

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 22 September 2022 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!

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www.colchester.gov.uk

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 22 September 2022 at 18:00

The Planning Committee Members are:

Cllr Lilley
Cllr Barton
Cllr Chapman
Cllr Chuah
Cllr Mannion
Cllr Maclean
Cllr McCarthy
Cllr Nissen
Cllr Pearson
Cllr Tate
Cllr Warnes

Chair
Deputy Chair

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:

Tracy Arnold	Molly Bloomfield	Michelle Burrows	Roger Buston	Mark Cory
Pam Cox	Adam Fox	Mark Goacher	Jeremy Hagon	Dave Harris
Mike Hogg	Richard Kirkby-Taylor	Sue Lissimore	Andrea Luxford Vaughan	Patricia Moore
Sam McLean	Beverly Oxford	Gerard Oxford	Kayleigh Rippingale	Lesley Scott-Boutell
Paul Smith	Dennis Willetts	Barbara Wood	Julie Young	Tim 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

This meeting will be audio streamed to the Committee Page as linked below:

[· Colchester Borough Council \(cmis.uk.com\)](http://cmis.uk.com)

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 pecuniary interest or non-pecuniary 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!

At meetings of the Planning Committee, members of the public may make representations to the Committee members. 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 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.

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

There are no minutes for approval at this meeting.

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.

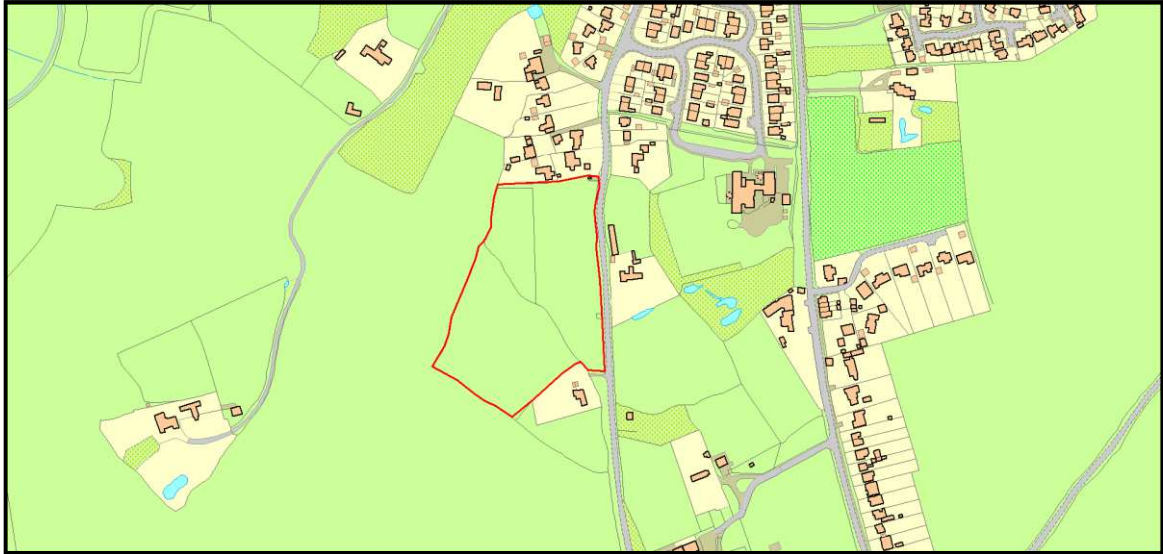
- | | | |
|------------|--|------------------|
| 7.1 | 213530 & 213531 Land west of Peldon Road & Land adj, Borleys, Peldon Road, Abberton, CO5 7PB | 7 - 54 |
| | Outline Planning application for: up to 50 dwellings; a new vehicle drop-off/ pick up point; and access from Peldon Road. All Matters Reserved, Except Access & Outline application for the erection of five dwellings. | |
| 7.2 | 221902 Land West of, Cross Cottages, Boxted, Colchester | 55 - 68 |
| | Application for the removal or variation of a condition 2 following grant of planning permission. (220148) | |
| 7.3 | 221730 48 Wimpole Road, Colchester, CO1 2DL | 69 - 80 |
| | Change of Use of HMO comprising of 6 no. bedrooms (C4) to HMO comprising of 7 no. bedrooms (Sui Generis). | |
| 7.4 | 220600 The Lodge, Osprey Close, Stanway, Colchester, CO3 8WA | 81 - 94 |
| | Change the use of the house from private residential to a 3 bed Children's Home. The use of the property will be changed to a C2 residential home for children aged 13 to 18. The Children's home will be providing accommodation for looked after children and will be supported by staff 24 hours. There will be two to three staff members during the day and two at night who stay to look after the children. | |
| 7.5 | 221639 Century House, North Station Road, Colchester, CO1 1RE | 95 - 104 |
| | 4 x corten steel planters containing trees to be located on the footway/ walkway outside Century House, North Station Road. | |
| | Planning Committee Information Pages v2 | 105 - 116 |

8 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so

that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

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



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Item No: 7.1

Application: 213530 & 213531

Applicant: Mersea Homes & Mr P Saunders

Agent: ADP Ltd & Mr Mark Jackson

Proposal: Outline planning application for: up to 50 dwellings; a new vehicle drop-off/pick up point; and access from Peldon Road. All Matters Reserved, except access & Outline application for the erection of five dwellings

Location: Land west of Peldon Road & Land adj, Borleys, Peldon Road, Abberton, CO5 7PB

Ward: Mersea & Pyefleet

Officer: Nadine Calder

Recommendation: Approval subject to a legal agreement and conditions & Approval subject to conditions

1.0 Reason for Referral to Planning Committee

- 1.1 These applications were discussed at the Planning Committee of the 16th June 2022 when a decision on the applications was deferred to investigate the following items:
1. Improved turning area and drop off point in school grounds.
 2. Crossing point between two site allocations in policy SS1 and whether the safe delivery of a controlled crossing is possible at an affordable cost.
 3. Possible site B footway link to Public Right of Way.
 4. Possible options for further road calming speeds on Peldon Road.
- 1.2 The additional information that was requested by the Committee does not have an impact on the assessment of the proposed development which has previously been carried out by your Officers, and only requires certain aspects of the schemes (related to highway matters) to be investigated further. The recommendation remains one for approval subject to relevant conditions for both applications, as per the report that was presented to Members on the 16th June 2022, with only minor amendments proposed to the conditions, which are set out below. The original report and full assessment of the proposed developments can be found at Appendix 1 below.
- 1.3 It should be noted that since the Committee of the 16th June 2022 considered the application proposals, the Council formally adopted Section 2 of the Colchester Borough Local Plan 2017 – 2033. This means that all references to policies contained within the previous Local Plan (i.e. Core Strategy and Development Plan Document) made in the report at Appendix 1 are no longer relevant as the proposed development needs to be assessed solely against the currently adopted Local Plan (CBLP 2017-2033). Full statutory weight must now be afforded to relevant plan policies. Members will note that the assessment within the report already includes reference to the relevant Section 2 Local Plan Policies, most importantly Policy SS1. At the time of writing the report, Officers were able to attribute significant weight to these policies, given the advanced stage of the Local Plan. With Section 2 now having been adopted, full weight can be given to those policies. As a result of already having considered the proposed developments against the relevant Section 2 Plan Policies, and having been able to attribute significant weight to their aims, the adoption of Section 2 of the Colchester Borough Local Plan 2017 – 2033 does not require a reassessment of the proposed developments save that full weight now applies to the Local Plan.
- 1.4 Following the Committee's resolution to defer a decision pending investigation of the matters listed in paragraph 1.1 above, separate meetings with the respective applicants and their agents were held. For Site A, the Highway Authority and the chair of Abberton and Langenhoe Parish Council also participated. Site A needed to explore options to provide a controlled crossing. Failing this, more robust evidence was requested to justify the uncontrolled crossing. For Site B it was discussed that the potential to provide a footway link from the site to the Public Right of Way to the north of the site should be explored. The possibility of providing drop off and pick up facilities within the school grounds also needed to be explored with Essex County Council.

Site B (5 dwellings)

- 1.5 Following discussions with the Highway Authority, it has been possible to secure the provision of a footway along the eastern side of Peldon Road, from Site B to the Public Right of Way. The provision of this footway can be secured via condition which would require the details of the footway to be agreed with the Local Planning Authority, in conjunction with the Highway Authority, prior to commencement of the development, with the works requiring completion prior to the first occupation of the development.
- 1.6 As a result of Site B now being able to provide a footway link from the site to the school and the wider village, it is not considered necessary to provide a crossing between the two sites. The proposed development, subject to the aforementioned condition for the proposed footway, would satisfy the criteria of adopted policies and comply with highway safety. The development on the eastern side of Peldon Road (as proposed under the terms of reference 213531) is therefore held to be acceptable and the recommendation for this application remains one for approval, subject to the inclusion of a condition, as set out above.

Site A (up to 50 dwellings)

- 1.7 Discussions between the applicant, their technical team and the Highway Authority have resulted in the submission of a Technical Note with a view to address the concerns that were raised by Members of the Planning Committee on the 16th June 2022.
- 1.8 As a starting point, Members should note that, whilst every effort has been made to get formal confirmation from the Education Authority that additional parking facilities within the school grounds can be provided, no such confirmation (nor an objection to this suggestion) was received. The relevant officers at Essex County Council (ECC) were chased on multiple occasions, however, given the absence of a formal agreement to provide drop off and pick up facilities within the school grounds, the development should be assessed on the basis of its submission, i.e. with a drop off and pick up facility within the north eastern corner of Site A.
- 1.9 The Technical Note provided by the applicant highlights that the site characteristics, the number of vehicles (gaps in traffic) and the number of pedestrians does not require or justify a formal crossing.
- 1.10 It states that long standing national practice¹ should be considered as directed by ECC to assess the justification for a crossing by calculating the PV^2 value as an evaluation of the potential for conflict between pedestrians and vehicles, where P is the number of pedestrians per hour and V is the number of vehicles per hour squared. If the value PV^2 is less than 1×10^8 no formal crossing facilities are required. The following assessment is taken from the Technical Note:

¹ Roads and Traffic in Urban Areas – Department of Transport

- **Morning Peak Traffic** - Peak traffic flows occur in the morning when school traffic coincides with other peak hour traffic. That figure is expected to be around 187 vehicle movements (144 plus 23 from the development plus 20 associated with the 8 school drop off pick up spaces assuming all travel to and from the north, which represents a robust figure).
- **Pedestrians AM Peak** – Pedestrians crossing during the AM peak will be from the new development (estimated at 45 - based on 15 children (ECC assessment) being escorted by parent i.e., parent taking child and returning home), plus an allowance for no school pedestrians (estimated at 5); and the school drop off on the western side of Peldon Road (30 pedestrians)
- **Evening Peak Traffic** - In the evening peak 1700-1800 there will be no school traffic and few pedestrians crossing.

The PV² calculation is therefore as follows: $80 \times 187^2 = 2.8 \times 10^6$ or 0.028×10^8

This figure is considerably less than the threshold 1×10^8 demonstrating that a formal crossing is not appropriate at this location.

- 1.11 Crossings only operate correctly if they are used on a regular basis throughout the day. The above calculations suggest that this would not be the case.
- 1.12 It is stated that if there are too few pedestrians for most of the day, drivers may consequently tend to ignore the crossing and put pedestrians at risk on the occasions when they are using the facility. Conversely, if traffic flows are low then pedestrians can comfortably cross in the gaps without needing a crossing.
- 1.13 The Highway Authority confirmed that they would not support a formal crossing at this location for safety reasons. A decision on the application was originally deferred because Members raised concerns that the safety of pedestrians is not guaranteed through the absence of a formal crossing, however, the evidence provided as part of the Technical Note would suggest that the provision of a formal crossing, as requested by Members, would in fact result in a less safe option for pedestrians. The provision of a formal crossing would therefore appear to be contrary to the intentions of the Planning Committee to provide a safe crossing.
- 1.14 If Members consider that the drop off and pick up facilities within the school grounds should continue to be investigated as a solution (despite the lack of commitment from ECC), then the number of crossings would be reduced by more than a third, further emphasising that the overall demand arising from the proposed development is not significant enough to justify a controlled crossing.
- 1.15 The Technical Note not only assesses the matter as to whether a controlled crossing is appropriate in this location based on pedestrian crossings (PV² Calculation) but also with regards to traffic flows and gaps.

- 1.16 Referring back to the figures utilised for the PV^2 calculation, peak hour movement of 187 vehicles per hour is the equivalent of about 1 vehicle every 20 seconds. In this regard:
- Most pedestrians accept a gap of about 5 seconds although some slower moving pedestrians require 10 seconds.
 - A gap on average of 20 seconds is therefore considered sufficient to allow slower moving pedestrians to cross.
 - Outside of peak hours traffic flows will be much less at around 100 vehicles per hour with very low numbers of pedestrians crossing.
- 1.17 Based on the above, it was concluded, and accepted by the Highway Authority, that there are sufficient gaps in the traffic for pedestrians to safely cross at an uncontrolled crossing. A formal crossing is therefore not required in this situation.
- 1.18 The proposed development also includes a number of proposed mitigation measures, including:
- New footways of up to 2 metres;
 - A dedicated crossing point with dropped kerbs; and
 - If possible, the relocation of the 30mph speed limit sign to the south (subject to successful application for a Traffic Regulation Order (TRO)).
- 1.19 Potential additional mitigation measures which the applicant would be willing to provide include:
- Signage, for example Please drive carefully / Reduce your speed / School children; and
 - Gateway feature at new 30mph sign location.
- 1.20 There is also a possibility that the width of the carriageway could be reduced to provide a wider footway on the eastern side of Peldon Road. Whilst this cannot be guaranteed, it would have further traffic calming impacts at the point of the proposed crossing. The potential for this mitigation could however only be explored as part of a discharge of condition application for the development on Site B should this be approved, which requires details of the footway to be provided, as set out above.
- 1.21 Taking into account all of the above, it is considered that sufficient evidence has been provided to justify the proposed uncontrolled crossing. The Technical Note was reviewed by the Highway Authority, who remain of the opinion that the proposed uncontrolled crossing is not only appropriate in this location but also the safer option, for reasons highlighted above.
- 1.22 The recommendation for the proposed development on Site A (as per the terms of reference 213530) therefore remains one for approval, with the only changes suggested being a revised condition 29 (securing drop off and pick up facilities serving the school) and the removal of condition 30 which requires the relocation of the existing 30mph speed sign, as it cannot be confirmed at this stage whether the relocation is possible due to this being subject to a separate TRO statutory consultation process. However, the proposals are not contingent on this

happening, rather it would good if the TRO was successful and the start of the 30mph speed limit could be relocated and a gateway feature provided.

Other Matters

- 1.23 Since the previous Committee, a late request for a financial contribution from the proposed development on Site A (up to 50 houses) towards primary healthcare services was received by the NHS Clinical Commissioning Group through the Development Team. A total of £30,300 is requested to be split between the Malting Green Surgery (£15,400) and West Mersea Surgery (£14,900). The final contribution would be dependent on the number of dwellings provided on Site A, with the proposed figure being based on 50 dwellings.
- 1.24 This contribution was agreed with the applicant and will need to be added to the heads of terms for the legal agreement.

Conclusion

- 1.25 The above is considered to fully address the concerns that have been raised at the previous Committee meeting, which led to the deferral of these applications. Members of the Planning Committee are respectfully requested to consider the additional information and evidence provided in conjunction with the original Committee Report (provided at Appendix 1) which assess the proposed development in detail, conclude that the proposal meets the requirements of the Development Plan and therefore recommend that planning permission be granted subject to the recommended conditions and, in the case of application reference 213530, a legal agreement, as follows:

Recommendation

- 1.26 The Officer recommendation to the Committee for application reference 213530 is for: APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement.

