

Planning Committee Meeting

**Online Meeting, Virtual Meeting Platform
Thursday, 04 February 2021 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. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to observe all meetings of the Council, its Committees and Cabinet including those which may be conducted online such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least 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>.

Occasionally certain issues, for instance, commercially sensitive information or details concerning an individual have to be considered in private. When this is the case an announcement will be made, the live broadcast will end and the meeting will be moved to consider in private.

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. Planning Committee meetings, other than in exceptional circumstances, are subject to one representation in opposition and one representation in support of each application. Representations can be a statement or questions of no longer than three minutes when spoken (maximum 500 words) submitted online by noon on the working day before the meeting date. Please use the form [here](#).

If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

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

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 04 February 2021 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Lyn Barton	Deputy Chairman
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Nick Cope	Simon Crow
Robert Davidson	Paul Dundas	Andrew Ellis	Adam Fox
Dave Harris	Theresa Higgins	Mike Hogg	Mike Lilley
Sue Lissimore	A. Luxford Vaughan	Sam McCarthy	Patricia Moore
Beverley Oxford	Gerard Oxford	Chris Pearson	Lee Scordis
Lesley Scott-Boutell	Lorcan Whitehead	Dennis Willetts	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 6 are normally dealt with briefly.

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

Live Broadcast

Please follow this link to watch the meeting live on YouTube:
<https://www.youtube.com/user/ColchesterCBC>

1 Welcome and Announcements (Virtual Meetings)

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all

Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

2 Substitutions

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

3 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.

4 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.

5 Have Your Say! (Virtual Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. Each representation, which can be a statement or a series of questions, must be no longer than three minutes when spoken (500 words maximum). One single submission only per person and a total limit of 30 minutes (10 speakers) per meeting. Members of the public may register their wish to address the Committee members by registering online by 12 noon on the working day before the meeting date. In addition, a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself. The Chairman will invite all members of the public to make their representations at the start of the meeting.

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 the Previous Meeting

7 - 12

The Councillors will be asked to confirm that the minutes of the meeting held on 21 January 2021 are a correct record.

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 **202692 19 Shears Crescent, West Mersea** 13 - 26

Demolition of single garage and erection of a single and two storey side extension and single storey front and side extension with balcony. (retrospective)

8 **Exclusion of the Public (not Scrutiny or Executive)**

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

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

Planning Committee

Thursday, 21 January 2021

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Martyn Warnes
Apologies: Councillor Brian Jarvis, Councillor Philip Oxford
Substitutes: Councillor Robert Davidson (for Councillor Brian Jarvis), Councillor Gerard Oxford (for Councillor Philip Oxford)

821 Minutes of the Previous Meeting

The minutes of the meeting held on 10 December 2020 were confirmed as a correct record.

822 201753 7 Lexden Grove, Colchester

The Committee considered an application for the erection of two-storey front and rear extension, increased width of existing side box dormer, and porch.

The Committee had before it a report in which information about the application was set out.

The Committee members had been provided with photographs of the site taken by the Senior Planning Officer to assist in their assessment of the impact and suitability of the proposals.

Ms Norris addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application.

Ms Norris explained that she represented the views of the near neighbours in Lexden Grove and Colvin Close who were largely affected by the proposed planning application.

7 Lexden Grove had been a modest 4 bedroom house like a number of other on the development but had been considerably extended in recent years doubling in size, with a two-storied extension to south, and a single storey on the north boundary. Further extension as proposed would be an over-development for the limited size of the site, completely out of scale with all the other properties on similar sized plots in Lexden Grove and Colvin Close.

Residents had no objection to a single-storey extension to the rear - only to the upper storey.

The properties particularly affected were 5 Lexden Grove and 6 Colvin Close, on the

north, and eastern boundaries of 7 Lexden Grove respectively. Main objections were the loss of amenity, privacy and light by the two storey rearward extension. It would extend the building by 12 feet into the garden, halving its current distance from the western boundary of 6 Colvin Close and bring it to 14 feet from the fence.

