



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 18 April 2024 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, 18 April 2024 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

Cllr Arnold	Cllr Bloomfield	Cllr Burrows	Cllr Buston
Cllr Cory	Cllr Cox	Cllr Dundas	Cllr Ellis
Cllr Goacher	Cllr Hagon	Cllr Harris	Cllr King
Cllr Kirkby-Taylor	Cllr Law	Cllr Laws	Cllr Luxford-Vaughan
Cllr Naylor	Cllr Nissen	Cllr Pearson	Cllr Powling
Cllr Rippingale	Cllr Rowe	Cllr Scordis	Cllr Scott-Boutell
Cllr Smalls	Cllr Smith	Cllr Smithson	Cllr Sommers
Cllr Sunnucks	Cllr Willetts	Cllr J. 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 7 March 2024 and 28 March 2024 are a correct record.

2024-03-07 CCC Planning Committee Minutes 7 - 12

2024-03-28 CCC Planning Committee Minutes 13 - 14

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 **240206 Bus Depot, Queen Street, Colchester, Essex, CO1 2PQ** 15 - 22

Application for hoarding at the front of building site boundary. Already installed with a illustrative graphic which we wish to update to promote the Levelling Up project which is being built.

7.2 **240563 Hythe House, Flat 1, 142 Hythe Hill, Colchester, Essex, CO1 2NF** 23 - 30

The application before the Committee is a proposed building which is intended to replace the existing container and is considered to be more appropriate within the Conservation Area. It will utilise traditional materials - black weatherboarding and pantiles. The proposed development is located to the rear of Hythe House and has minimal view from Hythe Hill. There is currently a 1.42m high brick wall to the boundary with Connaught Close. To the rear of the site is a wall with fencing and trellis above measuring 2.4m in height in total. The property adjacent to the rear boundary does not have any windows in the side elevation.

- 7.3 **240528 Land adj 32 and, 33-34 High Street, Colchester, CO1 1DH** 31 - 38

Application for the relocation of the approved granite plinth to describe the Twinkle Star statue.

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).

Planning Committee Information Pages v2

39 - 50

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

PLANNING COMMITTEE

7 March 2024

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Hogg, MacLean, Mannion, McCarthy, McLean, Naylor, Tate and Warnes
<i>Substitute Member:-</i>	Councillor Naylor substituted for Councillor Davidson
<i>Also in Attendance:-</i>	Councillor Bentley Councillor Ellis

1050. Minutes of Previous Meeting

The minutes of the meeting held on the 25 January 2024 were confirmed as a true record.

1051. 230033 Land to the rear of, Dorothy Curtice Court, London Road, Copford, Colchester, CO6 1DX

Councillor Warnes joined the meeting after the confirmation of the minutes but before the commencement of application 230033.

The Committee considered an application for the erection of one assisted living block (for the over 55s) of 72 units comprising 32no. one bedroom flats and 40 no. two bedroom flats and associated communal facilities; erection of sheltered housing accommodation of 18 units (as an extension to the existing scheme at Dorothy Curtice Court for over 55s), comprising 13 no. one bedroom flats and 5 no. two bedroom flats; together with associated access, amenity space, vehicle and bicycle parking, EVC points, hard and soft landscaping, sub station, drainage ponds, boundary treatments and other associated works. The application was referred to the Planning Committee as the application had been called in by Councillor Ellis for the following reasons:

“The fact that this is an allocated site in CCC Local Plan Section 2 is not in dispute. It was allocated, albeit contrary to the wishes of the village of Copford, with circa 130 objections to the allocation. This particular planning application has a considerable number of issues which need addressing prior to any approval for development in this location.

Policy SS4 clearly states that access will be via Queensbury Avenue AND/OR London Road, the expectation being that the access will be from London Road. It clearly states AND London Road OR London Road, the expectation being that access will be from London Road. It clearly states AND London Road, OR London Road, however one reads that, it can only be interpreted as London Road being an access point. The development proposal accesses the entire site from Queensbury Avenue, this is simply unacceptable. “Avenue” is a misnomer, Queensbury is in fact a cul de sac, serving a quiet and close community. The road is of insufficient standard to accept a great deal more traffic.

The Local Plan allocation is for 70 dwellings, the application is for 90! To accommodate this quantum of development on site the developer has had to increase the height of buildings, this has led to a development out of scale and therefore out of scale and therefore character with the local area. It does nothing to “enhance” the location in which it sits. There are issues with size, scale, landscaping, ecology, highways and woeful under provision of onsite parking. All of these can be addressed at the Committee, but it really does need to be a Committee decision should the recommendation be for approval.”

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

Nadine Calder, Principal Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee heard that the application had previously been before the Committee on the 25 January and that the application had been deferred with delegation given to the Joint head of Planning to negotiate the following:

- Alternative access arrangements
- Reduction in the number of units to achieve compliance with site allocation policy SS4 (70 units) and;
- Reduction in size and scale of blocks from 3 storeys

The Committee heard that the applicant had decided that they wanted the application to be determined on the basis of the original application as the requested changes from the Committee were not possible for viability reasons and changes to access were not possible due to land ownership issues and details contained within transport consultants statement. It was detailed that due to the aforementioned reasons the application before the Committee was the same as the one that was deferred on the 25 January 2024.

The Committee were shown the layout of the site detailing the different floors of the building, the proposed solar panels and detailed the parking plan for the site. The Committee were shown the indicative sketch of the area and detailed that a Sustainable Urban Drainage System would be included on the site as well as the planting of 270 new trees. The Committee were shown photos of the site and proposed access and concluded by detailing that no changes had been made to the site, that the proposal was for 100% affordable housing, and that there was a biodiversity net gain on site.