The contribution of £30,300 towards primary healthcare services shall be added to the Planning Obligations to be secured via the legal agreement and the permission shall be subject to the conditions as set out in the original Committee report, except for:

- (i) condition 29 being changed as follows:

Previously proposed condition:

29. Non Standard Condition – Provision of drop off/pick up point

Prior to the occupation of the development hereby permitted, provision shall be made for a small rural car park of at least 8no. spaces on the site, the details of which shall have previously been submitted to, and agreed in writing with, the

Local Planning Authority. In the event that provision of additional parking capacity at Langenhoe Primary School is possible, then in lieu of the on-site provision, a financial contribution to facilitate additional parking within the school grounds can be secured. This shall have previously been agreed, in writing, with the Local Planning Authority together with a timeframe for implementation.

Reason: To ensure that there are adequate pick up and drop off facilities for the school and to reduce traffic congestion in the surrounding area at the beginning and end of school days.

To be replaced by:

29. Non Standard Condition – Provision of drop off/pick up point

Prior to the commencement of the development hereby approved, a scheme to provide a pick up/drop off point to serve Langenhoe Community Primary School shall be submitted to, and agreed in writing by, the Local Planning Authority. The scheme shall alternatively provide this arrangement either within the demise of the school or, if that is not feasible, within the application site area. The approved scheme shall thereafter be implemented prior to the development hereby permitted reaching 50% occupancy, strictly in accordance with the approved details, and shall be retained in its approved form in perpetuity.

Reason: To ensure that there are adequate pick up and drop off facilities for the school and to reduce traffic congestion in the surrounding area at the beginning and end of school days having regard to Policy SS1 of the Adopted Local Plan 2017-2033.

(ii) the removal of condition 31:

31. Non Standard Condition – Relocation of Speed Sign

Prior to the first occupation of the development hereby permitted, the developer shall be responsible for the relocation of the existing two speed limit signs along Peldon Road further south, in accordance with a scheme that shall have previously been submitted to, and approved in writing by, the Local Planning Authority. The signs shall then remain in the approved location in perpetuity and remain clear of obstruction.

Reason: In the interests of highway safety.

- 1.27 The Officer recommendation to the Committee for application reference 213531 is for: APPROVAL of planning permission subject to the conditions as set out in the original Committee Report (Appendix 1) except for condition 10 which is proposed to be amended as follows:

Previously proposed condition:

10. Non-Standard Condition – Pedestrian Link

Prior to the first occupation of the development hereby permitted, details of a new pedestrian access route from Peldon Road to the grounds of Langenhoe Community Primary School shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with Langenhoe Community Primary School and the Highway Authority.

Reason: There is insufficient information to ensure that the pedestrian access is appropriate and that it will be maintained to a satisfactory condition.

To be replaced by:

10. Z00 – Non-standard Condition: Provision of Footway

Prior to the commencement of the development hereby permitted, details of a scheme to provide a footway along the eastern side of Peldon Road, linking the development to the Public Right of Way (PROW 122_7), shall be submitted to, and agreed in writing by, the Local Planning Authority. The approved works shall be completed prior to the first occupation of the residential development hereby permitted.

Reason: To ensure that the footway is constructed to an acceptable standard, in the interests of highway safety.

APPENDIX 1- Copy of Committee Report considered at meeting 16 June 2022

1.0 Reason for Referral to the Planning Committee

- 1.1 These applications are referred to the Planning Committee because they represent a departure from the adopted Development Plan and in the case of the larger application the signing of a legal agreement is required, and objections have been received.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposed developments in terms of land use allocation; highway safety; wildlife impact; flood risk and contamination.
- 2.2 The sites currently form a field/meadow and garden land that are bounded by open countryside and residential development. They are the subject of an emerging allocation for residential development (SS1- Abberton & Langenhoe). Based on the information submitted, it is considered that the sites are able to accommodate the proposed quantum of development without appearing cramped or overdeveloped. The schemes are also acceptable from a highway safety point of view. Subject to appropriate conditions, there is unlikely to be any detriment to the amenity of the surrounding area or significant impact upon existing vegetation, wildlife, flood risk or contamination.
- 2.3 The applications are subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The larger site (also referred to as Site A) lies to the west of Peldon Road, while the smaller site (also referred to as Site B) lies to the east of Peldon Road, approximately 250 metres south from the centre of the village of Abberton.
- 3.2 Site A extends to 2.6ha and is located to the west of Peldon Road, Abberton. It comprises two fields/meadows separated by a hedgerow (tree and shrub belt). To the north, the site is bound by the properties that form the existing edge of the village of Abberton. The eastern and western boundaries are characterised by mature hedgerow and trees that visually enclose the site from the surrounding area. The southern boundary runs through the middle of a meadow-field. The wider field itself is enclosed by mature landscaping in the form of hedgerows, that minimises views of the site from the wider area.
- 3.3 Site B measures 0.25ha in size and lies to the east of Peldon Road. It forms part of a garden and small paddock, formerly an orchard between Borleys and the Grade II listed building Pete Tye Hill. Borleys is a former farmstead with buildings historically arranged to the north. One of these buildings, a black boarded outbuilding remains.
- 3.4 To the east of Site B lies Langenhoe Community Primary School and its playing field. The site is well screened to the north, east and west boundaries by

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hedgerows and trees. The southern boundary with Borleys contains mature trees and a gated access between the house and the meadow. The sites slope from north to south.

4.0 Description of the Proposal

- 4.1 This report describes two proposals that are directly adjacent to each other and form part of one allocation under the Emerging Section 2 Local Plan Policy SS1. It has been requested that the two proposals are assessed simultaneously.
- 4.2 Application reference 213530 (Site A) seeks outline planning permission with all matters, save access, reserved for up to 50 dwellings, of which 30% would be affordable and a new vehicle drop-off/pick up point for the local school. Detailed matters for a single vehicular access point from Peldon Road and a separate pedestrian and cycle access point, also from Peldon Road, are also provided.
- 4.3 Application reference 213531 (Site B) seeks outline planning permission with all matters reserved, save for access, for the provision of 5 residential dwellings and access from Peldon Road to the west of the site. The application is supported by an indicative Site Layout Plan and House Type drawings. Vehicular access to the site is proposed via a new access off Peldon Road to the west of the site, relatively central within the site.

5.0 Land Use Allocation

- 5.1 The sites lie outside the defined settlement boundary for Abberton, and thus within the countryside in the Adopted Local Plan (Site Allocations DPD (2010)). Within the emerging Colchester Borough Local Plan 2017-2033 in Section 2, the sites form part of a housing allocation under Policy SS1 Abberton and Langenhoe, referred to as 'Land to the west of Peldon Road' and 'Land to the east of Peldon Road'.
- 5.2 'Land to the west of Peldon Road' (Site A) is identified to accommodate 50 dwellings, provision of a new drop-off/pick-up point at Langenhoe Primary School and the provision of new public footpaths to the north of the site, connecting to the school and village.
- 5.3 'Land to the east of Peldon Road' (Site B) is identified to accommodate 5 dwellings, a new pedestrian access route from Peldon Road to the grounds of Langenhoe Primary School and provision of a new drop-off/pick-up point at Langenhoe Primary School.

6.0 Relevant Planning History

- 6.1 There is no planning history that is particularly relevant to these applications.

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 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

7.3 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H4 - Affordable Housing

UR2 - Built Design and Character

PR1 - Open Space

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

- 7.4 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
- 7.5 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:
n/a
- 7.6 The site is not in a Neighbourhood Plan area.
- 7.7 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and completed consultation on modifications. The inspectors letter has now been received and confirms the plan to be sound. Formal adoption of Section 2 is now awaited. Section 2 should be afforded significant weight due to its advanced stage.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

Policies relevant to this application include:

SG1 Colchester's Spatial Strategy
SG2 Housing Delivery
ENV1 Environment
SS1 Abberton and Langenhoe
DM1 Health and Wellbeing
DM8 Affordable Housing
DM9 Development Density
DM10 Housing Diversity
DM15 Design and Amenity
DM16 Historic Environment
DM18 Provision of Public Open Space
DM19 Private Amenity Space

DM21 Sustainable Access to development
DM22 Parking
DM23 Flood Risk and Water Management
DM24 Sustainable Urban Drainage Systems
DM25 Renewable Energy, Water Waste and Recycling

- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Sustainable Drainage Systems Design Guide
Planning for Broadband 2016
Managing Archaeology in Development.

8.0 Consultations

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

Site A (50 dwellings)

- 8.2 The Arboricultural Officer is satisfied with the arboricultural content of the proposal and considers it likely that the 10% uplift in canopy cover can be achieved.
- 8.3 The Archaeological Adviser does not object to the proposal.
- 8.4 The Contaminated Land Officer raises no objection to the proposal subject to a precautionary condition relating to the reporting of unexpected contamination.
- 8.5 Environmental Protection do not object to the proposal subject to conditions.
- 8.6 The Landscape Advisor raises no objection to the proposal subject to conditions.
- 8.7 Anglian Water raise no objection to the proposal.
- 8.8 Essex Fire and Rescue do not object to the proposal at this outline stage and note that more detailed observations will be made at Building Regulations stage.
- 8.9 Essex Police have no objection to the proposal. They advise that the final scheme should incorporate Secure by Design.
- 8.10 The Highway Authority does not object to the proposal subject to conditions. Following lengthy discussions and a site visit, a further request to relocate the 30mph speed limit has been made by the highway authority.

8.11 The Lead Local Flood Authority raises no objection to the proposal subject to conditions.

8.12 Natural England request that a Habitat Regulation Assessment be undertaken prior to a decision being issued.

Site B (5 dwellings)

8.13 The Arboricultural Officer is satisfied with the arboricultural content of the proposal.

8.14 The Archaeological Adviser does not object to the proposal subject to a condition.

8.15 The Contaminated Land Officer raises no objection to the proposal.

8.16 Environmental Protection do not object to the proposal subject to conditions.

8.17 The Historic Buildings and Areas Officer provided comments on application reference 213531 (Site B) and confirmed that they do not object to the principle of the proposal but consider that the number of dwellings should be reduced, and their scale made smaller. The architectural language should be more utilitarian and rural, and the hedge needs to be preserved as far as possible, with any breaks through it minimised and located away from the listed building.

8.18 The Landscape Advisor raises no objection to the proposal subject to conditions.

8.19 The Highway Authority does not object to the proposal subject to conditions.

8.20 Natural England request that a Habitat Regulation Assessment be undertaken prior to a decision being issued.

9.0 Parish Council Response

9.1 The Parish Council submitted lengthy comments (which can be read on the website) objecting to the proposal on the following grounds (as summarised):

- Density is too high and object to number of dwellings and site allocation;
- Proposal does not appropriately address the parking issues relating to the school; and
- No reference is made to addressing the infrastructure needs of integrating this overall development into the current village setting.

10.0 Representations from Notified Parties

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

10.2 Application reference 213530 has resulted in 32 letters of objection/general comments from 28 households while application reference 213531 has resulted in 18 letters of objection/general comments from 16 households. Comments were also received from Langenhoe Community Primary School, Colchester Cycling Campaign and Essex & Suffolk Water. The main reasons for commenting can be summarised as follows:

- Proposed development would be out of keeping with the character of the village;
- Cause overlooking and overshadowing;
- Impact on views;
- Impact on wildlife/reservoir (SSSI);
- Increase light pollution;
- Increase traffic;
- Increased vehicle movements at junction of Peldon Road and Layer Road;
- Lack of infrastructure and amenities in Abberton;
- Increase houses and population in Abberton and Langenhoe;
- Disproportionate increase in the size of the village;
- Location on a dangerous bend in the road;
- Vehicles speed along the road;
- No pedestrian footway;
- Requirement for pedestrian crossing with traffic signals;
- Village water pressure is low;
- Adverse impact on Broadband speed;
- Development will lead to local school being oversubscribed;
- Secure cycle parking should be provided;
- Construction process will cause significant traffic disruption;
- Construction period will have a considerable effect on residents.

11.0 Parking Provision

11.1 The applications are in outline form with the internal layout for future consideration but there is sufficient space on both sites for all dwellings to have off street parking in accordance with the adopted standards.

12.0 Accessibility

12.1 For emerging allocations the accessibility standard for 10% of market housing and 95% of affordable housing will meet Building Regulations Part M4 Cat 2. 95% (excluding upper floor dwellings). 5% of affordable housing should meet Part M4 Cat 3 (2) (b) as set out in Draft Policy DM12 vi. This can be achieved at reserved matters stage.

13.0 Open Space Provisions

13.1 As the applications are submitted in outline, the layout will be determined at reserved matter stage. It is however considered that there is sufficient space on site to provide a minimum of 10% open space on both sites.

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 Application reference 213530 (50 dwellings) is classed as a “Major” application, and there was therefore a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought towards local projects. The Obligations that would be agreed as part of any planning permission would be:

Communities - £143,641.50

Project

Abberton and Langenhoe Village Hall, projects to increase capacity for functions and extensive refurbishment.

Calculations based on 50 x 3 bed houses as no mix given. Final contribution request will be dependent on the number and mix of houses.

Affordable Housing - 15 units

The tenure mix should be no less than 80% affordable rent and no more than 20% shared ownership.

Mix to be evenly apportioned over all unit sizes when allocated to affordable.

Affordable housing should meet the enhanced accessibility standard of Part M4 Cat 2 Building Regulations 2015) in lieu of lifetime homes, in accordance with the requirements in Policy DP12.

The Council would request 5% (1 unit) of affordable homes is designed to meet Part M4 Cat (3) (2) (a) or Part M4 Cat 3 (2) (b).

Parks & Recreation - £94,058.66

Projects

Colchester Orbital
Leisure World

Education

Primary: £259,020.00, index-linked to January 2020

Secondary: £237,750.00, index-linked to January 2020

Libraries: £3,890.00

15.2 Application reference 213531 (5 dwellings) is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

Principle of Development

16.1 The development plan for Colchester is the Adopted Local Plan and Section 1 Local Plan as follows:

- Colchester Local Plan Section 1 – North Essex Shared Strategic Section 1 Plan 2013-2033 (adopted February 2021)
- Core Strategy (2008) as amended by the Focused Review (2014)
- Site Allocations (2010)
- Development Policies (2010)

16.2 In the context of the Adopted Local Plan (Core Strategy / Site Allocations), the site is located on greenfield land and therefore contrary to key policies in the Development Plan. However, as the site is allocated for housing development in the emerging Local Plan, which is very advanced in its preparation, a pragmatic approach is suggested with very significant weight to be given to the emerging Policy context, rather than that of the current Adopted Plan.

16.3 The Council has now received the Inspector’s Report for the Colchester Local Plan Section 2. Subject to main modifications, the Inspector has found that the Section 2 Local Plan is sound. As such, further weight can be attributed to the policies within the emerging Section 2 Local Plan. The proposal is an allocation in the emerging Local Plan (Policy SS1), which is outlined below:

Policy SS1: Abberton and Langenhoe

In addition to the infrastructure and mitigation requirements identified in policy PP1, development of the sites below, as shown on the Policies Map will be supported where they meet the requirements identified for each site below;

Land to the west of Peldon Road

Development will be supported which provides;

- (i) *50 dwellings of a mix and type of housing for which there is a demonstrated need; and*
- (ii) *A transport statement to include but not limited to a safety assessment of the Peldon Road/Layer Road junction and any necessary mitigation; and*
- (iii) *Provision of a new drop-off/pick-up point at Langenhoe Primary School; and,*
- (iv) *Provision of new public footpaths to the north of the site connecting to the school and village.*

Land to the east of Peldon Road

Development will be supported which provides:

- (i) *5 dwellings;*

- (ii) *A new pedestrian access route from Peldon Road to the grounds of Langenhoe Primary School;*
- (iii) *Provision of a new drop-off/pick-up point at Langenhoe Primary School.*

Development must conserve, and where appropriate, enhance the significance of heritage assets (including any contribution made by their settings). Designated heritage assets close to the sites include the Grade II Pete Tye Hill and Old Cottage.