The two- storey face of this extension would intrusively dominate the western boundary and closely overlook the patio and garden of 6 Colvin Close, and significantly impact the privacy and amenity of both properties. The overlooking would be further exacerbated as the first floor window of the extension would be wider than the current one, and no less than twice the height at some 6 feet/2 metres. It would be very intimidating.

The two-storey extension would compromise light to the east facing kitchen, bedroom, patio and garden at number 5. It would present an ugly cliff of brick, tile and window along some two thirds of the applicant's northern boundary, visible from both number 5 Lexden Grove, and from number 6 Colvin Close. It would loom over rear gardens and seating areas and spoil the use and enjoyment of neighbouring residents' homes and gardens.

Councillor Lissimore attended and with the consent of the Chairman addressed the Committee speaking on behalf of the residents.

Councillor Lissimore explained that the application had been called in as it proposed a large extension on a property that has already been extended in years gone by. Photographs that had been provided by the resident illustrated that this extension would be intimidating for the neighbours, visually dominant and detrimental to the character of the surrounding area

Residents were concerned about the rear extension, there was no argument about the front extension since it had been reduced.

The proposal did not comply with local plan policy DP1 as it did not enhance the site, its scale was out of context with other buildings and was too dominant. Paragraph 16.6 of the report stated the new extension projection is 'only' 3.6 meters beyond the rear wall of the neighbouring property. However this area that would be filled by the extension would be where light came into to the adjoining garden, this would result in little direct sunlight especially in winter. This loss of light was an issue.

The full-length windows that are floor-to-ceiling at the rear of the extension at first floor would be particularly intimidating for the neighbours. Whilst there was already a much smaller window further away in the existing building, the proposed extension would bring the windows closer to neighbouring properties, and the increase in size would make it more imposing. It would result in a greater loss of privacy, allowing a view of the whole depths of neighbours gardens. Residents did not agree that this was far enough away, the window was so large and closer to the boundary than the existing one that overlooking was an issue.

The pitch roof proposed would be intimidating and would both block the amount of light available and create a blocked in feeling in neighbours' gardens. This had been

demonstrated in the photographs circulated. The cul-de-sac had already experienced many extensions, but this extension seemed to be a step too far in that it would be overpowering, overbearing and make the area claustrophobic.

Local residents in the area were asking that this application be declined and that the applicant work with the planning officer to reduce the size of the rear extension to stop it taking over the neighbourhood, blocking light, as they believed that a better design could give the applicant what they required but also not have such an intimidating presence upon this cul-de-sac.

If the application were to be approved there was a request that the size of the windows be reduced to alleviate the prospect of being overlooked.

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations.

The Senior Planning Officer shared a presentation with members including plans from previous applications and for the current proposal as well as a large number of photographs including those provided on behalf of residents. He explained that some images had been taken in earlier in the year so showed more vegetation. The tree under a Tree Protection Order and others were not impacted by the proposed development.

The extension proposed to the rear was one and half storey in height. Design and scale had been considered and found to be acceptable. The proposed front extension had been reduced and 2 parking spaces retained which met standards required. This was considered not to be detrimental to the character of the street scene.

The rear extension was the same height as the original rear element and blended in, it complied with the 45° standard and the distance from the boundary complied with the standards used for loss of light by the Council and in the Essex Design Guide. There was a significant distance (8.6metres) to the rear boundary, so potential overlooking was marginal. To mitigate a condition for obscure glass with a height 1.7m above floor level could be added as well as a condition for more planting. He pointed out that the proposed side dormer would have obscure glass. He confirmed that the amenity space retained exceeded standards required.

All members expressed concern over the overall size of the proposal, being disproportionate and oversized. It was over development, too near to neighbours and overbearing. It was suggested that the application breached the rule that it was not permitted to build over 25% of the size of the original dwelling. The proposed extension was out of character with the rest of the road and visually overpowering with a loss of amenity and privacy for neighbours. The rear extension would result in over-shadowed gardens and although it had been pointed out that it met the requirements of light lost, members felt it encroached considerably on sunlight.

