the view that any changes to the newly built houses are unnecessary and that they can, and perhaps should, be left as they are. However, the applicants also acknowledge the views and disappointment of the Planning Committee, and therefore offered to alter the height of Plot 1, the reason for this being that the difference between Plot 1 and its neighbour is where the change in the height is the most pronounced and of the most difference. This proposal was considered by the

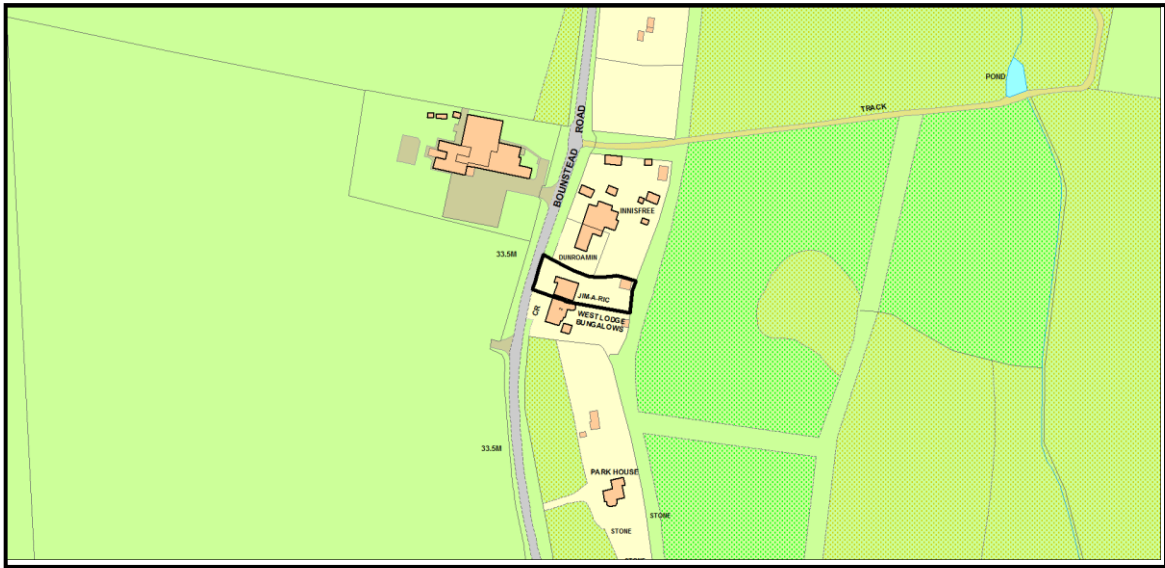
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Planning Committee at its meeting on the 25th May, where the Committee resolved to defer the application once more, to seek alteration to all three dwellings.

Whilst reluctant to do so, the applicants have now submitted plans for the reduction in height to all three dwellings, as requested by the Committee. The applicant's reluctance is in part due to the significant cost, but also due to the fact that the height of the dwellings as built, is as the approved drawings. As such, they are not unlawful, as it was the streetscene drawing that was incorrect, not the plans and elevations of the actual houses. However, the alterations now submitted at the Committee's request reduce the ridge height of each of the dwellings, so that they are much closer to the height of the two flanking properties. The forward projecting gable on Plot 3 has not been adjusted, as this would be technically difficult in construction and would result in a peculiar appearance. The ridge of this the projecting gable is also further away from the neighbouring house, so the benefit of lowering it would have little or no benefit.

One might ask why the applicants do not remove all the roofs on the houses altogether and slacken the pitch so that they are consistent with the height of their neighbours. Firstly, the cost of doing this would be substantial and make the development unviable overall. Secondly, this would result in an unbalanced and peculiar appearance. However, the most important reason for not doing so, would be that the requirement to do so, would be entirely unreasonable, as the height of each house has been built in accordance with the planning permission. Furthermore, as built, these houses do not impact negatively on any interest of acknowledge importance. So, to remove the entire roof of each dwelling could not reasonably be justified or be expedient.

One might also ask why the applicants did not refrain from completing the houses and finishing the roofs once they were alerted to the concerns of the Council's Enforcement Officers. The reason for this was that the applicants were aware that the houses were being constructed in accordance with the approved plans in respect of the eventual height of the development, so there was no reason to do so. As such, no enforcement action was taken by the planning authority, who simply requested that an application was made to correct the street scene drawing, which was immediately complied with. The applicant's preference is that the development, as built, should be left as it is. It results in no planning harm in its current design. However, the Planning Committee were clear in their resolution that some changes to all three houses should be explored. Therefore, respecting the committee's wishes, the applicant offers the alterations to each dwelling as requested by the Planning Committee, and hopes that this will finally bring this matter to a mutually agreed conclusion.