Pantiles Farm on Peldon Road is allocated as a Local Economic Area and will continue to be protected for this use. Any future development proposals will be required to comply with policy SG4.

- 16.4 The provision of a new drop off/pick up point at Langenhoe Primary School is included within the larger application (Site A). Despite the two proposals representing two standalone applications, given that they have been submitted concurrently, there is an ability for both to be considered in the wider site context and it is considered that this policy requirement is being met. The Place Strategy Team (Planning Policy) requested that there should be a mechanism, such as a planning condition, to ensure that in the event that the larger application is refused planning permission, the policy requirement is still being fulfilled by the smaller proposal in some capacity. Whilst the logic behind this is accepted, it is not considered to be possible as the two applications are not linked. In any event, the site (Site B) is allocated for five dwellings and the size of the site is not considered to be sufficient to appropriately provide five dwellings plus the required drop off/pick up point. One requirement of this part of the policy is therefore expected to be breached either way. It is therefore considered that the absence of a pick-up/drop off area on Site B is acceptable, even if planning permission on Site A were to be refused or development on this site would not come forward.
- 16.5 As per Policy SS1, the proposals are required to provide a pedestrian access route from Peldon Road to the grounds of Langenhoe Primary School. Site A includes the provision of a footway along the western side of Peldon Road, an uncontrolled crossing and further footways along the eastern side of Peldon Road, linking to the existing public footpath and existing footways. This is considered to meet the aims of the Policy.
- 16.6 The indicative block plan for Site B on the other hand includes a pedestrian access along the northern boundary of the site, however it is understood that Langenhoe Primary School do not consider a secondary access to the school grounds desirable. This may therefore result in a breach of the site allocation policy. To compensate for this, it is proposed that satisfactory pedestrian access from the proposed development to the existing footway network should be provided and this will be explored further below.

Planning Balance and Conclusion

- 16.7 The proposal does not accord with the currently adopted Local Plan, being contrary to Policies SP1, SD1 and ENV1 which restrict development outside development boundaries.

- 16.8 The most important/relevant policy context for determining these applications is however now the emerging Section 2 Local Plan and the policies most pertinent to the principle of the development can be afforded significant weight (SS1). The principle of development on this site is therefore supported as the Section 2 Local Plan is very advanced and pending formal adoption.

Access and Highways Impacts

- 16.9 Access is the only matter to be considered as part of both outline applications. The proposal on Site A includes a new priority junction access on the western side of Peldon Road to serve the site. In addition, the development proposals include pedestrian connections to the existing pedestrian facilities, including the public right of way, and Langenhoe Primary School via an uncontrolled crossing over Peldon Road. This would provide access to those making use of the proposed school pick up and drop off area that is proposed to be located in the northern part of Site A.
- 16.10 Vehicular access to Site B is proposed to be provided to the west of the site by creating a new access centrally positioned between Borleys and Pete Tye Hill. The proposal includes the removal of the existing frontage hedgerow, though it is proposed to replace this with a new hedge planted behind the visibility splays. The final landscape aspect of the scheme would be determined via a reserved matters application. The internal layout of the access road, driveways and parking areas as well as the pedestrian link to the rear of the school do not form part of this application.
- 16.11 The Highway Authority has raised no objection to either proposed development, subject to conditions, which are considered to be reasonable and necessary to make the proposed development acceptable and would therefore need to be imposed on any planning permission that may be granted. Subject to these, there are no objections to the proposed vehicular accesses to the sites.
- 16.12 It is noted that there is currently no footway along the eastern side of Peldon Road to Site B. As set out above, the application for the development of Site A includes the provision of a footway to the north of the site, however, this would not extend as far as Site B. It is noted that there are other existing dwellings to the north of the site which do not currently benefit from a footway and it is considered unlikely that a satisfactory footway along the eastern side of Peldon Road linking the site to the public footpath to the north can be achieved, as this would, in places, be too narrow and thus potentially unsafe. On this basis, it is not considered that this could be requested to be provided as part of this application. What would however be necessary, is a footway along parts of the site's frontage, leading up to a crossing point that is provided on Site A. This would provide future residents of this site with appropriate access to the village when travelling on foot. The exact details of this footway could be requested via condition.

- 16.13 Concerns have been raised with regard to the proposed pick up and drop off area on Site A, which would require those using the facility to cross Peldon Road via an uncontrolled crossing. This aspect of the proposed development has been reviewed by the Highway Authority and is deemed to be safe, given the fact that there would be increased visibility when looking south (as a result of the existing vegetation being removed to ensure adequate visibility for the proposed developments can be achieved). Comments have been made that vehicles exceed the 30mph speed limit and it has therefore been suggested that the speed limit sign could be relocated to allow vehicles more time to slow down when entering the village. It has also been noted that one of the two signs when travelling northbound on Peldon Road is obstructed by vegetation, thus not visible. By increasing the visibility of these signs and relocating them further south, which could be secured via condition, it is expected that vehicles will approach the location of the uncontrolled crossing at a lower speed, thus not endangering those crossing the road. The Highway Authority also requested that additional village gateway features are provided where the speed sign is relocated to, to emphasise that highway users enter a village location, however, this is not considered to be appropriate to be requested of the applicant as such a requirement would not meet the six tests for a condition.
- 16.14 Notwithstanding the above, it has become apparent that there may be scope to increase the pick-up and drop off facilities within the school grounds. The school already benefits from an area of parking along Bracken Way and there is a triangular shaped plot of land to the south of Bracken Way and to the north east of the main school building that is laid to grass, and which may, with the permission of Essex County Council as the Education Authority, be turned into additional parking provision. The applicant for Site A, where the pick up and drop off area is currently proposed, would be willing to work with the school to identify whether it is possible to provide parking in this area and if so, a financial contribution towards providing the works could be secured. This contribution would be in lieu of the proposed pick up and drop off area on Site A and would not act as an additional facility. Should Members consider this to be a more appropriate solution, then Officers would ask Members to delegate authority to Officers to further explore this option, in conjunction with the Parish Council, and if possible, add the scope of works and financial contribution to the heads of terms for the legal agreement that is required for the larger scheme on Site A. Members are however advised that, should it not be possible to provide additional parking facilities within the school grounds, then the pick-up and drop off area on Site A would remain part of the proposal. For reasons set out above, the location of the proposed facility has been found to be acceptable and with no objection having been raised by the Highway Authority, the proposed crossing is held to be acceptable.

Design, Layout, Appearance and Landscaping

- 16.15 Both applications are submitted in outline form with scale, layout, appearance and landscaping forming the reserved matters. The final design and layout of the proposed developments would therefore be the subject of a submission of detail with the appropriate reserved matters and this would have to demonstrate that all relevant adopted space, amenity and parking standards are satisfactorily met.

16.16 Notwithstanding the above, the proposed development was reviewed by the Council's Urban Design Officer who noted that design considerations are limited to whether the quantum of development proposed is appropriate in the context of the sites and whether the applications demonstrate that the sites are capable of accommodating the quantum of development proposed in an appropriate manner.

16.17 Site A measures approximately 2.6ha and the application therefore proposes development at an average density of up to 19dph. The application earmarks 0.35ha for 'Land for green infrastructure/SUDs' and would require the remainder of the site to achieve average densities of 22dph. Site B measures approximately 0.25ha and therefore proposes development at an average density of up to 20dph. These low densities are consistent with the site's context as an extension to an existing rural settlement. On this basis, it is considered that the site is likely capable of accommodating the proposed development whilst achieving an appropriate standard of design.

16.18 The proposed accesses for both applications are also considered appropriate in design terms. Site B has provided an indicative site plan and house types as part of the application, however, neither of these achieve an appropriate standard of design in their current form and as such should not be approved as part of any approval at this stage.

16.19 The following should be taken into consideration for the detailed design stage:

- Residential areas should include areas of informal/incidental green/open space.
- Street trees should be included within the public realm to ensure their long term retention and should feature beyond the main access road.
- Built form and landscaping should be positioned so as to enclose the public realm.
- Built form should establish a site wide identity that responds to the sites context and reinforces/enhances the local vernacular.
- Features of the landscaping, architecture and placement of built form should combine to an overall sense of place.
- A clear road hierarchy should be established and reinforced by adopting a varied surface material for shared surfaces and utilising a variety of frontage treatments for plots.
- Focal/nodal buildings should be included to enhance legibility within the site.

Additionally, Site A should:

- Create a number of distinct and legible character areas that contribute to an overall sense of place.
- Back to back distances should comply with the Essex Design Guide (15-25m dependent on relationship between units).
- Brick walls should be used to enclose boundaries that address public/semi-public realm, this includes parking courts.

16.20 While landscape is a reserved matter, in an attempt to be proactive, the Landscape Adviser offered the following assessment for Site B (with no

objection being raised for Site A) as a means to progressing the design should the current indicative layout be used as a basis for future proposals:

- In the absence of any Type 1 visualisation from viewpoint 6 within the Landscape & Visual Appraisal ref 21.062/1 dated July 2021 accurately illustrating the height and spread of the development, or visualisations from Mersea Road or the intersection point of PRowS 147_15 & 147_16, the development would appear to be potentially visible from these sensitive viewpoints to the south of the site. Any reserved matters will require these viewpoints/visualisations to be submitted, and if the proposed development is evidenced through this data as being exposed on the ridgeline, then this will need to be countered through proposing a linear feature of medium sized trees, with a mature height greater than any proposed unit, along the southern boundary of the site as mitigation planting.
- In order to allow space for the frontage hedge to establish and thrive a soft landscape bed at a minimum depth of 2m needs to be allowed for it, the hedge will need to be single species and native to complement its rural edge setting, with medium to large native trees set all along its length. Note: the soft landscape proposals on drawing 21/3004/03A are inaccurate, e.g., Ilex aquilifolium is native holly not birch, it is recommended any landscape scheme submitted to satisfy reserved matters should be professionally drawn up by a landscape consultant (preferably a landscape architect).

16.21 These matters are proposed to be secured via conditions.

Impact on Neighbour Amenities

16.22 Development Plan Policy DP1 and Emerging Plan Policy DM15 require all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.

16.23 This is a matter that will be dealt with via the reserved matters, however, there is nothing to suggest that schemes of the proposed density cannot be achieved in a matter that is not compliant with the Essex Design Guide in terms of overlooking and back to back distances.

Impact on the Surrounding Area

16.24 The sites are allocated for residential purposes in the very advanced emerging local plan Policy SS1 and are located to the south of existing residential development. The soundness of this site allocation has been subject to examination. As such, it is held that the proposed residential development of the sites would not have an adverse impact on the surrounding area.

Impact on Historic Environment

16.25 Site B sits directly to the south of the grade II listed Pete Tye House, named Pete Tye Hill in the list description. The list entry describes the house thus:

Late C16 or early C17, timber framed and plastered, 2 storey with red plain tile roof. Black weatherboarded south side. Three window

range horizontal sliding bashes with glazing bars. Lean-to on north side. Remains of original chimney stack.

- 16.26 The listed building sits back from the road in generous gardens, at the exact point where the grain of development loosens, and village turns into countryside. When travelling south, as one passes the listed building the sense is immediately of being in the countryside. This is an important aspect of its setting. Further to the north this sense has been somewhat eroded by modern infill development, but as this is nearer to the settlement it does not seem unnatural. There is a mature hedge of native trees along both sides of the road to the south of the listed building, which further emphasises the rural character of the site.
- 16.27 The host building, Borleys, is clearly of some age, although this is most evident from looking at the roof. It appears to have been altered extensively over the years: the west elevation and south elevation are clearly two distinct phases of development. The south elevation shows some influence by the Arts and Crafts movement, so perhaps dates to the second half of the 19th century or the first quarter of the 20th. It is unlisted but appears on the first edition of the Ordnance Survey map, dating to the 1870s. It would be appropriate to consider this to be a non-designated heritage asset.
- 16.28 The proposed site is between these two buildings, concealed behind one of the two hedges described above.
- 16.29 The Historic Building and Areas Officer considers that the current proposal would undoubtedly harm the setting of the listed building Pete Tye Hill. Five large buildings are introduced onto the site, each rather too large for its allocated piece of the land. This would represent a tightening of the grain of development at the exact point where the loosening of the grain allows Pete Tye Hill to retain its feeling of sitting in rural surroundings.
- 16.30 Five new driveways between the listed building and Borleys would destroy that illusion of isolation and make the setting of the listed building more suburban in feel. The large number of dwellings proposed for the site, along with the inevitable domestic paraphernalia that accompanies all homes (swings, trampolines, bins, garden furniture, washing lines) would all combine to erode the setting of the listed building.
- 16.31 The Historic Buildings and Areas Officer states that if this site is to be successfully developed, the scheme needs to propose fewer units, of smaller and much more modest scale. A more modest and utilitarian architectural language might also enable any new development to integrate better into the landscape. In this instance taking cues from ancillary agricultural structures such as piggeries and cow byres, rather than barns would be appropriate. This does not imply a requirement for pastiche, but instead an architectural language and tone of design that might be expected to be found along a country lane.
- 16.32 Furthermore priority needs to be given to minimising the number of breaks in the hedge line to allow access to the site. One or perhaps two entrances, as

narrow as possible and as far away from the listed building as possible would be far preferable to the five currently proposed.

- 16.33 These comments are noted, however, they must be assessed against the current policy framework which has allocated the site for residential development and the provision of five dwellings. The Block Plan that has been provided is indicative only and would therefore not form part of an approval. With the detailed design, scale, layout and landscaping forming part of a reserved matters, these matters would need to be addressed at a later stage. This application simply seeks to establish the principle of providing five dwellings on this site and this is held to be acceptable. Given the significant concerns that have been raised, it is however necessary to inform any future developer that the indicative site layout is inappropriate and that the design and scale will have to be amended to appear more contextually sympathetic of the nearby (non) designated heritage assets. Subject to this, it is not considered that this application should be refused on heritage grounds. The detailed layout and design of the units and landscape strategy can deliver effective mitigation for the potential impact on the setting of the heritage assets and any residual impact needs to be considered in the planning balance.

Drainage and Flood Risk

- 16.34 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water.
- 16.35 The site lies within Environment Agency Flood Zone 1, however a Flood Risk Assessment was required for Site A as the site exceeds 1 hectare. The application is therefore supported by a Flood Risk Assessment and Drainage Strategy. The submitted information has been reviewed by Essex County Council as the Lead Local Flood Authority ("LLFA") who raised no objection to the proposed development in principle. As the application is in outline form only, with all matters except access reserved, a detailed surface water drainage scheme for the site would need to be secured via condition. Additional conditions requested by the LLFA, such as the submission of a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution; a maintenance plan detailing the maintenance arrangement of the surface water drainage system; and the maintenance of yearly logs of maintenance, are considered to be relevant and necessary in order to make the development acceptable. Subject to these conditions, it is considered that the proposed development would comply with the aims of the above-mentioned policies.
- 16.36 In addition to the above, Anglian Water confirmed that Fingringhoe Water Recycling Centre will have available capacity for the flows of this development and consequently, raised no objection to the proposed development.