Graham Barney (Chair of Copford with Easthorpe Parish Council) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that if this proposal was compliant with the allocation then the Local Plan should be torn up. The speaker detailed their disbelief that there was not a conflict with the Copford with Easthorpe Neighbourhood Plan and policy CE3 therein regarding design and detailed that no site visit had been undertaken by Essex County Council’s Highways Department. The Committee heard that there was enough space for an alternative access from Willow Park and concluded by detailing that the concerns of the community had been ignored, that it did not conform to the Neighbourhood Plan and asked that the application be refused.

Karen Crowder-James addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that following the deferral a further transport assessment had been undertaken and detailed that there would need to be demolition of existing property and confirmed that the applicant did not have control over Willow Park. The speaker detailed that the proposed access to the site

would necessitate the removal of some trees and confirmed that there would be less vehicle movements on site compared to normal family dwellings being on site in the allocation. Members heard that the UK was suffering from a housing crisis with a lack of affordable housing being available which could be eased with the approval of the application before the Committee. The speaker concluded by detailing that the proposal would create ready made housing for people in need and would be run by a registered housing provider who would own and operate the site and detailed that there were no reasons to refuse the proposal.

Councillor Andrew Ellis addressed the Committee as a visiting Councillor and Ward Member for the application. The Committee heard that the pre-application advice had sought to use the Willow Park access and detailed that the application was in breach of Policy SS4 and detailed that the proposal did not represent good design or mitigate the impact of the development on the area. The Committee heard that the application had been deferred to look further into certain issues and detailed that the applicant had refused to amend the application on the basis of viability and outlined that they struggled to accept this argument and that they did not think that the proposal met the highest design standards. The speaker detailed that if a scheme was not well designed then it should be refused and outlined that the fear of an appeal should not impact a decision and detailed that the scale and mass of the proposal was a reasonable reason for refusal.

Councillor Kevin Bentley addressed the Committee as a visiting Councillor and Ward Member for the application. The Committee heard that they did not think that the proposal met the criteria for a beautiful proposal and detailed that there were issues regarding congestion in Copford with traffic flowing from the A12 through to Stanway and other areas and outlined that this application would not improve the situation in the area or more locally on Queensbury Avenue. The speaker outlined that if the application was approved then it should be conditioned that no construction traffic park on Queensbury Avenue and asked the committee to think about the wider issues such as the congestion in the Stane Park area. The speaker concluded by detailing that as ward Members they had a combined expertise of 42 years and that as this proposal was wrong it should be refused.

A short break was taken following the Have Your Say Speakers to resolve a live streaming issue.

The Democratic Services Officer read out a statement from Councillor David King as follows:

"I rarely make a contribution to planning committee deliberations. But given the housing crisis I ask you give particular weight to the contribution the Anchor development can make.

The development is said to be a Net Zero site with air source heat pumps, solar panels and high-quality fabric standards from a trusted supplier.

Most critical I understand this application to be for 90 units, all categorised as affordable with 40 x 2 bed over 55s shared ownership. Plus fifty-, one- or two-bedroom social rent units for over 55's.

The 50 Social rented units will be let through the Gateway to Home choice and will enable downsizing from much needed family homes or to decant tenants from one of our sheltered schemes that requires modernisation, which could then either be sold and the proceeds recycled, or the site redeveloped into affordable housing, in either case through the HRA."

If planning permission is not granted, we can only speculate on what will happen next. But I understand the most likely outcome would be that the site is sold to a private developer. If so the CBH view is we may achieve 20 affordable units through S106. Given market weakness sale and development plans cannot be assured. But we can be sure it would be after a significant delay. And would be a significant shortfall on the 90 affordable units being offered.

Given the crisis we have in housing, with hundreds in temporary accommodation, with demand and cost rising, I respectfully ask members to give a particular weight to the contribution this development could make in providing extra capacity for local residents, and freeing up homes in particular demand.”

At the request of the Chair, the Principal Planning Officer responded to the points raised by the Have Your Say Speakers. The Committee heard that the applicant had chosen to keep the application in its original format as originally presented to the Committee and detailed that the site had been allocated and as such the principle of development had been agreed for the site. The Committee heard that Essex County Council's Highways Department had been consulted and discussions had taken place where they had agreed with the transport addendum put forward by the applicant and detailed that there were not any highway safety grounds that would warrant an objection.

Members debated the proposal on issues including: the proposed car movements that would be created from the development going onto Queensbury Avenue and crossing an established footpath going onto back land and possible farmland. Members detailed that the age of residents would not prohibit residents from using cars and that the proposal needed to be accessible with shopping facilities nearby and that the design needed to be amended.

At the request of the Chair, the Principal Planning Officer detailed that officers have no negotiating power to force applicants to amend applications and that if the Committee resolved to defer the application then the same application would be returned to the Committee.

Members continued to debate the application on the issues including: the policies contained within the Neighbourhood Plan, the issues surrounding a possible appeal if the application was refused, that if approved it would mean that the HGV's would be travelling along Queensbury Avenue which some Members found to be unacceptable.

In response to a question from the Committee the Principal Planning Officer and Joint Head of Planning detailed that the policy for SS4 detailed that access to the allocation would be taken off of Queensbury Avenue or London Road and confirmed that there had been no objection from Essex County Council's Highways Department and detailed that if the Committee did decide to refuse the application on highways grounds then the Council would need to seek an expert that would defend this at appeal as the Council currently had no evidence to support this and could leave the Council open to costs at appeal.

Members continued to debate the proposal on issues including: the provision of 100% Affordable Housing on site, the amount of work that had gone into the Neighbourhood Plan and its policies therein, where residents could meet on site to socialise, and that the design of the proposal not meeting the Committee's expectations.

At the request of the Chair, The Joint Head of Planning asked Members to consider the application in context of the number of conventional homes that had been allocated to the

site and that the scale and car movements from this would exceed the proposal before the Committee and that due regard needed to be given to Local Plan Policy SS4 and detailed that access to services was not a relevant consideration as the principle of development had been secured through the Local Plan allocation. The Joint Head of Planning concluded by detailing that the scheme did come with significant public benefits in terms of Affordable Housing.