The large windows proposed at the rear overlooked neighbours' gardens and it was

possible that in the future a balcony might be added. Therefore it was suggested that a condition to remove Permitted Development Rights should be added if the application was approved. Obscure glass was also proposed.

The plans presented showed 5 bedrooms and the number of vehicles was raised and whether 2 parking spaces would be sufficient.

It was suggested that alternatives to the rear extension could be considered such as moving the extension to the other side of the property or replacing it with a broader, single storey one.

The Senior Planning Officer clarified that the distance from the rear boundary was 24 feet and that the percentage rule did not apply to development in settlement limits. The Lead Officer: Planning, Housing and Economic Growth confirmed that this dated back to 2004 when the percentages of new build on properties was set at 33% but only in rural areas.

Simon Cairns, Development Manager appreciated neighbours' and members' concerns in regard to the rear extension, the perception of overbearing and the large windows on the rear gable. He stated that if the Committee were minded to defer the application, this would give officers an opportunity to negotiate with the applicant on issues of size, scale and improve proportionality and request that the applicant explore other design solutions including handling the first floor extension.

In light of the reservations expressed by all members over the proportionality of the proposal in relation to the size of the plot, deferral for further negotiations was proposed and seconded.

RESOLVED (UNANIMOUS)

that the application be deferred for officers to negotiate with the applicant to reduce size/scale, proportionality and to explore possible design alternatives, and the outcome of negotiations to be reported back to a future meeting of the Committee.

823 Interim Planning Scheme of Delegation

The Committee considered a report by the Assistant Director, Place and Client Services proposing an amendment to the temporary measures that were introduced to allow planning decisions to be made during the Covid-19 lockdown and changes to the scheme of delegation while virtual committees are in operation. Members were also asked to note all those applications that have been determined under the delegated arrangements since the last update in December

Karen Syrett, Lead Officer: Planning, Housing & Economic Growth presented the report and explained that the interim arrangements for the consideration of planning applications and changes to the scheme of delegation had worked well but it was now suggested that where there had been member call-ins, made in line with the protocol, these be referred to the virtual Planning Committee. This process would

be reviewed in May 2021 and was to the Planning Committee to determine.

RESOLVED (UNANIMOUS) that

- (i) a change to the interim scheme of delegation be approved to require that all member call-ins, made in accordance with the Planning Procedures Code of Practice, be referred to the virtual Planning Committee
- (ii) The interim scheme of delegation to be reviewed by the Committee in May 2021.
- (iii) The applications listed in the Assistant Director's report which had been determined under the emergency delegation be noted.



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Item No: 7.1

Application: 202692

Applicant: Mr Cook

Agent: Mr Robert Pomery

Proposal: Demolition of single garage and erection of a single and two storey side extension and single storey front and side extension with balcony (retrospective)

Location: 19 Shears Crescent, West Mersea, Colchester, CO5 8AR

Ward: Mersea & Pyefleet

Officer: Eleanor Moss

Recommendation: Approval subject to recommended conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Moore call-in this application for the following reasons:

The huge number of objections to this retrospective must give you an insight into the revulsion even the Town Council feel for the selfish behaviour of this applicant. Asked for a planning reason I would say that it is overbearing. The granted permission was overbearing and the excess building makes it more so. It is also very concerning that it has been built in such a way that the existing soak away has been filled in and is now causing flooding. Whether this was taken into account with the original application/ permission I know not but this would be an opportunity to put the matter right. The application was not accurate in that it failed to mention trees on the property that have subsequently been felled or damaged. I suspect that in light of the misleading application there would be a legal case to question the original permission.