Affordable Housing

- 16.37 Emerging Policy DM8 states *'where it is considered that a site forms part of a larger development area, affordable housing will be apportioned with reference to the site area as a whole'*.
- 16.38 Despite the strategic nature of the proposed development the sites form two separate allocations in the Section 2 Local Plan as per policy SS1. Site A, which is classed as a major application, provides 30% affordable housing (15 dwellings).
- 16.39 It is not considered reasonable to request affordable housing on the smaller site (Site B) given that the two sites are separate applications, even though it is acknowledged that they form part of a wider allocation. They are however in separate ownership and there is no evidence to suggest that a deliberate attempt to split the site has been made in order to avoid affordable housing provision on this smaller site.

Health Implications

- 16.40 Policy DP2 of the adopted Local Plan requires all developments in excess of 50 units to be accompanied by a Health Impact Assessment ("HIA") to identify the potential health consequences on a given population and maximise the health benefits and minimise potential adverse effects. It is noted that the threshold in the Emerging Local Plan is 100 dwellings. The current scheme is for up to 50 dwellings, therefore falling short of both requirements. Notwithstanding this, an HIA has been submitted and it concludes that the scheme will have health benefits by introducing new areas of public open space and internal walking routes that will link up with existing footpaths within the village and wider area. This provides the opportunity for healthy lifestyles. The scheme is therefore acceptable in this regard.

Biodiversity

- 16.41 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the Framework is that planning should contribute to conserving and enhancing the natural environment. Development Plan Policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough while paragraph 174 of the Framework seeks to minimise impacts on and provide net gains for biodiversity.
- 16.42 The application on Site A is supported by an Ecological Impact Assessment (EclA), a reptile presence/absence survey, bat activity survey, bird surveys and botanical walkover. It is noted that a great crested newt was found during a reptile survey, confirming presence on site, and suggesting that the site is likely to support terrestrial habitat. The EclA states that District Level Licensing will be used to mitigate for impacts on great crested newts. The report also highlights that mitigation involving fencing, trapping and translocation is required in respect of common lizard. Mitigation measures are also required for badger and nesting birds. Provided mitigation measures are applied in strict accordance with the EclA, the report states that there remains no risk of legally

protected species being harmed as a result of the proposed development. A repeat ecological walkover survey, including for badger is recommended prior to development to account for changes in wildlife use of the site in the interim.

- 16.43 It is also recommended that a Construction Environmental management Plan, Landscape and Ecological Management Plan and lighting strategy for biodiversity are secured by condition. The development will include enhancement measures, including hedgerow management, tree planting, SuDS basin and habitat boxes, in compliance with paragraph 174 of the Framework and Policy DP21.
- 16.44 The application on Site B is supported by a Low Impact Ecological Impact Assessment which identified the site to be of limited ecological value containing a managed amenity lawn and boundary buildings, hedgerows and trees and confirmed that no evidence of, or potential for, legally protected species was found on the site. The report however states that mitigation measures are required to ensure that nesting birds on site are given appropriate protection. It is suggested that trees and hedgerows on site boundaries shall be protected in accordance with best practice and arboricultural advice will be sought for any below ground works within root protection areas.
- 16.45 The report further notes that the development presents an opportunity to implement enhancement measures such as hedgerow management/enhancement, new planting, bat roost boxes and bird nesting features, which will increase the wildlife value of the site post development. These measures would provide a measurable biodiversity net gain, in line with the requirements of paragraph 174 of the Framework. A canopy cover assessment has been provided for Site A and this appears accurate. It is anticipated that through planting on the Public Open Space and provision of gardens, the uplift of 10% is achievable in conformity with the provisions of policies ENV1/CC1 of the Section 2 CBLP.
- 16.46 In addition to the above, and in line with the requirements of Section 1 Policy SP2, a RAMS wildlife mitigation payment has been secured via a signed Unilateral Undertaking and/or will be secured via the S106 agreement and this, in combination with the above measures, is considered appropriate to mitigate the impact of the proposed development.

Other Matters

- 16.47 The Archaeological Advisor confirmed that Site A lies in an area that has been thoroughly archaeologically evaluated in the past, with negative results. There are therefore no archaeological requirements for this proposal. For development on Site B, it was however noted that the development would involve relatively substantial ground disturbance, and is on the outskirts of Abberton village, which has medieval origins, being mentioned in the Domesday Book. Dispersed features containing medieval pottery were discovered during archaeological trial trenching immediately on the other side of Peldon Road in 2020. In order to achieve preservation by record of any important heritage assets, any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 16.48 The proposed housing mix on Site B consists of 3no. 3-bedroom houses and 2no. 4-bedroom houses with the mix on Site A being yet unknown. The indicative Block Plan that was submitted as part of the proposal for Site B indicates that the proposed layout and house types are inappropriate for this site. In this edge of village location, it should be considered to provide smaller homes that act as a transition from the village into the countryside rather than the provision of a large number of bigger homes. As such, it is considered that a more proportionate mix of housing based on local and Borough wide evidence shall be provided on both sites and this will need to be secured via condition.
- 16.49 The Contaminated Land Officer confirmed that the submitted Phase 1 Geoenvironmental Desk study and preliminary risk assessment for both applications are acceptable and that there is no objection to planning permission being granted on this site from a contaminated land perspective subject to a precautionary condition, given that the proposed residential use would be vulnerable to the presence of any unexpected contamination sources encountered during development.
- 16.50 The application on Site B is supported by a signed Unilateral Undertaking, securing the relevant financial contributions towards community facilities (replacement of doors and window at the village hall), sports and recreation projects (no project was put forward, the UU specifies this as a contribution towards the provision and/or improvement and/or maintenance of open space sport and recreational facilities in the vicinity of the Application Site and the Borough Projects) and also a RAMS payment. The development is therefore acceptable in this regard.

17.0 Conclusion

- 17.1 To summarise, the proposals to provide up to 50 residential dwellings on Site A and five residential dwellings on Site B is acceptable in principle and the proposed access arrangements have been found to be acceptable on highway safety grounds. Adequate provision of a drop off and pick up point for Langenhoe Primary School has been made and the proposed developments would secure improvements to the local footway network.

- 17.2 The final details of the scheme will have to be the subject of a submission of detail within the appropriate reserved matters and these will have to demonstrate that the design, layout, appearance and landscaping element of the proposed development are acceptable.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee for application reference 213530 is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions:

1. ZAC – Time Limit for Outline Permissions Part 1 of 3

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

2. ZAD - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. ZAE - Time Limit for Outline Permissions Part 3 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. ZAM - *Development to Accord With Approved Plans*

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

1140.L.001 (B) Site Location Plan

1140.L.005 Development Plan

1919/10 RevB Peldon Road/Site Access Visibility Assessment

1919/13 RevB Proposed Pedestrian Footway and Informal Crossing

Arboricultural Impact Assessment and Preliminary Method Statements (Reference No. TPSarb0971119, dated 2nd December 2021)

Ecological Impact Assessment (EclA) (Version 2: December 2021)

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

5. ZAN – Site Levels Plan

No works shall take place until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

6. Non-Standard Condition – Landscape

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Updated Landscape and Visual Appraisal, to include Type 2 photomontaged visualisations with year 1 & 15 mitigation from viewpoints 6 & 16.
- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

7. ZFE – Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

8. ZPA – Landscape and Ecological Management Plan

Prior to commencement of any works, a landscape and ecological management plan (LEMP) shall have been submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

Description and evaluation of features to be managed.

Ecological trends and constraints on site that might influence management.

Aims and objectives of management.

Appropriate management options for achieving aims and objectives.

Prescriptions for management actions.

Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

Details of the body or organisation responsible for implementation of the plan.

Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

Reason: In the interest of biodiversity.

9. ZPA – Construction Method Statement

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

10. ZPA – Construction Environmental Management Plan

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

- Development contacts, roles and responsibilities.
- Public communication strategy, including a complaints procedure.
- Dust suppression, mitigation and avoidance measures.
- Noise reduction measures, including use of acoustic screens and enclosures, the type of equipment to be used and their hours of operation.
- Use of fences and barriers to protect adjacent land, properties, footpaths and highways.
- Details of parking and traffic management measures.
- Avoidance of light spill and glare from any floodlighting and security lighting installed.
- Pest control.

Reason: To ensure that all demolition and construction work in relation to the application does not cause materially harmful effects on nearby land, properties and residents.

11. Non Standard Condition – Detailed surface water drainage scheme

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed drainage scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include details of, but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to 6.2 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change storm event subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

- An updated drainage strategy incorporating all of the above bullet points.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

12. Non Standard Condition – scheme to minimise offsite flooding

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

13. Non Standard Condition - SuDS Maintenance Plan

Prior to the first occupation of the development hereby permitted, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

14. Non-Standard Condition - SuDS Yearly Logs

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

15. Non-Standard Condition – Radius kerbs

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

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety.

16. Non-Standard Condition – Visibility Splays

Prior to the proposed access being brought into use, vehicular visibility splays of 120m by 2.4m by 120m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

17. Non-Standard Condition – Close redundant access

Any part of an access (constructed or field) rendered redundant or unnecessary by this development shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new accesses are brought into use.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

18. Non-Standard Condition – Stage 1 Road Safety Audit

Prior to the submission of Reserved Matters, the applicant shall submit a Stage 1 Road Safety Audit (RSA) for the proposed new junctions together with the Designers Response.

Reason: To ensure that the proposed development makes no detrimental impact on the highway network or users of the highway in the interests of highway safety.

19. Non-Standard Condition Details of estate roads and footways

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

20. Non-Standard Condition Carriageways

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

21. Non-Standard Condition – Footways

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

22. Non-Standard Condition Vehicular access

Prior to the first occupation of each dwelling on the proposed development, the individual proposed vehicular access for that dwelling shall be constructed at right angles to the carriageway and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the carriageway and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

23. Non-Standard Condition – Car Parking

The development shall not be occupied until such time as car parking has been provided in accord with current Parking Standards together with a workable, convenient and efficient turning area for each dwelling. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

24. Non-Standard Condition - Garage set back

Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the carriageway/highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety.

25. Non-Standard Condition - Cycle storage

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants and visitors to that development shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

26. Non-Standard Condition – Reporting of unexpected contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of agricultural land where there is the possibility of contamination and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

27. Non Standard Condition – Provision of footway and informal crossing

Prior to the first occupation of the development hereby permitted, the Pedestrian Footway and Informal Crossing, as shown on drawing no. 1919/13 RevB, shall have been provided and completed.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

28. Non Standard Condition – Upgrades to Public Footpath

Prior to the first occupation of the development hereby permitted, surfacing improvements shall have been made to PROW 122_7 (Footpath 7 Abberton), the details of which shall have previously been submitted to, and approved in writing by, the Local Planning Authority and shall include, but not be limited to, the cutting back/removal of vegetation to improve width, appropriate construction/surfacing to provide an all weather surface).

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

29. Non Standard Condition – Provision of drop off/pick up point

Prior to the occupation of the development hereby permitted, provision shall be made for a small rural car park of at least 8 no. spaces on the site, the details of which shall have previously been submitted to, and agreed in writing with, the Local Planning Authority. In the event that provision of additional parking capacity at Langerhoe Primary School is possible, then in lieu of the on-site provision, a financial contribution to facilitate additional parking within the school grounds can be secured. This shall have previously been agreed, in writing, with the Local Planning Authority together with a timeframe for implementation.

Reason: To ensure that there are adequate pick up and drop off facilities for the school and to reduce traffic congestion in the surrounding area at the beginning and end of school days.

30. Non Standard Condition – Improvements to bus stops

Prior to the first occupation of the development hereby permitted, the developer shall provide improvements to both the northbound and southbound bus stops (No 67 and 69 services) known as “Butterfly Lodge” on Mersea Road by the provision of level entry kerbing, new posts and flags, timetables, hard surfaced pedestrian waiting area (NB), pedestrian crossing points (pram crossing), any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the developer’s expense, the specifications of which shall have previously been submitted to, and agreed in writing by, the Local Planning Authority.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

31. Non Standard Condition – Relocation of Speed Sign

Prior to the first occupation of the development hereby permitted, the developer shall be responsible for the relocation of the existing two speed limit signs along Peldon Road further south, in accordance with a scheme that shall have previously been submitted to, and approved in writing by, the Local Planning Authority. The signs shall then remain in the approved location in perpetuity and remain clear of obstruction.

Reason: In the interests of highway safety.

32. ZCE - Refuse and Recycling Facilities

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

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

33. ZGQ - *Light Pollution for Major Development*

Prior to the first OCCUPATION of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone E22 RURAL, SMALL VILLAGE OR DARK URBAN AREAS shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and

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maintained as agreed therein.

Reason: In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

34. Non-Standard Condition – EV Charging

Prior to the first occupation of the development, provision shall be made for EV charging point infrastructure at the rate of 1 charging point per 10 spaces.

Reason: To encourage the use of ultra-low emission vehicles.

35. Non Standard Condition - Ecology

The development hereby permitted shall be carried out in accordance the recommendations set out within the Ecological Impact Assessment (EclA) prepared by Hybrid Ecology Ltd (Version 2, dated December 2021).

Reason: To ensure that adequate measures are taken to protect wildlife species.

36. Non Standard Condition – Housing Mix

The reserved matters application shall include a proportionate mix of housing based on local and Borough wide evidence.

Reason: To meet the needs of a range of different groups within the population and to create inclusive and sustainable communities.

37. Non Standard Condition - Provision of Open Space

The reserved matters application shall include at least 10% of the site area to be laid out for use as amenity open space, and shall include a landscape scheme, implementation timetables, monitoring programme and management plan to be submitted and approved by the Local Planning Authority. The open space shall be provided in accordance with the approved details.

Reason: In order to ensure that the development provides an adequate provision of open space(s) that are usable for public enjoyment after the development is completed.

38. 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.

39. ZGB - *Restricted Hours of Delivery*

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within

the submitted application, and for the avoidance of doubt as to the scope of this permission.

40. Z1A – Street Name Signs

Prior to the first occupation of any of the dwellings hereby approved street name signs shall have been installed at the junction of the new highway with the existing road network.

Reason: To ensure that visitors to the development can orientate themselves in the interests of highway safety.

41. Non-Standard Condition - Residential Travel Packs

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

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

42. Non Standard Condition - Fibre Broadband

The construction of the dwellings shall include the installation of empty ducting to allow the provision of fibre broadband.

Reason: In the interests of delivering sustainable economic growth.

Informatives

The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

4. ZTG - Informative on Section 106 Agreements

PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

5. Non-Standard Informative – Landscape

‘Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council’s Landscape Guidance Note LIS/B (this available on this CBC landscape webpage: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169> under Landscape Consultancy by clicking the ‘read our guidance’ link)’.

6. ZTV - Informative on New Roads Serving Over 5 Dwellings

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

7. ZTM - Informative on Works affecting Highway Land

All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org

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

8. Non-Standard Informative - Highway Design Informative

1. There should be no vehicular access over any radius kerbs.
2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
3. Any trees provided within the adoptable highway will attract a commuted sum
4. Any internal road junctions should be provided with a 25m x 2.4m x 25m visibility splay
5. Size 3 service vehicle turning and manoeuvring facilities should be provided within the site
6. Refuse freighters are unlikely to manoeuvre over Private Drives.
7. Communal refuse and recycling storage areas should be provided within 15m of any carriageway where a collection vehicle can manoeuvre.

9. Non-Standard Informative - Highways

The Highway Authority notes the accessibility improvements mentioned within the application description.

10. Non-Standard Informative - Highway works

Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works

11. Non-Standard Informative - Creation of new street

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

12. Non-Standard Informative - Anglian Water - Connection to public sewer

Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

13. Non-Standard Informative - Anglian Water - Protection of existing assets

A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

14. Non-Standard Informative - Anglian Water - Building near to a public sewer

No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

15. Non-Standard Informative - Anglian Water – Sewer adoption

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact Anglian Water's Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

18.2 The Officer recommendation to the Committee for application reference 213531 is for: Approval subject to conditions.