In response to a question from the Committee the Joint Head of Planning outlined that the beauty of a design was in the eye of the beholder and detailed that the question of design needed to be considered in the context of public benefits from the proposal.

It was proposed and seconded that the application be approved as detailed in the officer recommendation.

A vote was taken with FOUR votes FOR, and SIX votes AGAINST. The vote was lost.

At the request of the Chair the Democratic Services Officer outlined the Deferral and Recommendation Overturn Procedure (DROP) Flowchart. Following this the Joint Head of Planning detailed that the Committee did not have any evidence to refuse the application on highways grounds and advised the Committee to avoid this as a reason for refusal should the Committee be minded to refuse the application.

It was proposed and seconded that the application be refused for the following reasons:

Design, Scale and Massing , Policies contained within the Colchester Local Plan associated with design, Copford with Easthorpe Neighbourhood Plan policies CE3 and CE4 and that delegation is given to the Joint Head of Planning to draft the full reasons for refusal based on the heads of terms provided by the Committee.

RESOLVED (SEVEN votes FOR and THREE votes AGAINST)

That the application is refused for the following reasons:

Design, Scale and Massing , Policies contained within the Colchester Local Plan associated with design, Copford with Easthorpe Neighbourhood Plan policies CE3 and CE4 and that delegation is given to the Joint Head of Planning to draft the full reasons for refusal based on the heads of terms provided by the Committee.

PLANNING COMMITTEE
28 March 2024

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Hogg, Mannion, , McLean, Naylor, Smalls, Sunnucks, and Tate
<i>Substitute Member:-</i>	Councillor Sunnucks substituted for Councillor Davidson Councillor Naylor substituted for Councillor MacLean Councillor Smalls substituted for Councillor Warnes
<i>Also in Attendance:-</i>	

1053. Minutes of Previous Meeting

The minutes of the meeting held on the 15 February 2024 were confirmed as a true record.

1054. 240068 Portal Precinct, Sir Isaacs Walk, Colchester, Essex, CO1 1JJ

The Committee considered an application to affix a 700mm x 600mm aluminium composite panel with a painted (black finish) wooden frame complete with digitally printed graphics directing users to the secure bike park in portal precinct. To be affixed to the East-facing wall of “fast stitch”. The application was referred to the Planning Committee as the applicant was Colchester City Council.

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

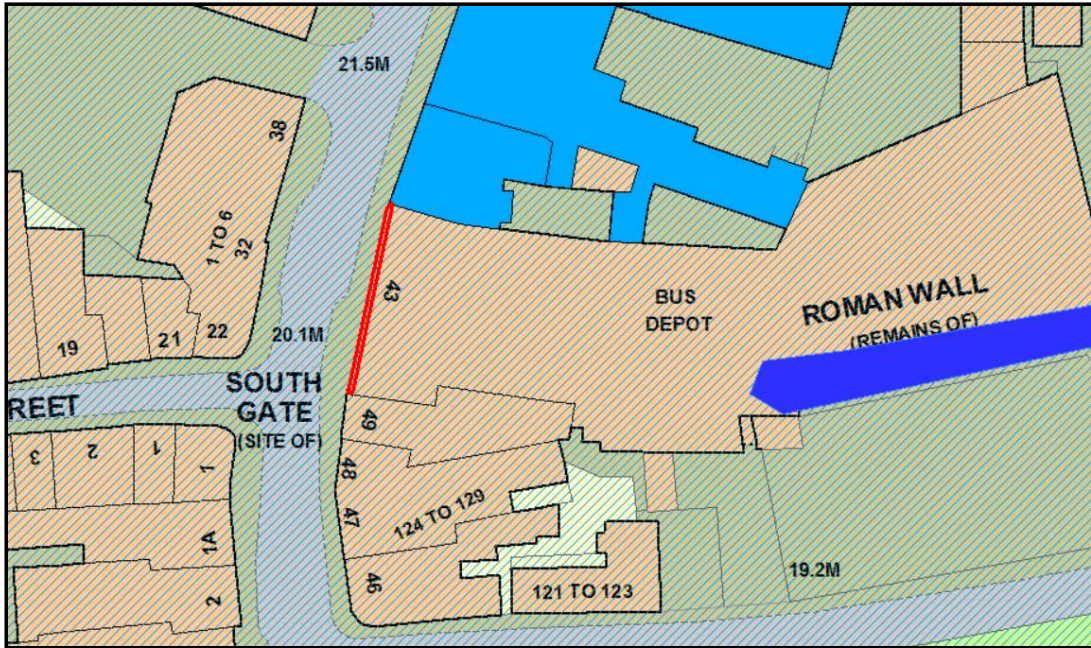
RESOLVED (UNANIMOUSLY) That the application was approved as detailed in the officer recommendation.

1055. 240183 278 Mersea Road, Colchester, CO2 8QY

The Committee considered an application for a part two storey, part single storey rear extension. Two storey side extension (resubmission of 230041). The application was referred to the Planning Committee as it had been called in by Councillor Harris due to objections received from neighbours regarding the proximity between the proposed side extension and their property. The neighbours are concerned that the proposed extension is too close to the shared boundary and that they will be unable to access the south elevation of their property to carry out maintenance work. The are also concerned about the overhang of the proposed roof onto their roof.

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

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



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Item No: 7.1

Application: 240206

Applicant: Mr Scott Gray-Chick

Agent: Colchester City Council

Proposal: Hoarding at the front of building site boundary. Already installed with a illustrative graphic which we wish to update to promote the Levelling Up project which is being built.