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Item No: 7.3

Application: 231273

Applicant: Dalziel

Agent: Lewis

Proposal: Extension of existing garage to facilitate granny annex to rear of garden

Location: Oak House, 1 West Lodge Bungalows, Bounstead Road, Colchester, CO2 0DE

Ward: Berechurch

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Pearson who states: "1. This appears to be an additional residence on a plot which falls within the remit of Policy ENV1. 2. Should this application be approved there is a risk of applications being made for neighbouring plots which could be the wedge that undermines ENV1 as it pertains to this rural area of the city."

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of an annex within the countryside as well as its design and scale along with any impact upon highway safety, neighbouring residential amenity, trees and wildlife.
- 2.2 The application is subsequently recommended for approval. The scheme has been amended to reduce it from two bedrooms to one bedroom and to also slightly reduce the size of the building. This allows the annexe to accord with Policy DM13 as a genuine annex (not separate dwelling) as it is modest in scale and there will still be some reliance on the host property in terms of site access, shared parking, shared garden area and shared postal address. A condition would also be applied to ensure the building is used as an ancillary annexe and not as a separate dwelling.
- 17.2 There is adequate parking provision on site and there would not be any significant detriment to neighbouring residential amenity, vegetation or wildlife. The design, scale and form of the annexe is also considered acceptable and would not detract from the street scene and surroundings.

3.0 Site Description and Context

- 3.1 The site consists of an existing, detached dwelling, garage and garden that lies in the countryside beyond the settlement limits of the City. There are neighbouring properties either side and woodland to the rear.

4.0 Description of the Proposal

- 4.1 The proposal is for the single storey extension of the existing garage to facilitate a granny annex to the rear of the garden. The scheme has been amended to reduce it from two bedrooms to one bedroom and to also slightly reduce the size of the building. The annex would also provide a living area, kitchen and bathroom.

5.0 Land Use Allocation

- 5.1 Residential curtilage

6.0 Relevant Planning History

- 6.1 F/COL/04/1269
02/07/2004 - Full
Approve Conditional - 10/08/2004

F/COL/04/2261
09/12/2004 - Full

Approve Conditional - 01/02/2005

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
- SP3 Spatial Strategy for North Essex
- 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
SG8 Neighbourhood Plan
ENV1 Environment
ENV5 Pollution and Contaminated Land
CC1 Climate Change
OV2 Countryside
DM13 Domestic Development
DM15 Design and Amenity
DM16 Historic Environment
DM19 Private Amenity Space
DM21 Sustainable Access to development
DM22 Parking

7.4 Neighbourhood Plan: N/A

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

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

Sustainable Construction
Cycling Delivery Strategy

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 **Highway Authority** “does not object to the proposals as submitted.
Informative1: 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.
- 8.3 **Tree Officer** states: “I can see no significant impact on trees. Condition tree protection and retention from standard conditions.”

9.0 Parish Council Response

- 9.1 Non-Parished.

10.0 Representations from Notified Parties

- 10.1 None received with the exception of the comments made by Cllr Pearson as detailed above.

11.0 Parking Provision

- 11.1 At least 6 car parking spaces.

12.0 Accessibility

- 12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DM21 (Sustainable Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

13.0 Open Space Provisions

- 13.1 N/A

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

16.1 With regard to the principle of the proposal, settlement policies strictly control the creation of new, separate dwellings in the countryside. However, as the proposal is for an annexe, Policy DM13 is most relevant which does allow the provision of annexes in the countryside subject to consideration against the following principle criteria:

Policy DM13: Domestic development:

Residential annexes Residential annexes will be supported where the need for additional space cannot be met within an existing dwelling or buildings suitable for conversion on the site in the first instance, provided the proposal meets the following criteria:

- (i) The proposal is physically attached or closely related to the main dwelling so that it cannot be subdivided from the main dwelling;*
- (ii) The proposal retains some form of demonstrable dependence on the main dwelling, such as shared access (including both vehicular access and doorways) and communal amenity spaces (the use of annexes as a separate dwelling will not be permitted and the desire for annexed occupants to be independent from existing residents will not be considered as adequate justification to allow self-contained dwellings in annexes);*
- (iii) The proposal respects and enhances both the character of the original dwelling and the context of the surrounding area through high quality design; and*
- (iv) The proposal does not result in the loss of amenity to neighbouring properties.*

16.2 In this case it is considered that the principle of the annexe does satisfy the criteria outlined in Policy DM13. It would be quite close to the existing dwelling and attached to a garage that would still serve the existing dwelling. It would retain some dependence on the main dwelling, with a shared access and parking and shared garden and shared postal address. The building is also modest in size and has been amended to reduce it from two bedrooms to one bedroom and to also slightly reduce the size of the building.