1. ZAC – Time Limit for Outline Permissions Part 1 of 3

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

2. ZAD - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. ZAE - Time Limit for Outline Permissions Part 3 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 21/3004/01, 21/3004/02, HWA10652_APIII (Arboricultural Impact Assessment) and Low Impact EcIA (Version 1, dated April 2021).

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

5. ZAN – Site Levels Plan

No works shall take place until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

6. Non-Standard Condition – Archaeology

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

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

- a. The programme and methodology of site investigation and recording.
- b. Provision to be made for analysis of the site investigation and recording.
- c. Provision to be made for reporting, publication and dissemination of the analysis

and records of the site investigation.

d. Provision to be made for archive deposition of the analysis and records of the site investigation.

e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

7. Non-Standard Condition – Landscape

No works shall take place above ground floor slab level until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Updated Landscape and Visual Appraisal, to include Type 2 photomontaged visualisations, accurately illustrating the height and width of the development, with year 1 & 15 mitigation from viewpoints 6 and additional viewpoints from Mersea Road and the intersection of Public Rights of Way 147_15 & 147_16.
- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated), including a minimum 2m deep planting bed to the site frontage with single species native hedge and hedgerow trees.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

8. ZFE – Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

9. ZPA – Construction Method Statement

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

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

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

10. Non-Standard Condition – Pedestrian Link

Prior to the first occupation of the development hereby permitted, details of a new pedestrian access route from Peldon Road to the grounds of Langenhoe Community Primary School shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with Langenhoe Community Primary School and the Highway Authority.

Reason: There is insufficient information to ensure that the pedestrian access is appropriate and that it will be maintained to a satisfactory condition.

11. Non-Standard Condition – Foul Drainage

Details of the proposed method of foul drainage for the development shall be submitted to and agreed in writing by the local planning authority. Such agreed works shall be fully implemented prior to the first occupation of any dwelling hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose.

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

12. Non-Standard Condition – Vehicular Access

Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

13. Non-Standard Condition – Visibility Splays

Prior to the proposed access being brought into use, minimum vehicular visibility splays of 120m Northerly by 2.4m by 160m Southerly as measured along, from and

along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

14. Non-Standard Condition – Drainage

Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition.

Reason: To prevent or reduce the risk of flooding of the adjoining highway, in the interests of highway safety.

15. Non-Standard Condition – Parking Provision

The development shall not be occupied until such time as car parking has been provided in accord with current Parking Standards together with a workable, convenient and efficient turning area for each dwelling. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

16. Non-Standard Condition – Cycle storage

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

17. Non-Standard Condition – EV Charging

Prior to the first occupation of the development, provision shall be made for EV charging point infrastructure at the rate of 1 charging point per 10 spaces.

Reason: To encourage the use of ultra-low emission vehicles.

18. ZIF – No Unbound Surface Material

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

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

19. Non-Standard Condition – Boundary Hedge

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

Reason: To ensure that the future outward growth of the hedge does not encroach

upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

20. Non-Standard Condition – Garage 6m set back

Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety.

21. Non Standard Condition – Housing Mix

Notwithstanding the details hereby approved, the reserved matters application shall include a proportionate mix of housing based on local and Borough wide evidence.

Reason: To meet the needs of a range of different groups within the population and to create inclusive and sustainable communities.

22. 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.

23. ZGB – Restricted Hours of Deliveries

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

Informatives

The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3. Non-Standard Informative - Heritage

PLEASE NOTE the indicative layout and housetypes submitted as part of this application are not considered to achieve an appropriate standard of design and would cause a harmful impact on the setting of nearby (non) designated heritage assets.

The proposed development needs to be reduced in scale, the architectural language should be more utilitarian and rural, and the hedge needs to be preserved as far as possible, with any breaks through it minimised and located away from the listed building.

4. Non-Standard Informative – Archaeology

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

<http://www.colchester.gov.uk>

5. Non-Standard Informative – Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B (this available on this CBC landscape webpage: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169> under Landscape Consultancy by clicking the 'read our guidance' link').

6. Non-Standard Informative – Unilateral Undertaking

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

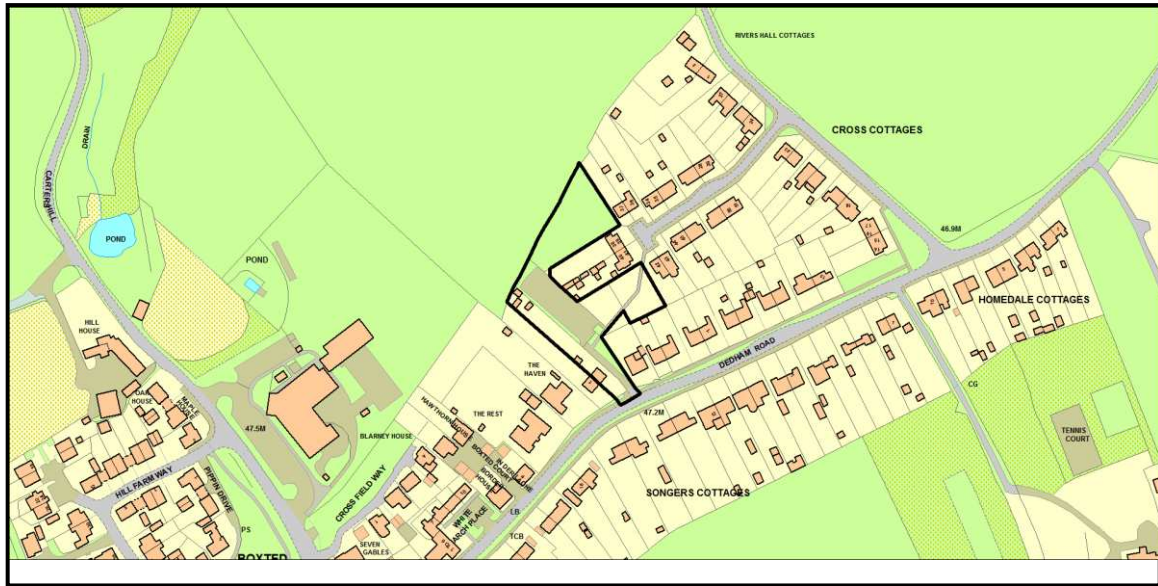
7. Non-Standard Informative – Works affecting highway

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

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

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

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



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Item No: 7.2

Application: 221902

Applicant: Colchester Borough Council

Agent: Mr Andrew Dowell, Ingleton Wood LLP

Proposal: Application for removal or variation of a condition 2 following grant of planning permission. (220148)

Location: Land West of, Cross Cottages, Boxted, Colchester

Ward: Rural North

Officer: Nadine Calder

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issues for consideration are the design of the proposed development and its impact on neighbouring amenities and the character and appearance of the surrounding area.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site lies within the defined settlement limits for Boxted Cross but has no other allocation. It is irregular in shape, with no road frontage. The site is bounded by residential development to the east, west and south, with open agricultural land to the north. The site currently comprises hardstanding which is informally used to park cars. Access to the site is gained from Dedham Road to the south.
- 3.2 A small part of the site relates to an area that is leased to and used as additional garden space by a local resident. A footpath runs through the site providing a link from Dedham Road to Cross Cottages. A gate at the entrance to the overflow parking area ensures no unauthorised access is gained into the site.

4.0 Description of the Proposal

- 4.1 This application seeks to vary condition 2 of planning permission 220148, which granted consent for the redevelopment of the site to create 7 no. new residential units. Condition 2 requires the development to be carried out in accordance with the approved drawings.
- 4.2 The approved development includes a three bedroom 5-person Part M4 Cat 3 wheelchair accessible bungalow on Plot 1 however, the intention is to now provide a four-bedroom 7-person Part M4 Cat 3 wheelchair accessible bungalow on this plot. This results in a small increase in the footprint of this dwelling, some changes to its design and a minor change in its location.
- 4.3 All other details of the approved scheme would remain unaltered.

5.0 Land Use Allocation

- 5.1 The site lies within the defined settlement limits for Boxted Cross but has no other allocation.

6.0 Relevant Planning History

- 6.1 In June 2022, this Committee resolved to grant planning permission for the redevelopment of the site to provide 7no. new residential units, which are to be 100% affordable (reference 220148).

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 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

The Section 2 Local Plan was adopted on 4th July 2022. Policies relevant to this application include:

- SS2 Boxted
- DM12 Housing Standards
- DM15 Design and Amenity
- DM19 Private Amenity Space
- DM22 Parking
- DM25 Renewable Energy, Water Waste and Recycling

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

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

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

Managing Archaeology in Development.

Boxted Parish Plan incorporating Village Design Statement

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Archaeological raised no objection to the proposal.
- 8.3 The Contaminated Land Officer has no objection to the proposal.
- 8.4 The Landscape Advisor raised no objection to the proposal subject to the landscape conditions attached to planning permission reference 220148 being retained.
- 8.5 The Highway Authority raised no objection to the proposed development.

9.0 Parish Council Response

- 9.1 No response has been received from the Parish Council at the time of writing this report. Any comments received prior to the meeting will be reported to Members via the Amendment Sheet.

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.
- 10.2 At the time of writing this report, one letter of objection was received. This stated that they do not understand why they are asked to comment on the proposal when the family that is going into this property (and other residents) knew this back in July. This comment does not raise a material planning consideration but points that are outside the remits of this Committee to be discussed.
- 10.3 Any representations received prior to the meeting will be reported to Members via the Amendment Sheet.

11.0 Parking Provision

- 11.1 The dwelling would retain two dedicated off street parking spaces, as per the policy requirements.

12.0 Accessibility

- 12.1 The proposal includes a wheelchair accessible unit and has been designed to be inclusive, accessible and adaptable.

13.0 Open Space Provisions

- 13.1 The proposed dwelling would retain adequate amenity space, in accordance with adopted policy.

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 This application seeks to vary condition 2 of planning permission 220148, which granted permission for the redevelopment of the site with 7no. affordable dwellings. Condition 2 requires the development to be carried out in accordance with the approved drawings.
- 16.2 The supporting information states that Part M4 wheelchair accessible bungalows are in very short supply and that it is the Council's intention to deliver accessible homes when and where possible to meet the needs of the Borough and to ensure there is a pipeline of newbuild social rent homes to meet the needs of a range of households on the housing register, including those households with accessibility needs.
- 16.3 The 3-bedroom 5-person Part M4 Cat 3 wheelchair accessible bungalow on Plot 1 of the wider site is proposed to be increased in size to a 4-bedroom 7-person Part M4 Cat 3 wheelchair accessible bungalow which provides a unique opportunity to make provisions for a local household with a specific need.
- 16.4 The proposed changes would result in a slight increase in the footprint of the approved dwelling (some 41sqm) and would see the building moved back from the footpath (in a north westerly direction). This would result in minor amendments to the layout of the footpath and the landscaping of the area between the dwelling and parking spaces. These changes are insignificant and would not have any visual or material impact on the character and appearance of the surrounding area. The main consideration in the determination of this application are therefore the design of the resulting dwelling and its impact on the surrounding area and neighbouring amenities.

Design and Appearance

- 16.5 The design of the proposed dwelling would remain similar to that of the approved one albeit being of slightly larger scale which would result in a slight increase in the height of the proposed pyramid style roof. The dwelling would be built using the same materials as the approved bungalow, with the exception of the rockpanel cladding which has been omitted from this scheme. Overall, the design is not considered to be too dissimilar to that which was previously approved and would complement the approved development on the wider site. An acceptable amount of private amenity space would be provided for Plot 1 and the proposed plans include the installation of solar panels, which would represent an economic/environmental benefit. The design and appearance of the proposed development are therefore held to be acceptable.

Impact on Neighbours

- 16.6 Despite the proposed changes resulting in a slight increase in the roof height, the dwelling on Plot 1 would remain a bungalow with no windows proposed in the roof of the dwelling. The building would only marginally move closer to neighbouring occupiers to the north, east (due to the dwelling's location within the plot being altered) and south (due to the increased footprint of the dwelling) and would retain an acceptable distance to these neighbouring dwellings. This, coupled with the absence of any windows above ground floor, would ensure that the proposed changes would not impact the privacy of neighbouring occupiers, nor cause any loss of light or overbearing impacts. The proposed changes are therefore considered to be acceptable having regard to the amenities of neighbouring occupiers.

Parking Provision

- 16.7 The proposed bungalow, which would see the building on Plot 1 increase from a 3- to a 4-bedroom dwelling, would not impact on the parking provision for the scheme, as it would require a minimum of two off street parking spaces and these were secured as part of the original application.

Other Matters

- 16.8 All other matters of the approved development would remain unchanged and these were previously concluded to be acceptable.

17.0 Conclusion

- 17.1 To summarise, the proposed changes to the approved scheme would not impact on the acceptability of the proposal having regard to the previously approved development. The design of the proposed dwelling on Plot 1 is visually acceptable and would not cause any significant or material impact on the character and appearance of the surrounding area or the amenities of neighbouring occupiers. As such, the proposed changes are considered to be acceptable and condition 2 of planning permission 220148 can be varied accordingly.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

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 Drawing Numbers

CROSSC-IWD-XX-XX-DR-A-1000 Rev P02 Existing Location Plan

CROSSC-IWD-XX-XX-DR-A-1000 Rev P14 Proposed Site Plan

CROSSC-IWD-XX-XX-DR-A-1002 Rev P01 Proposed Site Plan – Visibility Splay

CROSSC-IWD-01-00-DR-A-2050 Rev P2 Proposed Floor Plans & Elevations – Plot 1 (Block 01)

CROSSC-IWD-02-XX-DR-A-2050 Proposed Floor Plans & Elevations – Plots 2-3 (Block 2)

CROSSC-IWD-03-XX-DR-A-2050 Rev P1 Proposed Floor Plans – Plots 4-7 (Block 03)

CROSSC-IWD-03-XX-DR-A-2051 Rev P1 Proposed Elevations – Plots 4-7 (Block 03)

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

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

4. ZPA - Construction Method Statement

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

wheel and under body washing facilities;

the diversion of closure of FP 08 (Boxted) during the construction and fitting out stages;

measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from construction works.

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

5. Non-Standard Condition - Diversion of right of way

No development shall be permitted to commence on site until such time as an Order securing the diversion of the existing definitive right of way to a route to be agreed with the Local Planning Authority and in association with the Highway Authority has been confirmed and the new route has been constructed to the specifications of the Local Planning Authority.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way.

(Note: FP No 8 (Boxted) will be required to be retained at the recorded width on the Definitive Map throughout, no reduction or impediment to highway users will be accepted).

6. Non-Standard Condition - Estate Roads

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

7. Non-Standard Condition - Bespoke Landscape Condition

No works shall take place until a scheme of hard and soft landscape works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also accurately identify positions and spread of all existing trees, shrubs and hedgerows on the site; proposed planting, including a native hedge and hedgerow trees along the western boundary of the site; details of any hard surface finishes and external works, including a 1.8m high hit & miss privacy fence set 500mm behind the western boundary hedge to rear gardens backing or siding onto the western boundary. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

8. ZFE - Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

9. Non-Standard Condition - Vehicular Access

Prior to the first occupation of the proposed dwellings, the proposed vehicular access as shown on the approved drawings shall be reconstructed to a width of 6.5m for the first 10m within the site then retained at 5.5m throughout after and shall be provided with an appropriately reconstructed dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

10. Non-Standard Information - Visibility Splays

Prior to the proposed access being brought into use, vehicular visibility splays of 90m by 2.4m by 90m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

11. Non-Standard Condition - Turning facilities

Prior to commencement of the proposed development, vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

12. Non-Standard Condition - Internal Road and Footway layout

Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accordance with Drawing Number CROSSC_IWD-XX-XX-DR-A-100 Rev P10.