Location: Bus Depot, Queen Street, Colchester, Essex, CO1 2PQ

Ward: Castle

Officer: Kelsie Oliver

Recommendation: Approval

- 1.0 Reason for Referral to the Planning Committee**
- 1.1 This application is referred to the Planning Committee for transparency and probity as it has been submitted by Colchester City Council.
- 2.0 Synopsis**
- 2.1 The application seeks advertisement consent to affix a hoarding at the front of building site boundary. Already installed with a illustrative graphic which we wish to update to promote the Levelling Up project which is being built. The key issues for consideration is the impact of the proposed advert upon amenity, public safety, impact to Conservation Area and the setting of the nearby listed building.
- 2.2 Having assessed the application against local and national legislation and policy in accordance with guidelines for advertisements, it is considered that the proposal would not cause any demonstrable harm to amenity or public safety.
- 2.3 The application is subsequently recommended for approval, subject to a set of standard conditions. All relevant issues are assessed in the report below.
- 3.0 Site Description and Context**
- 3.1 The application site forms part of the former Bus Depot located within Queen Street. The application site is located within a predominately largely commercial/ retail location.
- 3.2 The premises is located adjacent to a Listed Building and within the designated Colchester Conservation Area 1 and is in close proximity to (Roman Wall remains)
- 4.0 Description of the Proposal**
- 4.1 Advertisement consent is required for the hoarding at the front of the site area. No illumination is included as part of the proposal. The hoarding would measure approximately 2.2 metres in height, 20.1metres in width and 0.15m in depth. The height measures approximately 0.3metres from ground level, the maximum projection would measure approximately 1.56 metres and the maximum height of the individual letters and symbols would measure 28 cm. The illustrations to the hoarding would be white and blue.
- 5.0 Land Use Allocation**
- 5.1 Within Colchester settlement limits.
- 6.0 Relevant Planning History**
- 6.1 There is extensive planning history for the site and surrounding area though most pertinent to the current application is 202780: Demolition of former bus garage and erection of new office/studio space and cafe bar for the creative digital sector.
- 7.0 Principal Policies**
- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material

considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

ENV1 Environment
DM15 Design and Amenity
DM16 Historic Environment
DM21 Sustainable Access to development

7.4 The site is not within a Neighborhood Plan area.

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

TC3 Town Centre allocations

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

The Essex Design Guide
External Materials in New Developments
Shopfront Design Guide
Colchester City Centre Masterplan

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.

Historic Buildings and Areas Officer

8.2 The application is reviewed from a heritage perspective for its impact on the character and appearance of the Conservation Area, in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that in the exercise of planning functions, special

attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

- 8.3 On the basis of the submitted details, it is regarded that the proposed sign would not result in harm to the street scene and the visual amenity of the Conservation Area. As such, there are no objections to the application on heritage grounds.

Essex Highway Authority

- 8.4 The Highway Authority does not object to the proposals as submitted. They confirm that, as far as can be determined, the proposal will have no implications from a Highway perspective and therefore have no comment on the application. No conditions or informatives are requested.

9.0 Parish Council Response

- 9.1 Non parish

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No written representation from members of the public (objections/or support) were received in response.

11.0 Parking Provision

- 11.1 Parking provision would not be affected by this proposal.

12.0 Accessibility

- 12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. In considering the application, due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Representations have not been received identifying any specific equality implications potentially arising from the proposed advertisement and requiring additional consideration. The height of the proposal would appear to be suitable to be read by all users and it does not give rise to any other concerns from an accessibility or equality perspective.

13.0 Open Space Provisions

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

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

- 16.1 Regulation 3 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) provides the legislative criteria for express consent for the display of advertisements.
- 16.2 The definition of "advertisement", for planning control purposes is "any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed partly or wholly for the purposes of, advertisement, announcement or direction."(Town & Country Planning Act, 1990, section 336)
- 16.3 As described in Paragraph 026 of the National Planning Policy Guidance (NPPG), Regulation 3 requires local planning authorities when determining an application under these provisions shall only exercise its powers in the interests of amenity and public safety, taking account of policies within the development plan, in so far as they are material, or any other relevant factors.
- 16.4 Unless the nature of the advertisement is in itself harmful to amenity or public safety, consent cannot be refused because the local planning authority considers the advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary or offensive to public morals.
- 16.5 Paragraph 141 of the National Planning Policy Framework (NPPF) states that the quality and character of places can suffer when advertisements are poorly sited and designed. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
- 16.6 The main issues in this case are:
- The Principle of Development
 - Amenity
 - Public Safety
 - Other Matters

Principle of Development

- 16.7 The principle of installing advertisements within the city centre is established, with a high volume of signage already present. The proposed advertisement would make members of public aware of the re-development of the former bus depot and promote awareness of the Levelling Up project.

Design and Amenity

- 16.8 Section 1 Local Plan Policy SP7: Place Shaping Principles states that all new development should respond positively to local character and protect and enhance assets of historical value.

- 16.9 In considering design and visual impact, Section 2 Local Plan Policies DM15, DM16 and ENV1 are particularly relevant. These policies seek to secure high quality and inclusive design in all developments, which respects and enhances the characteristics of the site, its context and surroundings and safeguards heritage and landscape features, as well as ensuring development protects public and residential amenity.
- 16.10 For the purposes of advertisement consent, the NPPG confirms that “Amenity” is not defined exhaustively in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. In practice, amenity is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site where the advertisement is to be displayed, where residents or passers-by will be aware of it. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic scenic, architectural, cultural or similar interest.
- 16.11 The proposed advertisement would be located on the premises of the former bus depot, in an area of the city centre characterised by commercial/retail buildings. It would be limited to one side elevation of the building, thereby preventing the creation of a visually cluttered aesthetic. In terms of design, colour, size, form and use of materials, the proposed advertisement is considered acceptable in this location. The colour scheme is relatively bright but is intended to draw attention to the public. Overall, given its limited scale, the proposed advertisement would not introduce an unduly prominent feature, or significantly alter the character of the site in an unacceptable way. The signage is also essentially temporary in nature.
- 16.12 The application site falls within Colchester Conservation Area 1 and in proximity to several Listed Buildings, as well as locally listed heritage assets. Specialist advice has therefore been sought from the Council’s Historic Buildings and Areas Officer. They have responded with no objection to the proposed advertisement on heritage grounds, as it would not result in harm to the visual amenity of the Conservation Area.
- 16.13 The proposed advertisement is not overly obtrusive and is therefore not expected to have any negative impact on residential amenity, given the relationship and distance from any nearby properties. No illumination is included and consequently there are no concerns regarding light spill or pollution. In conclusion, the proposed advertisement is not found to cause material harm to visual, public or residential amenity.