16.3 The design, scale and form of the annex would also respect its context and does not undermine the character of the street scene or setting of the original dwelling. It is also not considered there would be a detriment to neighbouring residential amenity, as will be discussed below.

16.4 This is therefore considered to be a genuine annexe of modest size that complies with Policy DM13 and would not be deemed to constitute a new dwelling, thereby not conflicting with settlement policies, including ENV1 as mentioned by Cllr Pearson. A condition would also be applied to ensure the building is used as an ancillary annex and not as a separate dwelling. With regard to the layout and design of the proposal, the proposal therefore also complies with Policies SP7 and DM15 of the Local Plan which provide that development must respect and enhance the character of the site, its context and surroundings in terms of architectural approach, height, size, scale, form and massing.

- 16.5 The proposal should therefore be judged on the other relevant planning merits including impact upon parking provision, impact on neighbouring amenity in terms of outlook, light and privacy and noise and disturbance and any impact upon vegetation and wildlife.

Highway and Parking Issues

- 16.6 No objections have been received from the Highway Authority. There would not be a significant intensification of use of the site in terms of vehicular movements and the existing access onto the road has good visibility in either direction anyway. There would be at least six car parking spaces available on site as the frontage is used for parking and there is also a long driveway. This level of provision exceeds the adopted parking standards as referenced in Policy DM22 and the County Council adopted parking standards. The proposal therefore complies with Local Plan policy DM15 which provides that all development must create a safe environment.

Impact Upon Neighbouring Residential Amenity

- 16.7 It is not considered the use of the annexe could be objected to on the grounds of potential noise and disturbance to neighbouring properties (Policy DM15). There is already a vehicular access running alongside the neighbouring boundary to the existing garage and the intensity of vehicular use would not increase so significantly to warrant a refusal in this respect. The annexe itself is also away from the neighbouring boundaries so this should limit any other noise and disturbance.
- 16.8 The proposed development would not appear overbearing on the outlook of neighbours. Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached, and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide. There would also not be any overlooking from the single storey building.

Other Issues

- 16.9 A tree survey has been submitted and the tree officer has confirmed that there would not be any significant impact upon trees subject to a standard tree protection condition.
- 16.10 There would be no impact of significance upon wildlife and a condition to secure a 10% biodiversity net gain can be applied in accordance with Policy ENV1.
- 16.11 Adequate private amenity space would be retained for the existing dwelling and for the annexe in accordance with Policy DM19.

17.0 Planning Balance and Conclusion

- 17.1 In conclusion, the scheme has been amended to reduce it from 2 bedrooms to one bedroom and to also slightly reduce the size of the building. This allows the

annexe to accord with Policy DM13 as a genuine annex (not separate dwelling) as there will still be some reliance on the host property in terms of site access, shared parking, shared garden area and shared postal address. A condition would also be applied to ensure the building is used as an ancillary annex and not as a separate dwelling.

17.2 The design, scale and form of the annex is also considered acceptable and would not detract from the street scene and surroundings. There is adequate parking provision on site and there would not be any significant detriment to neighbouring residential amenity, vegetation or wildlife.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM Development Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: IAD025.301 Rec'd 27.6.23m, IAD025.300.03 Rec'd 3.7.23.

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

3. ZBA- 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. ZDP- Rural Annexes

The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Oak House, Bounsted Road.

Reason: For the avoidance of doubt as to the scope of the permission, as this is the basis upon which the application has been submitted and subsequently considered and any subdivision of the site into independent units would require the careful consideration against the current policies of the Local Planning Authority at such a time as any proposal were to come forward, as the site lies within the countryside where it may constitute unsustainable development.

5. ZFS-Tree and Hedgerow Protection

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows 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, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

6. Z00- Biodiversity Net Gain

Prior to first occupation of the development hereby approved, precise details of a scheme of wildlife enhancement measures to deliver a 10% Net Biodiversity Gain, together with an implementation timetable shall be submitted to and agreed in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved detailed scheme and implementation timetable and thereafter so maintained.

Reason: To ensure adequate wildlife mitigation in accordance with Local Plan Policy ENV1 c).

7. Z00-Foul Drainage

Prior to the first occupation of the development, precise details of foul sewage drainage works for the annexe shall be submitted to and agreed in writing by the Local Planning Authority. The approved works shall be installed prior to first occupation of the annexe and thereafter be available for use.

Reason: In order to avoid unnecessary environmental, amenity and public health problems that could otherwise arise.

19.1 Informatives

19.1 The following informatives are also recommended:

Informative1: 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.

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

DC0901MWeV9.3

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.

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 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.

Positivity Statement

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.

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.