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

13. Non-Standard Condition - Turning Areas

The development shall not be occupied until such time as the turning areas and off street parking including visitor and ad hoc unallocated parking spaces has been provided in accord with the details shown in Drawing Numbered CROSSC_IWD-XX-XX-DR-A-100 Rev P10. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

14. Non-Standard Condition - Parking Space/Hardstanding Sizes (Open)

The parking spaces / vehicular hardstandings shall each be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety.

15. Non-Standard Condition - Cycle Storage

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants and visitors to that development, shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

16. Non-Standard Condition - Residential Travel Information Packs

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

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

17. Non-Standard Condition - Provision of new north bound bus stop

Prior to the first occupation of any of the dwellings, the applicant/developer shall provide a new north bound bus stop adjacent to No 14 Cooks Hill junction with Dedham Road between the existing kerb line and the adjacent footway, the precise location to be agreed with the Highway Authority, including passenger hard standing/waiting area level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the verge/footway and carriageway channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development.

18. ZCE - Refuse and Recycling Facilities

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

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

19. Z1A – Street Name Signs

Prior to the first occupation of any of the dwellings hereby approved street name signs shall have been installed at the junction of the new highway with the existing road network.

Reason: To ensure that visitors to the development can orientate themselves in the interests of highway safety.

20.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: none

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:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3. Non-Standard Informative - Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B (this available on this CBC landscape webpage: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169> under Landscape Consultancy by clicking the 'read our guidance' link)'.

4. Non-Standard Informative - Works affecting Highway

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

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

4. Non-Standard Informative - Highway Liability

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

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

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

20.0 Positivity Statement

WA2 - Application Approved Following Revisions

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



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Item No: 7.3

Application: 221730

Applicant: Perry

Agent: Mr Jack Wilkinson

Proposal: Change of Use of HMO comprising of 6 no. bedrooms (C4) to HMO comprising of 7 no. bedrooms (Sui Generis).

Location: 48 Wimpole Road, Colchester, CO1 2DL

Ward: New Town & Christ Church

Officer: John Miles

Recommendation: Approval of planning permission subject to conditions and a financial contribution to the Essex Coast RAMS being secured.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee due to a call in by Cllr Cox. The following reasons have been given for the call in:
A similar proposal relating to the same property raised significant local and formal concerns recently on the grounds that the proposed bedrooms were very small and the negative impact on local parking was likely to be significant (as noted by local highways leads). The fact that 7 bedrooms are now requested instead of 8 does not allay these concerns.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development, impact on the character and appearance of the area (including impact on the Conservation Area specifically), future occupier amenity, impacts on neighbouring amenity, highways matters and off-site ecology.
- 2.2 This report describes the site, its setting and planning history, the proposal itself and any consultation responses received. The planning merits of the case are then assessed, leading to the conclusion that the proposal is acceptable in planning terms and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The application building is an attractive semi-detached villa in the New Town Conservation Area. The site is accessed off Wimpole Road, a reasonably busy road, close to the centre of Colchester. The wider site comprises a small raised front garden, sloped hardstanding to the side of the dwelling with vehicular access, and a relatively generous rear garden. The area is predominantly residential, with residential dwelling's to either side of the site. The front of the building looks out towards Old Heath Recreational Ground, which is on the opposite side of Wimpole Road. The existing lawful use of the building is as a 6 bedroom House in Multiple Occupation [HMO].

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for a change of use from a 6 bedroom HMO (Use Class C4) to a 7 bedroom HMO (Use Class Sui Generis).

5.0 Relevant Planning History

- 5.1 At the beginning of this year application 220107 was submitted, seeking a change of use from a C3 Dwellinghouse to an 8 bedroom HMO. This application was withdrawn on 17th February 2022.
- 5.2 This was then followed by application 220700 which sought a Lawful Development Certificate for a change of use from C3 Dwellinghouse to C4 House in Multiple Occupation (6 Bedrooms). The proposed change of use was lawful under the permissions granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Article 3,

Part 3, Class L (Change of use – C3 to C4). Accordingly, a Lawful Development Certificate was granted on 5th September 2022.

6.0 Principal Policies

6.1 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.

6.2 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 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

6.3 Colchester Borough Local Plan 2017-2033

The Section 2 Local Plan was adopted on 4th July 2022. Policies relevant to this application include:

- SG1 Colchester's Spatial Strategy
- SG7 Infrastructure Delivery and Impact Mitigation
- ENV1 Environment
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM10 Housing Diversity
- DM12 Housing Standards
- DM13 Domestic Development
- DM15 Design and Amenity
- DM16 Historic Environment
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behavior
- DM21 Sustainable Access to development
- DM22 Parking

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

The Essex Design Guide

EPOA Vehicle Parking Standards

7.0 Consultations

- 7.1 The stakeholders who have been consulted and who have given consultation responses are as set out below.

Cllr Pam Cox

Objects:

I object to this proposal. A similar proposal relating to the same property raised significant local and formal concerns recently on the grounds that the proposed bedrooms were very small and the negative impact on local parking was likely to be significant (as noted by local highways leads). The fact that 7 bedrooms are now requested instead of 8 does not allay these concerns.

Environmental Protection

No objection. Condition to limit hours of construction work recommended.

Highway Authority

No objection. Recommended informative regarding any work within or affecting the highway.

Historic Buildings and Areas Officer

No objection:

The external physical alterations to the building are minimal and not inappropriate for the character of the building. No direct harm to the character of the conservation area is likely to arise from the proposal. As such no objection is raised on conservation grounds.

Private Sector Housing

No objection. Advisory information provided.

8.0 Parish Council Response

- 8.1 The site is non-parished.

9.0 Representations from Notified Parties

- 9.1 The application resulted in a number of notifications to interested third parties including neighbouring properties and a site notice was also displayed. No consultation responses have been received from other notified third parties at the time of writing.

10.0 Parking Provision

- 10.1 The existing hardstanding to the side of the dwelling is understood to be used for vehicle parking and measures approximately 11.6 metres in depth and between 2.30 metres and 2.53 metres in width.

11.0 Accessibility

11.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. Based on the submitted information, the scheme is not considered to cause discrimination in terms of The Equality Act.

12.0 Air Quality

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

13.0 Planning Obligations

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

14.0 Environmental and Carbon Implications

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

15.0 Report

The main issues in this case are:

- The Principle of the Development
- Impact on the Surrounding Area
- Amenity Provisions
- Impacts on Neighbouring Properties
- Highway Safety and Parking Provisions (including Cycling)
- Off-site ecology impacts

Principle

15.1 The current Development Plan for Colchester comprises the North Essex Authorities’ Shared Strategic Section 1 Colchester Borough Local Plan (adopted 2021) and the Colchester Borough Section 2 Local Plan 2017-2033 (adopted 2022). The Development Plan is up-to-date and compliant with the Framework. The Council is also able to demonstrate an up-to-date 5 year housing land supply. As such, the presumption (at paragraph 11d) is not

engaged, and the development should be assessed against the Development Plan.

- 15.2 Policy SP3 of the Section 1 Plan sets out the Spatial Strategy for Colchester which retains the urban area of Colchester as a focus for growth. Policy SG1 of the Section 2 Plan sets out the Council's strategy for delivering housing ensuring that developments are directed towards accessible locations and also to ensure the character and vitality of villages is sustained. Policy SG2 sets out how this will be delivered with the majority of new housing development located in Colchester with a smaller proportion within the villages.
- 15.3 The application site is within the settlement boundary of Colchester, in a highly sustainable location, close to both public transport links, shops and other facilities. The principle of the use of the building as an HMO has also already been established, with the lawfulness of a (smaller) HMO use confirmed through the approved Lawful Development Certificate.
- 15.4 In the context outlined above there are considered to be no in principle objections to the use proposed.

Impact on the Surrounding Area (Including Heritage Assets).

- 15.5 Section 1 Policy SP7 states that all new development should respond positively to local character, provide buildings that exhibit individual architectural quality, and enhance the quality of existing places, while Section 2 Policy DM15 sets similar requirements for high quality design. The National Planning Policy Framework (the Framework) (2021) and the Planning Practice Guidance recognise the importance of good design, with specifically paragraph 130 of the NPPF requiring planning decisions to ensure development is sympathetic to local character. Paragraph 126 states that the creation of high quality and beautiful buildings and places are both fundamental to what the planning and development process should achieve.
- 15.6 With the site located within the New Town Conservation Area, consideration must also be given to potential impacts to the character and appearance of the conservation area. Section 1 Policy DM16 reflects the statutory obligations as set out in S.72(1) of the Listed Building and Conservation Area Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Section 1 Policy SP7 and Section 2 policy DM16 require development to protect and enhance assets of historical value with any harm being justified and outweighed by the public benefits of the proposals. In a similar vein, the Framework gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. This is irrespective of the level of harm. The Framework also states that any harm should require clear and convincing justification.
- 15.7 The external alterations to facilitate the proposed change of use are minimal and not inappropriate for the character and appearance of the building. The bin store and cycle parking is positioned within the rear amenity space and is well

screened from wider public views by existing boundary treatments and other built and natural form.

- 15.8 Taken as a whole it is not considered any of the works required to facilitate a change of use from a 6 bedroom HMO to a 7 bedroom HMO would result in harm to the character and appearance of the conservation area, or the wider area more generally.

Amenity Provisions

- 15.9 Section 2 Policy DM12 states residential development will be supported where high standards of design, construction and layout are promoted, and sets general amenity standards for residential development, while Policy DM19 sets specific private amenity space standards.
- 15.10 All habitable rooms are served by at least one external opening and it is considered the internal layout and form of openings proposed will ensure adequate levels of natural light and ventilation to all habitable rooms.
- 15.11 The submitted plans detail a basement laundry/storage area and a communal kitchen/living/dining room. 6 of the 7 bedrooms are en-suite, while occupiers of the 7th room will benefit from an adjacent shower room.
- 15.12 The proposal has been assessed against the Essex HMO Amenity Standards and is considered to comply with the relevant standards regarding minimum room sizes. It is also noted that no objection has been received from Private Sector Housing.
- 15.13 A shared garden of around 250m² is provided to the rear of the building, in addition to the site being in close proximity to a number of local amenities, including Old Heath Recreation Ground.
- 15.14 Taking into account all the above factors, the proposed development is considered to provide acceptable levels of amenity for the intended future occupiers.

Neighbouring Amenity

- 15.15 Section 2 Policy DM15 states that all development must be designed to a high standard and protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Section 1 Policy SP7 echoes these sentiments. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity.
- 15.16 The proposal has been carefully considered with regard to retaining the privacy of neighbouring properties and it is not considered the proposed internal reconfiguration will result in a harmful loss of privacy to any neighbouring dwellings. The site is within a dense urban environment and it is not considered the proposed development will result in overlooking of a materially different nature or intensity than any currently observed.

- 15.17 In terms of the potential for noise and disturbance it is important to note that the building has an existing lawful use as a 6 bedroom HMO. Consideration must therefore be given to whether the proposed additional bedroom (and its associated occupation) will result in harm to neighbouring amenity by virtue of additional noise or disturbance.
- 15.18 In respect of issues of noise and disturbance it is noted that Environmental Protection have raised no objection to the proposal as it stands. It is also understood that given the number of bedrooms proposed an HMO Licence will be required from the Council, for which an application has been received. The HMO Licence will place restrictions on permitted occupancy levels and conditions in relation to the management of the HMO property. In accordance with Policy DM12 a management and maintenance plan has also been requested from the applicant to ensure the future maintenance of the building and external spaces.
- 15.19 Taking into account the above and the proportionally small increase in proposed resident numbers it is not considered that the proposal will give rise to any undue noise or disturbance that would be harmful to neighbouring amenity, or the amenity of the area more widely.

Highway Safety and Parking Provisions (including Cycling)

- 15.20 Section 2 Policy DM20 and DM21 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel, while promoting walking and cycling as an integral part of sustainable means of transport and managing the demand for car use. Section 2 Policy DM22 refers to the EPOA Parking Standards Document, but recognises a lower standard of parking may be acceptable or required where it can be clearly demonstrated that there is a high level of access to services (such as a town centre location) and in agreement with the Highway Authority. The NPPF provides guidance on transportation matters, including that applications should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the impact on highway capacity is severe.
- 15.21 Given EPOA parking standards do not outline specific parking standards for Sui Generis HMOs it is considered reasonable to assess the parking provisions proposed in light of the proposed use and the site's location, while giving due regard to adopted policy and the Highway Authority's consultation response.
- 15.22 In this instance the site is in a highly sustainable location, within walking distance of a number of services and situated close to several bus routes and Colchester Town Train Station. It is considered that the site is in a location where there is a reasonable prospect that future occupiers will not require the use of a private vehicle, but instead can rely on sustainable transport options such as walking, cycling and public transport.
- 15.23 Secure, convenient and covered cycle parking is provided and a condition can be imposed that the cycle parking provisions are retained in perpetuity.

15.24 It is appreciated that the existing parking provisions on site are not ideal in terms of their means of access and dimensions. However, it is important to note that the main consideration is whether the existing parking provisions on site, or the lack thereof, are such that an increase in the number of bedrooms within the HMO from 6 to 7 will have a materially harmful impact on highway safety or capacity.

15.25 In this case, taking into account the highly sustainable location, the cycle parking provisions outlined and with no objection received from the Highway Authority it is not considered there are grounds to refuse the application in respect of highways or parking matters.

15.26 Taken as a whole it is considered the proposed development is acceptable from a highway safety and parking provisions perspective, on balance.

Off-site impacts on Protected Areas

15.27 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site.

15.28 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the government's advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £137.71, which applies to residential development within the Zone of Influence (Zoi).

15.29 In this instance however, given the proposal represents an increase in the number of bedrooms within an HMO specifically, it is necessary to apply the standard conversion rate for HMO bedrooms to the standard RAMS tariff, in order to ensure a fair and proportionate contribution. Applying the relevant conversion rate, a contribution figure of £55.98 is calculated and delegated authority is sought to oversee the securing of such a contribution via an appropriate mechanism (unilateral undertaking).

15.30 In accordance with the Habitats Regulations a Habitats Regulation Assessment has been undertaken and concludes that subject to the proportionate financial contribution outlined being secured, the project will not have an Adverse Effect on the Integrity of the Habitat sites included within the Essex Coast RAMS.

Other Matters

- 15.31 Taking into account the minor increase in bedroom numbers proposed it is not considered it would be reasonable to request financial contributions towards parks and recreation or community facilities in this instance.
- 15.32 While a condition restricting the hours of work has been recommended by Environmental Protection, given the limited works that will be required and that a majority of the works will be internal it is considered such a condition would be excessive in the circumstances and would fail to meet the tests for imposing conditions set out under Paragraph 56 of the NPPF.
- 15.33 Finally, in terms of other planning considerations (e.g. flood risk, archaeology, ecology, damage to trees etc.) the proposed development does not raise any concerns.

16.0 Conclusion

- 16.1 Local plan policy SP1 states that, when considering development proposals, the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 16.2 In this case, the proposed development will provide additional residential accommodation in a sustainable location. For the reasons outlined in the main body of the report it is considered the proposed development will not result in material adverse impacts to neighbouring amenity, highways safety, off-site ecology or the character and appearance of the wider area. The scheme is also found to meet the statutory tests for the preservation or enhancement of Conservation Areas.
- 16.3 Taken as a whole, the proposed development is considered acceptable in terms of relevant local and national planning policy and represents sustainable development. The application is therefore recommended for approval, subject to conditions.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to a proportionate financial contribution to the Essex Coast RAMS being secured and the imposition of 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 Drawing Numbers

S-01 REV 01,
S-07 REV 01,
S-08 REV 01,
S-09 REV 01,
S-10 REV 01 and
S-11 REV 01.