Public Safety

- 16.14 In assessing an advertisement's impact on public safety, it is necessary to consider the effect upon the safe use and operation of any form of traffic or transport on land (including the safety of pedestrians), over water and in the air. Section 2 Local Plan Policy DM21 requires all development to maintain the right and safe passage of all highways users.

- 16.15 Paragraph 067 of the NPPG states that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. Road safety problems are considered less likely, if the advertisement is on a site within a commercial or industrial locality, if it is a shop fascia sign, name-board, trade or business sign, or a normal poster panel, and if the advertisement is not on the skyline. If it can be demonstrated that signs would be confused with traffic or directional signals or the visibility of drivers is impaired, an application may be refused.
- 16.16 The proposed advertisement does not project significantly beyond the plane of the building, being flush as far as practicable with no protrusions. It would be located within a predominately commercial/retail area within the city centre, amongst several other buildings displaying content relating to their respective premises or the locality. Therefore, the proposed advertisement would not appear particularly incongruous, nor could it be easily mistaken for traffic signs to pose a danger to highway safety. The graphics would attract passers-by to a certain degree (as they are designed to do) but is not anticipated to distract pedestrians or road users unnecessarily, or to a hazardous extent.
- 16.17 The Highway Authority have been consulted regarding the proposed advertisement and confirm they have no comment to make, as they do not consider it would have any implications from a Highway perspective. There are no other public safety issues. Consequently, there are no concerns that the proposed advertisement would pose a risk to public safety.

17.0 Planning Balance and Conclusion

- 17.1 To summarise, the proposed advertisement has been assessed in accordance with guidelines for advertisements and is acceptable in terms of public safety and amenity, subject to the inclusion of standard conditions. The proposal accords with the Council's policy requirements, which are material considerations in so far as they relate to these matters and no objections have been received.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of advertisement consent subject to the following condition:

1. Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

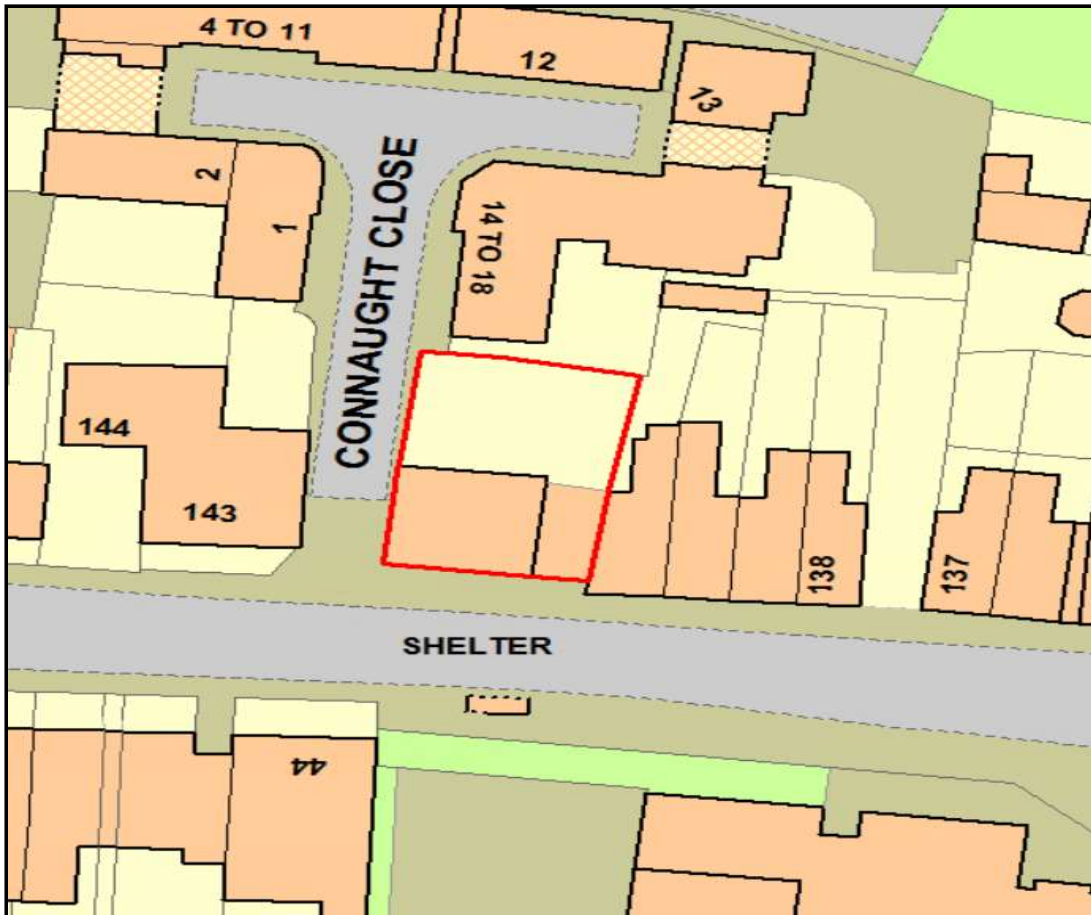
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

19.1 Informatives

19.1 Not applicable.



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Item No: 7.2

Application: 240563

Applicant: Mr Jackson Runicles

Agent: Mr Jackson Runicles

Proposal: The proposed building is intended to replace the existing container and is considered to be more appropriate within the Conservation Area. It will utilise traditional materials - black weatherboarding and pantiles. The proposed development is located to the rear of Hythe House and has minimal view from Hythe Hill. There is currently a 1.42m high brick wall to the boundary with Connaught Close. To the rear of the site is a wall with fencing and trellis above measuring 2.4m in height in total. The property adjacent to the rear boundary does not have any windows in the side elevation.