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

3. Z00 – Materials of Similar Appearance

Any external materials to be used shall be of a similar appearance to those used in the construction of the existing building.

Reason: To ensure that materials are of an acceptable quality appropriate to the area and as there is insufficient information with the submitted application.

4. Z00 – Use Restriction

The development hereby approved shall be used solely as a 7 bedroom House in Multiple Occupation (Sui Generis), with a maximum of 7 residents. The development shall be used for no other purpose, including any other sui generis uses, under the Schedule to the Town and Country Planning (Use Classes) Order 2015 (or in any provision equivalent to that Class in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.

5. Z00 – Cycle Parking

Prior to the first occupation of the development hereby permitted, cycle parking for a minimum of 6 bicycles shall have been laid out within the site in accordance with the approved plan 'S-08 REV 01'. The approved cycle parking shall thereafter be maintained and made available for this use at all times.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

18.1 Informatives

18.2 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

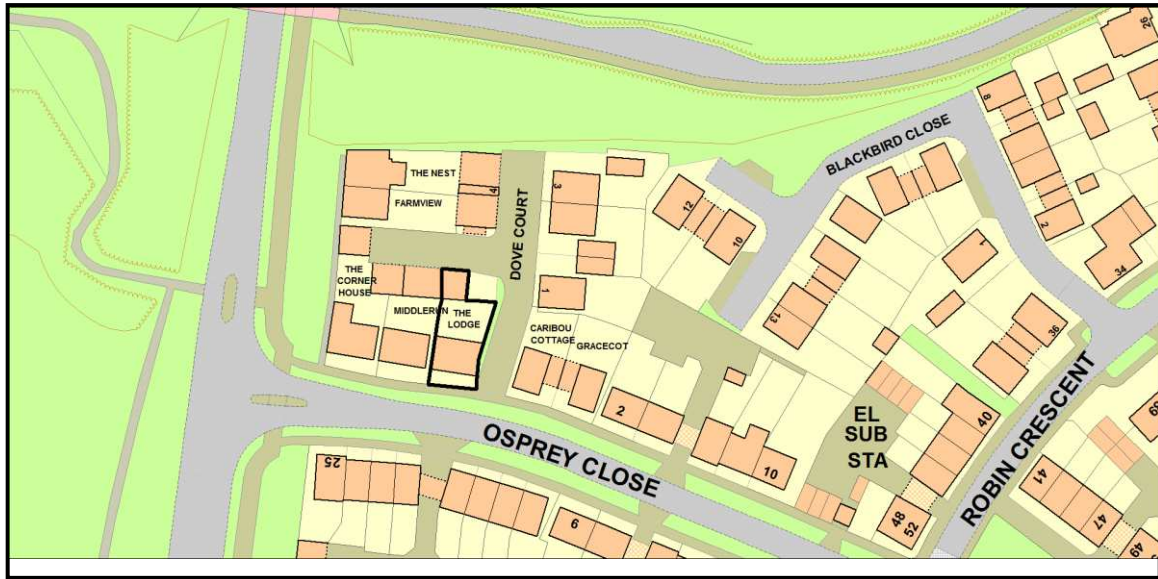
guidance they should contact Environmental Control prior to the commencement of the works.

2. Z00 – Highway Authority Informative

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

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

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



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Item No: 7.4

Application: 220600

Applicant: Ms Nyasha Mapuranga

Location: The Lodge, Osprey Close, Stanway, Colchester, CO3 8WA

Proposal: Change the use of the house from private residential to a 3 bed Children's Home. The use of the property will be changed to a C2 residential home for children aged 13 to 18. The Children's home will be providing accommodation for looked after children and will be supported by staff 24 hours. There will be two to three staff members during the day and two at night who stay to look after the children.

Stanway Ward

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Lesley Scott-Boutell because she believes “that this application will have traffic implications and has the potential to cause noise and disturbance in a residential area.”

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposal and issues such as impact upon highway safety (including parking provision) and upon neighbouring residential amenity.
- 2.2 The application is subsequently recommended for approval. It is considered the site is appropriate for accommodating a 3 bedroom children’s home. There is clearly a need for such a provision, the site is within a sustainable location and on balance overall parking provision on site and in the vicinity is acceptable and would not cause a severe impact upon the highway network or be detrimental to highway safety. It is not considered there would be a significant impact upon neighbouring residential amenity from the use of the property or from associated vehicular movements. The proposal is therefore considered to comply with Local Plan policies and the NPPF.

3.0 Site Description and Context

- 3.1 The existing property is a modern 3 bedroom dwelling located within a modern development. Two garage spaces are available to the rear of the dwelling within the curtilage and there are also two visitor parking spaces adjacent to this garaging available for use by the dwellings in Dove Court which is accessed off Osprey Close.

4.0 Description of the Proposal

- 4.1 The proposal is for the change the use of the house from private residential (C3) to a 3 bed Children's Home for children aged 13 to 18 (C2). The Children's home will be providing accommodation for looked after children and will be supported by staff 24 hours. The agent states there will be two to three staff members during the day and two at night who stay to look after the children.
- 4.2 The description has been amended to include the manager who will at times be on site during the day, but not always as he/she can attend meetings off site. The other amendment is the two staff overnight rather than one. A re-consultation has been undertaken in this respect and any additional comments received will be reported to the Committee.

4.3 In support of the application the agent has provided the following further information:

- To get the Ofsted licence consent is required from the local authority for the change of use.
- No building or construction will occur.
- The Home will be under the Agnes Grace company name.
- The children are “Looked after children” and will be placed in the Home by different Placing Local Authorities in the East of England and so will benefit the children in the East of England.
- The Home is Independent. It will offer services to Essex County council once it’s Ofsted registered.
- The home will take children with disabilities, depending on the ability level, as long as the child is on the looked after register sometimes called children in care.
- The children will come from Local Authorities like Essex County Council and Suffolk. It is a service which will provide accommodation for children who have the local authority as their corporate parent.
- The Children social care in England Report 2021 published by Ofsted showed that the East of England has the second lowest number of children’s homes. East of England only have 7% of all residential children’s homes in England. A report by Newgate a local government association children’s report 2021 discovered that children in care from the East of England can be placed 49 miles away from the region in order for them to find suitable care because of the low number of residential children’s homes in the East.
- Therefore by providing this service in Colchester it will support the children in the East of England placed in care to stay in the region.
- The visitors will only be allowed at the house after booking an appointment with the registered manager at the home. Therefore the Registered Manager will be able to monitor and control any parking issues and ensure visitors can only visit when the two parking spaces at the back are available. The house has two car parking spaces at the back plus a visitor car parking space available for use by all the houses on court.
- Our staffing policy is for an extra member of staff to cover when one member of staff has to leave the home to take a child for an activity. It means there will be two staff at the home to care for children 24 hours which address the safeguarding concern.
- Staff: three on site including the manager but not at all times. The Manager works 9 until 5 Monday to Friday and will be onsite sometimes during that time but she will also be offsite to attend meetings with commissioners and other agencies that are involved in caring for children leaving two staff to care for three children.
- When registered with Ofsted we are required to have a Safeguarding policy as well as a staffing policy which ensures there is sufficient number of staff.
- as an owner of the house situated in Dove court with a registered address in Osprey close I also pay for the maintenance of the Dove court area which entitles me to that parking and its street parking. Therefore if

required statutory visitors can use it as well. There is street parking on Dove court.

- Drafting car-pooling strategy.
- Bus timetables submitted.

5.0 Land Use Allocation

5.1 Settlement Limits

6.0 Relevant Planning History

6.1 None of recent relevance.

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 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

7.3 Adopted Section 2 Colchester Borough Local Plan 2017-2033:

Relevant policies include:

- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG7 Infrastructure Delivery and Impact Mitigation
- SG8 Neighbourhood Plan
- ENV1 Environment
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- DM19 Private Amenity Space
- DM21 Sustainable Access to development
- DM22 Parking

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

EPOA Vehicle Parking Standards
Community Facilities
Sustainable Construction
Cycling Delivery Strategy
Stanway Joint Design Statement and Parish Plan

8.0 Consultations

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

- 8.2 **Cllr Scott-Boutell** states “that this application will have traffic implications and has the potential to cause noise and disturbance in a residential area.”

- 8.3 **Highway Authority:** Recommend Refusal:

“The Highway Authority raises concerns regarding the proposed staffing levels at the proposed development site. Looked after children require greater support than those living at home, more so if the looked after children are special educational needs, mobility impaired or subject to behavioural difficulties. The applicant has declared that there would be four full time staff, assuming that there will be two on each shift and possibly one on duty during the night-time. There are 2no car parking spaces available to staff, visitors and extended family which suggests that there is likely to be parking within the highway at shift change overs and for any visitors to the site which will lead to conditions of danger, obstruction and congestion contrary to highway safety and DM1 and 8 of the Highway Authority’s Development Management Policies February 2011.

Due to the location, operation of the site and the nature of the application the Highway Authority would not consider this to be particularly assessable by public transport, walking or cycling and will be reliant upon private cars for access.

The Highway Authority notes that Dove Court is not adopted into the highway network but any use of this road for the parking of vehicles attracted to or generated by the sites activities will result in similar issues as for the highway and at least will cause inconvenience, delays and nuisance to the occupiers along Dove Court.”

- 8.4 Following further discussion with the Highway Authority and clarification of levels and roles of staff, likely levels of visitors and availability of parking the Highway Authority has maintained its objection and has made the following further comment:

“The job role and specifications do not overcome the concerns of the Highway Authority. These just outline their expected duties within the establishment. I’m unsure where cooks/cleaners etc has come from but the crux of the concerns are about the numbers of staff on site. One member of staff is not usually

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allowed to be alone with a vulnerable person so if one member of staff is out or late for work etc then it places the other member of staff at risk together with those being looked after.

I would consider that a minimum of three members of staff will be on site and then possibly an assistant homes manager totalling 4 staff and not two as claimed by the applicant. In addition the application is for Use Class C2 which requires 1x parking space per full time employee or equivalent staff and 1x parking space per three beds. The applicant has confirmed they own or control 2x parking spaces and the other 2x are visitor parking spaces allocated to the residents of Dove Court which is private (not highway or publicly maintained) so are not counted in the parking allocation. There is no off-street parking available for any additional staff, statutory visitors or extended family.

I should also reiterate concerns regarding use of public transport by potential employees, the home will run on shifts and public transport may run during office hours but irregularly after these times and almost non-existent late evenings and weekends particularly Sundays so would be unreasonable to consider public transport as an alternative means of staff transport to and from the site."

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

According to the information provided there will be at least one member of staff on site at any time and the number of children in residence will be limited to three, so we have no additional comments."

8.6 Contaminated Land officer: "No objection."

9.0 Parish Council Response

9.1 I refer to the above application and can confirm that Stanway Parish Council OBJECTS to this proposal. The location is inappropriate and the Committee fully supports the neighbours' objections and concerns.

10.0 Representations from Notified Parties

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

10.2 **10 letters of objection** have been received which make the following points:

- No details of proposed changes to property.
- Osprey Close is a difficult and, at times, dangerous road to park on or use it is a commonly used through road to avoid the bypass during heavy traffic. Increasing to this residential traffic would be irresponsible and dangerous.

- NEPP have recently installed red-route markings in Osprey Close as a direct result of existing parking issues to protect the junctions, additional traffic would exasperate this, and require to extend this measure.
- Devalues properties in vicinity.
- Will be many visitors.
- Age range concerning. Noise problems?
- Noise and disturbance from vehicular movements.
- Home is near a main road and a large bridge that has already had issues with people trying to jump off and having things thrown at it.
- There is also a park which is aimed at younger children.
- With no skate park or facilities close the young people will become bored.
- Waste provision?
- Loss of private residence.
- Vague where children from.
- NEPP have recently installed red-route markings in Osprey Close as a direct result of existing parking issues to protect the junctions, additional traffic would exasperate this, and require to extend this measure.
- Staff levels misleading. Incomprehensible as a fully qualified child worker to think that all the experience the house supervisor requires is one year of experience! It is entirely possible that there will be children with psychological issues-as per job description and this requires much more experience than this. I continue to strongly object to this proposal

11.0 Parking Provision

11.1 2 car spaces within the application site plus 2 communal/visitor spaces adjacent to the site.

12.0 Accessibility

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

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle:

- 16.1 As the site lies within the settlement limits of the town, the children’s care home facility should be judged on its planning merits, having regard to policies SP1 and SG2 which guides residential accommodation/such facilities to the most sustainable locations. The site is considered to be within a sustainable location with access to public transport links within a reasonable walking distance. The NPPF also has a presumption in favour of sustainable development. The proposal has the significant benefit of providing a care facility for children in the East of the country which is clearly much needed.
- 16.2 In addition, Local Plan Policy DM10 seeks to secure a range of housing types, including care facilities and states:

“Policy DM10: Housing Diversity The Local Planning Authority will seek to secure a range of housing types and tenures on developments across the Borough in order to create inclusive and sustainable communities.

Specialist Housing- The Local Planning Authority will support provision of schemes providing higher levels of care for specialist groups including those eligible under Essex County Council’s Independent Living Programme; disabled people; people with care needs; and other vulnerable people. New development proposals for these groups will be supported where there is a proven need; they are located within settlements; and are accessible by public transport. As provided in the Housing Standards policy DM12, the Council will require a provision of dwellings constructed to meet requirements of M4(3) of the Building Regulations 2015 (wheelchair user dwellings), or subsequent government standard as appropriate, where there is proven need.”

- 16.3 Accordingly the proposal should be judged on its planning merits and there is clearly general Local Plan and NPPF policy support for development in sustainable locations and for the provision of housing for specialist groups that need care, which includes a children’s care home. Detailed planning merits to be considered therefore include parking provision and accessibility and also consideration of noise and disturbance issues in relation to the intensity and nature of the use.

Highway Issues:

- 16.4 Consideration of highway issues is considered to be a key issue, including the level of parking provision and overall impact upon highway safety. It should be noted that that Paragraph 111 of the NPPF states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”
- 16.5 Having regard to the intensity of use of the proposal, the precise nature of the site, the comments received from the Highway Authority and Local Plan and NPPF policies the proposal is considered to be finely balanced in terms of highway issues but overall is considered to be acceptable.
- 16.6 The objections received from the Highway Authority and neighbours have been carefully assessed. The County Council Parking standards provide that for a residential care home (which is similar to a children’s care home) Class C2 the minimum/maximum provision advised is one parking space per full time member of staff plus one space per 3 bedrooms. As during the day there would be 2-3 staff this would require 3 spaces under the standard, plus one visitor space. The site has 2 spaces within its ownership which is a shortfall although there are 2 visitor spaces directly adjacent to the site that can be used (although not guaranteed to be available all the time). In addition, Dove Court is quite wide and can provide some additional short term parking space, as observed by the case officer on site. Osprey Close also has some on street parking provision as noted by the case officer on site and is not a major through road. Visibility splays in and out of Dove Court are very good.
- 16.7 Accordingly whilst the adopted EPOA parking standard would not be satisfied, it is not considered this proposal would have a severe impact upon the highway network or be detrimental to highway safety, particularly owing to the overall level of parking available in the general vicinity combined with that available on site. The site is also in a sustainable location with reasonable public transport links. A condition requiring submission of a green travel plan can also be applied and the applicant is already working on this arrangement. The agent has confirmed the level of visitors is likely to be low and can be controlled by appointment and often any meetings required do not take place at the site. A normal dwelling would have its share of visitors and it is not considered the proposed children’s home would generate such a significant level beyond a normal dwelling use to warrant an objection in this respect. In addition, when considered with the need for this facility in the Eastern region it is considered the planning balance of the scheme falls in favour of supporting the scheme.
- 16.8 It is therefore considered the scheme, on balance, is acceptable having regard to Local Plan parking provision policy DM22, amenity and place shaping (DM15 and SP7) and Paragraph 111 of the NPPF.