Location: Hythe House, Flat 1, 142 Hythe Hill, Colchester, Essex, CO1 2NF

Ward: Old Heath & The Hythe

Officer: Kelsie Oliver

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the applicant is known to a Colchester City Council employee.

2.0 Synopsis

2.1 The application seeks planning permission for a proposed building, intended to replace an existing steel storage container. The key issues for consideration is the impact on the character and appearance of the Conservation Area and the setting of the adjacent listed building.

2.2 The application is subsequently recommended for approval, subject to a set of standard conditions. All relevant issues are assessed in the report below.

3.0 Site Description and Context

3.1 The site contains a detached former office block built in the early 1970's. The block is now in residential use (C3) providing student flats and is located on the junction of Hythe Hill and Connaught Close, Colchester. The site is located within a Conservation Area and there is a Listed Building immediately to the west of the site.

4.0 Description of the Proposal

4.1 Application seeks planning permission for a proposed building is intended to replace the existing container and is considered to be more appropriate within the Conservation Area and sympathetic to its character. It will utilise traditional facing materials - black weatherboarded elevations and a pantiled roof. The proposed development is located to the rear of Hythe House and has minimal visibility from Hythe Hill. There is currently a 1.42m high brick wall to the boundary with Connaught Close. To the rear of the site is a wall with fencing and trellis above measuring 2.4m in height in total. The property adjacent to the rear boundary does not have any windows in the side elevation.

5.0 Land Use Allocation

5.1 The current land use is classed as predominantly residential.

6.0 Relevant Planning History

6.1 211519 - Replace existing timber and render cladding with cedar panels; replace windows with identical UPVC units in black; replace existing aluminium front doors with similar doors finished in black (Approve/Conditional)

210635 - Application to determine if prior approval is required for a proposed change of use from Offices (Class B1(a)) to 10no. dwellinghouses (Class C3) - Prior Approval granted.

7.0 Principal Policies

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

Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

DM13 Domestic Development
DM15 Design and Amenity
DM16 Historic Environment

7.4 Some “allocated sites” also have specific policies applicable to them. This is not applicable in this instance.

7.5 There is not a made neighbourhood plan for this area.

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

8.0 Consultations

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

9.0 Parish Council Response

9.1 Unparished

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. At the time of drafting this report no third party representations had been received. Any received subsequently will be reported to committee via the Amendments Sheet or verbally.

10.2 **Historic & Conservation Officer:** The impacts are indirect on the wider setting of the neighbouring listed building and very minimal in terms of the character and appearance of the CA given the backland location and the dominance of the frontage block (which is itself uncharacteristic of the traditional vernacular

scale of buildings in the conservation area). There would be no material impact on the setting or significance of the neighbouring listed building by reason of the separation and limited intervisibility from view points to the rear of the frontage development. The significance of the designated HA affected would not be changed by the introduction of the proposed storage building as a consequence of its modest scale and traditional form and finishes.

Environmental Protection:

Should planning permission be granted Environmental Protection wish to make the following comments:-

ZPD - Limits to Hours of Work

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

Weekdays: **08:00-18:00**

Saturdays: **08:00-13:00**

Sundays and Bank Holidays: **No working.**

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

NOTE: Demolition and Construction

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.

11.0 Parking Provision

11.1 The proposed building replaces an existing structure and does not in itself, generate any parking requirement. The footprint of the structure would occupy space that could otherwise be used as parking to serve the ten flats in the block.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development has no implications for Equality as it is for ancillary storage only.

13.0 Open Space Provisions

13.1 N/A Ancillary storage only.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in this case are:

- Design and Layout
- Impact on the Conservation Area
- Impacts on Neighbouring Properties

16.2 Below is an assessment of the proposal against any potential impact on the character and setting of the host building, the Conservation Area and the adjacent Listed Building.

16.3 The proposed development relates to the removal of detached container, within a proposed single storey detached outbuilding. The proposed detached building would be located to the rear of Hythe House, alongside the boundary and Connaught Close. The site boundary of the site is enclosed by a 1.42m high brick wall and trellis above. The proposed building would consist of a single entrance from the gable and no windows are proposed.

16.4 The proposed building is proposed to be used for storage ancillary to the main building – residential flats (C3). The proposed detached building is considered to be modest and would be faced with black timber weatherboarding to the walls, with Marley 'Burnt Flame' plain tiles to the roof and a steel door painted in a black finish to match the boarded elevations.

16.5 As noted by the Development Manager there would be limited impacts to the setting of the listed building and the character and appearance of the wider Conservation Area, for the following reasons. Given the backland location of the building and the dominant scale and commercial appearance of the host building, the proposed ancillary storage building would be subordinate in scale and largely screened from wider public views from Hythe Hill. Consequently, the proposed storage outbuilding would have a neutral impact on the character and appearance of the wider conservation area.

16.6 Furthermore, the site lies adjacent to a neighbouring listed building. This comprises a Georgian townhouse of domestic scale. However, there is an adequate degree of spatial separation of the proposed development and the listed building and only limited intervisibility from view points to the rear of the frontage development to Hythe Hill. It is accordingly considered that the proposed development would not materially impact upon the setting of the neighbouring listed building nor affect the significance of the listed building. The proposal is consequently considered to accord with the provisions of policies DM15: Design and Amenity and DM16: Historic Environment of the Adopted Colchester Local Plan 2017-2033.

16.7 Due to the proposed use of the building for ancillary storage only, the modest scale of the structure and the degree of separation from neighbouring dwellings to the side and rear of the site in Connaught Close, it is unlikely that the proposed building would result in any material harm to neighbouring residential amenity.

The proposal is consequently considered to be in conformity with Policy DM15: Design and Amenity.

17.0 Planning Balance and Conclusion

17.1 In summary, the proposal will result in a neutral impact upon the character and appearance of the Conservation Area and the setting of the adjacent listed building and is therefore considered acceptable. Furthermore, the design of the proposed building and the ancillary storage use would not affect the residential amenities currently enjoyed by neighbouring dwellings.

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 to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings labelled Location plan dated 15.03.2024 & Proposed Elevations & floor plans fated 21.03.2024.

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

3. ZBC - Materials To Be Agreed

No external facing or roofing materials 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 as there are insufficient details within the submitted planning application.

4. Z00 - *Ancillary to Host Dwelling*

The development hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwellings known as Hythe House, 142 Hythe Hill and not for any trade or commercial use.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed

5. ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

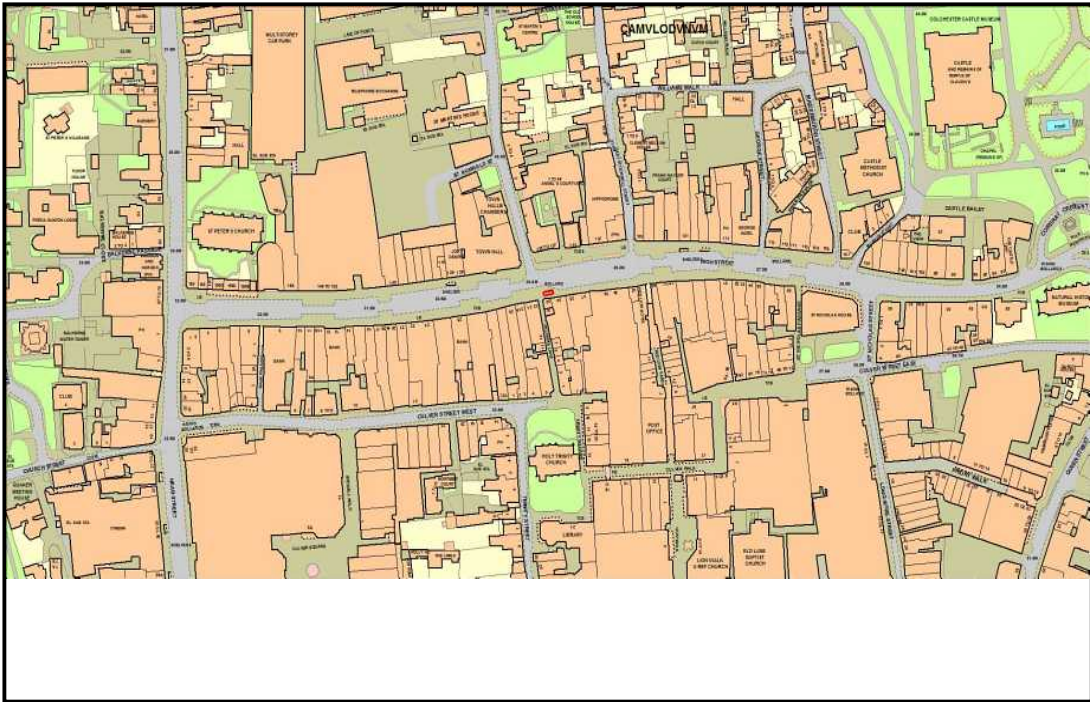
Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

19.1 Informatives

19.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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



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Item No: 7.3

Application: 240528

Applicant: Sir Bob Russell

Agent: Stanley Bragg Architects Limited

Proposal: Relocation of the approved granite plinth to describe the Twinkle Star statue

Location: Land adj 32 and, 33-34 High Street, Colchester, CO1 1DH

Ward: Castle

Officer: Chris Harden

Recommendation: Authority to Approve subject to consideration of any additional/outstanding consultation responses received.

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee for reasons of transparency as the applicant is an Alderman of the City.

2.0 Synopsis

2.1 The key issues for consideration are the impact of the proposal on the character and setting of the Conservation Area and the nearby Listed Buildings as well as any potential impact on the foot path, pedestrian foot traffic and any other wider highway impacts.

2.2 The application is subsequently recommended for Approval, subject to consideration of any additional consultee comments being received. The proposal has previously been approved and this revision positions the statue and plinth approximately 1 metre further Eastwards and it would now also be sited slightly closer to the outer pavement kerb. Its impact upon heritage assets and upon the highway remains acceptable.

3.0 Site Description and Context

3.1 The site is located within Colchester High Street close to the footpath junction of Pelhams Lane (to the south) and with West Stockwell Street the other side of the road (to the north). The site is located within Colchester Conservation Area 1 and there are several listed buildings nearby. The Town Hall lies to the North and further listed buildings lie to the west and northeast.

3.2 The proposed location of the granite plinth and the associated statue is at a point where the footpath is at its widest point.

4.0 Description of the Proposal

4.1 The proposal is for a revision to the location of the approved granite plinth to describe the Twinkle Star statue and of the statue itself. The proposal has previously been approved and this revision positions the statue and plinth approximately 1 metre further Eastwards and it would now also be slightly closer to the outer pavement kerb.

4.2 It is proposed to place the 1.8m Taylor Sisters statue on a granite plinth with flamed finish base which will be flush with the existing pavement. This will extend 6 metres west in length (with the statue occupying the first metre), to a width of one metre and will contain inlaid lettering and symbols explaining the history and relevance of the Taylor sisters and their work.

4.3 The submitted planning statement states that the sisters lived in West Stockwell Street between 1796 and 1810 and were the authors of a number of published works including the poem Twinkle Twinkle Little Star.

4.4 The statue is intended to commemorate this with the two sisters shown to be pointing up to the sky. The location of the proposal on the High Street is due to West Stockwell Street's pavements being too narrow to accommodate the sculpture.