Impact upon neighbouring residential amenity.

- 16.9 The impact upon the amenity of neighbours has been considered in terms of potential noise and disturbance from the use and also associated vehicular movements. Environmental Protection have raised no objections, acknowledging there would be at least one member of staff on site at all times. The intensity of use is relatively low and the aim is to run the facility as much like a family home as possible. It is not considered that the intensity of vehicular activity would be so significant to warrant a refusal in this respect. The proposal is therefore considered to comply with policy DM15 which considers impacts upon neighbouring residential amenity.

Other issues

- 16.10 The level of outdoor amenity space provision is considered appropriate for the nature and intensity of use.
- 16.11 No external alterations are proposed for the property.
- 16.12 A condition relating to refuse disposal can be applied.
- 16.13 It should be noted that the applicant has been advised to submit updated floorplans to show the precise uses of rooms within the building for the avoidance of doubt, but this does not impact upon the application description or use.

Environmental and Carbon Implications

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

17.0 Conclusion

- 17.1 To summarise, it is considered the site is appropriate for the proposed intensity of use to accommodate a 3 bedroom children's home. There is clearly a need for such a provision, the site is within a sustainable location and on balance, overall parking provision on site and in the vicinity is acceptable and the proposal would not cause a severe impact upon the highway network or be detrimental to highway safety. It is not considered there would be a significant impact upon neighbouring residential amenity from the use of the property or from associated vehicular movements. The proposal is therefore considered to comply with Local Plan policies and the NPPF.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

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 in Accordance with Approved Development

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: Location plan Rec'd 18.3.22, floorplans.

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

3. Use of Premises

The premises shall be used for a children's residential care home purposes only ages 13-18 (Class C2) and as per the submitted details and application description as defined in the Use Class Order and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

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.

4. Parking Provision

The two garage spaces shown within the approved site plan shall be retained as available for vehicular parking associated with approved use at all times.

Reason: To ensure adequate parking provision and in the interests of highway safety.

5. Green Travel Plan

Prior to first use of the approved Children's home, precise details of a Green Travel Plan for associated staff shall be submitted to and agreed in writing by the Local Planning Authority. The approved plan shall be complied with throughout the duration of the approved use.

Reason: In the interests of the sustainability of the development and amenity.

6. Refuse and Recycling

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

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

19.0 Informatives

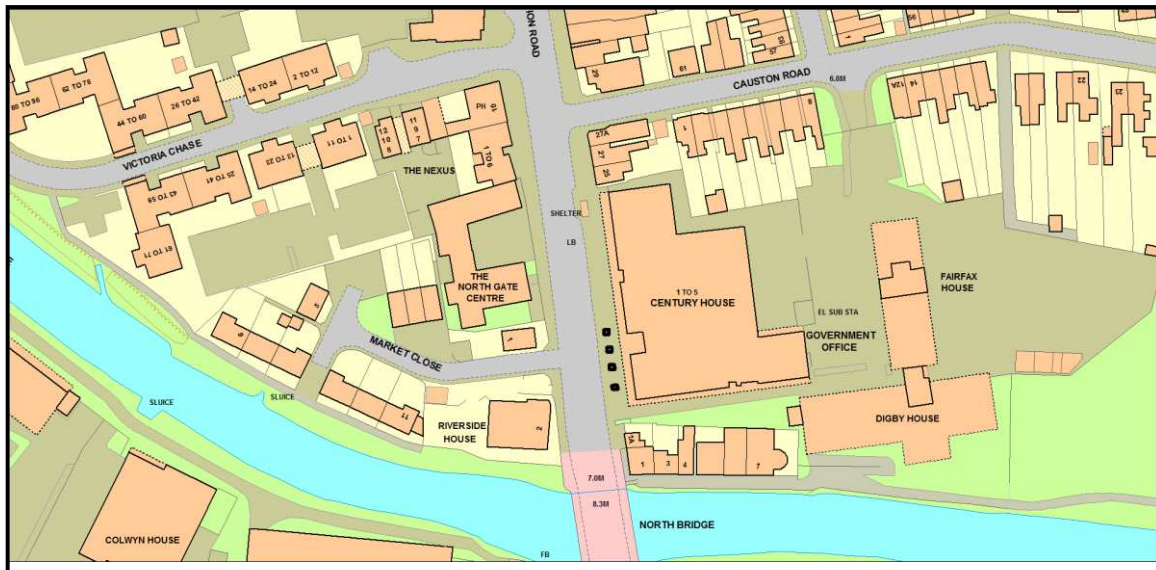
19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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



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Item No: 7.5

Application: 221639

Applicant: Mrs Jane Thompson

Proposal: 4 x corten steel planters containing trees to be located on the footway/walkway outside Century House, North Station Road.

Location: Century House, North Station Road, Colchester, CO1 1RE

Ward: Castle

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Council. The application has also been called in by Cllr Coacher who has noted concerns raised by residents “about the detrimental visual look of rusty coloured metal planters. Concerns that trees in planters are stunted and of limited ecological value. Fears from residents that this is greenwashing and a poor substitute for restoring proper street trees that once lined the area.”

2.0 Synopsis

- 2.1 The key issues for consideration are the impact upon the character of the Conservation Area and streetscene and consideration of any issues relating to highway safety, residential amenity and the environment.
- 2.2 The application is subsequently recommended for approval. The proposal is considered to have a positive impact upon the character of the Conservation Area and streetscene, would not be detrimental to highway safety or residential amenity and would have positive environmental benefits. It would therefore accord with adopted Local Plan policies and the NPPF.

3.0 Site Description and Context

- 3.1 The site lies within the Conservation Area and is part of the public highway for pedestrians that lies in front of a relatively modern building known as Century House.

4.0 Description of the Proposal

- 4.1 The proposal is for the positioning of 4 planters in front of Century House. The planters would be constructed of corten steel and would be 1.2 metres wide and 1 metre in height. It is proposed to include the elephant motif in the design.

- 4.2 The options put forward for the trees are as follows:

- *Betula jacumontii* - West Himalayan birch
- *Corylus colurna* - Turkish hazel (with attractive cat-kins)
- *Alnus cordata/incana* - Italian alder/Grey alder (with attractive cat-kins)

- 4.3 In respect of the tree type the agent states:

“Added benefits are that they are all hardy, pollution tolerant and can contribute to air quality pollution control. The final decision on the tree to be installed will be taken by the Borough Councils tree adviser.

The trees will be root ball or container grown and not bare root. The trees will be large, initially 3 - 4m in height and multi-stemmed, which helps maintain the tree if they are vandalised. Trees will need to be vandal resistant and it is not intended to using stakes.”

- 4.4 The agent has explained that the reason for choosing planters is as follows:
“Trees planted into the ground is preferred due to ongoing watering/maintenance issues. However permissions for planting into the ground can be time consuming/problematic due to permissions required and buried services etc.”

5.0 Land Use Allocation

- 5.1 Town limits

6.0 Relevant Planning History

- 6.1 None of recent relevance.

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 and is afforded full weight. The following policies are considered to be relevant in this case:

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

- 7.3 Section 2 of Colchester Borough Local Plan 2017-2033 has also been adopted:

Policies relevant to this application include:

ENV1 Environment
ENV3 Green Infrastructure
ENV5 Pollution and Contaminated Land
CC1 Climate Change
DM15 Design and Amenity
DM16 Historic Environment
DM21 Sustainable Access to development
DM22 Parking

- 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
Managing Archaeology in Development.

8.0 Consultations

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

- 8.2 Cllr Mark Coacher has called in the application and states:

Reason for comment: Object to the proposal.

Comment: Trees in planters have limited growth and are of limited ecological value. The metal planters often look rusty and ugly. The removal of mature trees outside the Mercury Theatre to be replaced with little ones in planters amounted to greenwashing. North Station Road once had proper trees situated on it and it would be good to see them replaced rather than stunted tiny trees in planters.

Concern from residents about the detrimental visual look of rusty coloured metal planters. Concerns that trees in planters are stunted and of limited ecological value. Fears from residents that this is greenwashing and a poor substitute for restoring proper street trees that once lined the area.

- 8.3 Conservation Officer recommends approval and states (slightly precisised):

1.0_Heritage Asset: Summary Of Significance

The site is within Colchester Conservation Area 4 and adjacent to several listed buildings, the closest being 25 and 27 North Station Road.

3.0_Relevant Statutory Duties

Planning (Listed Buildings and Conservation Areas) Act 1990, sections 66(1) and 72(1)

4.0_Analysis of Impact Upon Heritage

This is a very prominent street in the town because it is on the main walking route from the railway station to the town centre. It has a number of very attractive features and buildings, but is unfortunately let down by some negative buildings and a generally rather run-down appearance, an issue shared by several other major routes into the town centre. The area used to benefit from a number of street trees, which were an attractive feature and contributed a more intimate residential character to the street, which is rather wide for the

scale of many of the buildings. Sadly only a few street trees remain and the gaps where they have been lost can sometimes appear somewhat bleak and urban, highlighting the lack of maintenance of some buildings and the disproportionately large scale of others.

Any move to reinstate street trees in this location is to be encouraged. It is disappointing that the ones currently proposed would be semi-temporary, in planters rather than planted into the ground, but it is to be hoped that should these be successful then a more permanent scheme might be considered in the future.

The location proposed, outside Century House has particularly wide pavements, and the building itself is too large to suit the character of the conservation area. Trees here would soften both these unwelcome features and would enhance the street-scape in a place where this is sorely needed. While the planters proposed would limit the softening effect, it is still considered that the impact would be positive and would have a positive impact on the character of the conservation area, and for this reason I am happy to support the proposal.

6.0 Conclusions & Recommended Actions

Recommend approval on the grounds that the proposed trees would enhance the character of the conservation area in a location where there is considerable scope for enhancement.

8.4 Highway Authority states:

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

No works shall take place within the highway until such time as the necessary licencing from Essex County Council 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 and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

8.5 Landscape officer: "No landscape objections."

8.6 Colchester Civic Society state: "Make a general observation. Comment: The Civic Society welcomes the reintroduction of trees again into the streetscape of North Station Road.

Many people can remember trees growing here in the pavement within recent times and we are very much of the opinion that the planters do not balance the already existing trees on the same site.

We can appreciate the argument for movable planters in other sites on the road to reintroduce trees but we are unconvinced of the choice of corten steel in this conservation area if this policy is to be pursued. We would then welcome a more heritage approach in choice.

We would further contend that this is a road that would benefit from the removal of street furniture rather than adding to it.

We would contend that trees grow best in the natural ground than in an artificial provision and a local care scheme can be successful in ensuring survival.”

8.7 Environmental Protection have “no comments”.

9.0 Parish Council Response

9.1 Non-Parished.

10.0 Representations from Notified Parties

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

10.2 3 letters of objection have been received which make the following points:

- Quickly dry out without frequent watering. Who responsible?
- Sound temporary. Where is long term investment?
- Existing 5 trees need care.
- If planters the only option why not in more strategic locations?
- Whole of North Station Rd could do with improving.
- In favour of trees in the street scene BUT NOT when they are in rust-bucket looking containers! Ugly.
- Witness those in front of the Mercury Theatre – a Conservation Area and next to a Scheduled Ancient Monument. They are a visual outrage.
- North Station Road is also a Conservation Area.
- There used to be several trees along this side of North Station Road, but over the years most have been “lost”. Suggest that the sites of the “lost” trees in front of Century House have new trees planted BUT without putting them in ugly rust-bucket looking containers.
- Trees YES – containers NO.
- Request that the Application be Refused.

11.0 Parking Provision

11.1 N/A

12.0 Accessibility

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

13.0 Open Space Provisions

- 13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

The Principle of Development

- 16.1 The most significant planning issues are the design and form of the proposed development, in particular the impact upon the character of the Conservation Area and street scene. Any highway implications also need to be considered.

Design, Form and impact upon Conservation Area and street scene.

- 16.2 In considering the design and layout of the proposal, Policy SP 7 Place Shaping Principles states all new development must meet high standards of urban and architectural design. Policy DM15 has similar provisions. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Policy DM16 aims to preserve the character of Conservation Areas.
- 16.3 In addition, as the site is within the Conservation Area 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. Paragraph 199 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 200, 201 and 202 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be

weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 16.4 It is considered that the proposed works, involving the four planters with trees would have a positive visual impact upon the character of this part of the Conservation Area and thus no harm. As pointed out by the Conservation officer, this is a very prominent street in the town and the area used to benefit from a number of street trees, which were an attractive feature and contributed a more intimate residential character to the street, which is rather wide for the scale of many of the buildings. Only a few street trees remain and it is considered that the gaps where they have been lost can appear somewhat bleak and urban, highlighting the lack of maintenance of some buildings and the disproportionately large scale of others.
- 16.5 Accordingly it is considered that any move to reinstate street trees in this location would be visually beneficial. Whilst it would be preferable to have the trees planted in the ground rather than in planters, there are serious logistical problems with planting in the ground including the relevant permissions required and potential impact upon underground services. Accordingly the use of planters for the trees is considered to be the next best option at this stage.
- 16.6 As concluded by the Conservation officer, the location proposed, outside Century House has particularly wide pavements, and the building itself is too large to suit the character of the conservation area. The trees in the planters here would soften both these unwelcome features and would enhance the street-scape in this location. While the modern Corten steel planters (as used for High Street elephants) proposed would limit the softening effect, it is still considered that the impact would be positive and would have a positive impact on the character of the conservation area. The objectors' comments about the design and material of the planters is noted. However, overall in this context they are considered appropriate, especially when combined with the provision of the trees and would provide a net overall visual benefit to the area. It should be noted that there is a Listed Building off set on the opposite side of the road and one further down the road on the same side but the proposal is not considered to have any significant impact upon their respective settings.
- 16.7 Overall, it is therefore considered that the proposal meets the requirements of the NPPF in particular paras 197, 199-202. The proposal would comply with adopted Local Plan Policies SP7 (Place Shaping Principles) & DM15 (Design) as the proposal respects the character of the site and its surroundings. The proposal would also 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.

Environmental and Carbon Implications

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

Other Issues

- 16.9 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. The County Highway Authority has raised no objections and there will be highway safety issues although a licence will be required from the Highway Authority and its provisions will need to be met. There will still be a substantial and adequate footpath width retained and it is not considered the planters will cause an unacceptable obstruction, including to the visually impaired. The planters will also be far enough from the road to avoid obstruction in that respect.
- 16.10 It is not considered there would be any impact upon neighbouring residential amenity. Inevitably the planting of trees has a benefit in terms of provision of green infrastructure, pollution and climate change (Policies ENV1 Environment, ENV3 Green Infrastructure, ENV5 Pollution and Contaminated Land and CC1 Climate Change.)

17.0 Conclusion

- 17.1 To summarise, the proposal is considered to have a positive impact upon the character of the Conservation Area and streetscene, would not be detrimental to highway safety or residential amenity and would have positive environmental benefits. It would therefore accord with adopted Local Plan policies and the NPPF.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

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 in Accordance with Approved Development

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 1:500 Block Plan, 1:2500 Location Plan Rec'd 20.7.22 , L1200 W1200H100-ASSY Rec'd 11.7.22

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

3. ZBB - Materials as Submitted

The material to be used for the planters shall be that specified on the submitted application form and drawings.

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

4. Non Standard Condition - Highways

No works shall take place within the highway until such time as the necessary licencing from Essex County Council has been received by the applicant and all necessary conditions / requirements of that licence have been complied with, the details of which shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of the works.

Reason: To protect the highway user and the integrity and fabric of the highway in the interests of highway safety.

19.0 Informatives

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

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

2. 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.

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.