5.0 Land Use Allocation

- 5.1 The current land use is classed as Town Centre Outer Core and includes retail, offices, leisure and cultural facilities.

6.0 Relevant Planning History

- 6.1 210121 Erection of a statue of the Taylor sisters - Dedicated to the children of the world - Approved

231603 Installation of a granite plinth to describe the twinkle star statue - Approved

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
- 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:

ENV1 Environment
CC1 Climate Change
DM15 Design and Amenity
DM16 Historic Environment

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

The Essex Design Guide
External Materials in New Developments
Sustainable Construction
Urban Place Supplement

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.

Highway Authority:

Having reviewed the submitted information, I confirm from a highway and transportation perspective the Highway Authority has no Objection to the proposal.

Note: The proposal is in accordance with the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

Informative: All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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

Colchester Civic Society:

“Reason for comment: Support the proposal

Comment: The Colchester Civic Society is supportive of the application for a minor amendment to the earlier approval of this installation (210121).”

Conservation Officer has no objections

Archaeologist:

“Having examined the submitted plans and documents, I can confirm that the proposed development will not result in material harm to the significance of below-ground archaeological remains. Therefore, there will be no requirement for any archaeological investigation in this case.

This is consistent with the previous permission 210121. “

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations from Notified Parties

- 10.1 The application has not resulted in any further comments from interested third parties including neighbouring properties so far. Any received will be reported to the Committee.

11.0 Parking Provision

11.1 N/A

12.0 Accessibility

12.1 It is considered the provisions of the The Equality Act 2010 can be complied with, in particular accessibility.

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 The principle of the statue with this plinth has previously been agreed and is extant so the key considerations relate to the differences between the approved scheme and impacts upon the character of the Conservation area, setting of Listed Buildings and any Highway related issues. The proposal differs from the approved scheme in that this revision positions the statue and plinth approximately 1 metre further Eastwards and it would now also be slightly closer to the outer pavement kerb.

Impact upon Conservation Area, street scene and setting of Listed Buildings.

- 16.2 With regard to the layout and design of the proposal, Policies SP7 and DM15 of the Local Plan 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.
- 16.3 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant adopted Local Plan policy is DM16.

- 16.4 Paragraph 206 of the NPPF (2021) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraphs 207, 208 and 209 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 16.5 The revised scheme only differs from the approved scheme by a relatively minor repositioning. Accordingly, its design, from, detailing and use of materials remains acceptable and would be visually appropriate within the Conservation Area and in terms of its relationship to Listed Buildings.
- 16.6 The proposal represents a historic reference to two local figures and their published work is familiar worldwide. The proposal is therefore considered to be a benefit to the Town Centre and Colchester heritage as celebrating significant historic local figures.
- 16.7 Whilst the plinth is quite lengthy, it is obviously low lying so does not have a significant visual impact in the wider street scene or detract from the Conservation Area or setting of Listed Buildings. Overall, as before the statue and plinth are deemed to represent the lowest scale of less than substantial harm and there are sufficient public benefits to outweigh this harm involving the celebration of historic figures in the statue and the associated information on the plinth.
- 16.8 Therefore, as concluded previously it is considered that the proposal meets the requirements of the NPPF in particular paras 206, 207-209. The proposal would comply with adopted Local Plan Policy DM15 as the proposal respects the character of the site and its surroundings. Local Plan Policy SP7 (Place Shaping Principles) has similar provisions. It would also comply with Policy ENV1.
- 16.9 The proposal would comply with Policy DM16 which provides that development will not be permitted that will adversely affect a Listed Building or Conservation Area and that development affecting the historic environment should seek to preserve or enhance the heritage asset.

Highway Issues

- 16.10 The Highway Authority have raised no objections and previously have confirmed that “No works shall take place within the highway until such time as the necessary licensing from Essex County Council and necessary Streetworks permits has been received by the applicant and all necessary conditions / requirements of that licence have been complied with.” This will be conditioned again. All work within or affecting the highway will need to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and details need to be agreed with the Highway Authority before the commencement of works.

16.11 The pavement widens at this point so there will still be room for highway users. It is considered that the proposed statue will result in minimal impact to the flow of foot traffic given the width of the foot path at this location and being close to a site of the previous street planter. The statue has a relatively small footprint and the granite is flush with the pavement anyway. Accordingly it is not considered there would be a detriment to highway safety or accessibility. Policy DM15 would therefore be complied with in this respect.

Other:

16.12 In terms of other planning considerations, the proposed development does not raise any concerns. There would be no impact upon neighbouring residential amenity (DM15) and no issues relating to archaeology (DM16), trees, vegetation or upon wildlife (ENV1).

17.0 Planning Balance and Conclusion

17.1 To summarise, the impact on the Conservation Area and the setting of heritage assets is considered minimal and differs little from the approved scheme and therefore acceptable as before. Impacts to the highway regarding flow of foot traffic will be minimal and the enhancement of the local area by way of celebrating local context historical residents is considered a wider benefit to the town centre area and Colchester in general. There are no archaeological concerns.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

Authority to Approve with APPROVAL of planning permission subject to consideration of any further comments received and 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 to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings: 6949-1102 Rev B, 6949-1103 Rev A Rec'd 11.3.24, 649-1101, 6949-1102 Rec'd 20.3.24.

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

3. ZBB - Materials As Stated in Application

The materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority. Reason: To ensure that materials are of an acceptable quality appropriate to the area.

4. Z00 - Licensing

No works shall take place within the highway until such time as the necessary licensing from Essex County Council and necessary Streetworks permits has been received by the applicant and all necessary conditions/requirements of that licence have been complied with. Reason: To protect the highway user and the integrity and fabric of the highway in the interests of highway safety.

19.1 Informatives

19.1 The following informatives are also recommended:

Informative1: The Highway Authority has stated that 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 are 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 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