2.0 Synopsis

- 2.1 The key issues for consideration are design, traffic and highway implications, flood risk and impact on ecology and built heritage. The impact on neighbouring amenity and the surrounding area are also discussed in the report. The report concludes that subject to appropriate planning conditions, the development is acceptable, on balance, and is consequently recommended approval

3.0 Site Description and Context

- 3.1 The application site is a two storey detached dwelling located towards the end of Shears Crescent. The site is located in a residential housing estate comprising other similar two storey detached development.
- 3.2 Whilst the estate is modern the uniformity in the design of the properties is a notable feature that adds to the character of the area. Balconies are also a common feature within the locality, with a number of properties having balconies located over existing flat roof additions.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the demolition of the existing single garage, erection of a single and two storey side extension and single storey front and side extension with balcony.
- 4.2 The scheme is retrospective in nature with the single storey front and rear extension almost built out.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 172552 - Removal of single garage for two storey side extension and single storey rear extension with balcony to front. (Revised Drawings Received). Granted on 16 November 2017.
- 6.2 Proposed extension of previously granted balcony (ref. 172552) with access and additional doors on front elevation [amended drawings received]. Refused on 10 October 2019. The refusal was appealed and dismissed by an Inspector. The Inspectors full report is available at Appendix A.

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 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
UR2 - Built Design and Character

- 7.3 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
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP23 Coastal Areas

- 7.4 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:

SA H1 Housing Allocations

- 7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

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

8.0 Consultations

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

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

9.0 Parish Council Response

- 9.1 The Parish Council have stated the following:

Following discussion it was agreed to recommend refusal in respect of this application.

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:

- Dangerous precedent
- False and misleading claims in applications
- Impact upon trees and risk of endangering property and human life
- Increased built form harming the impact upon amenity of neighbouring properties
- Out of character with Shears Crescent
- Concerns in relation to the loss of privacy screen
- Overdevelopment of site
- Impact upon stability of buildings
- Flooding

11.0 Parking Provision

11.1 Parking provision is considered in the main body of the report.

12.0 Accessibility

12.1 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.

13.0 Open Space Provisions

13.1 Not applicable

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 This application is located in the settlement limits of West Mersea where development such as the proposed is considered to be acceptable in principle. The proposal will therefore be judged on its planning merits. The main planning considerations are: design and impact on the character of the dwelling and the surrounding area; impact on neighbouring amenity; highway safety; flood risk; and biodiversity and trees.

Design and Impact upon Character of the Area

- 16.2 CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies reflects the requirements of currently adopted policies in terms of design, place shaping principles and heritage matters.
- 16.3 Objections have been received to this application which raise concerns in relation to; the proposal being out of keeping for the area, being inappropriate for this context and that the proposal constitutes overdevelopment.
- 16.4 It is noted the appeal decision (ref: APP/A1530/D/19/3239650) found the single storey front and side extension with balcony over (and external staircase) not proportionate to the existing dwelling and therefore harmful to the character of the area. The Inspector noted it was the increase in footprint and the external staircase, with the associated screening, that caused harm when compared to the approved 172552.
- 16.5 In this instance, the proposed single storey front and side extension (with balcony over) is smaller than the scheme dismissed at appeal and the external staircase has been removed. The concerns raised regarding the impact upon the character of the area are appreciated. It is however important to note the changes are considered to be materially different to the appeal scheme and this application must be considered on its own merits.
- 16.6 The proposed single storey front and side extension is considered to be generous in size, however it is considered an extension of this size can be adequately accommodated on the plot without appearing materially harmful to the character of the dwelling or the wider area. It is also noted there is a balcony proposed above, however balconies are common features of West Mersea and Shears Crescent. As such, it is not considered the scheme would be out of keeping for the area. The use of weatherboarding, in addition to the brick, has been proposed to visually tie the new development to the existing dwelling. The concerns in relation to the impact upon the area are appreciated. It is, however, important to note that the scheme previously approved (172552) was for a very similar development. Given this fact, provided it can be adequately demonstrated that the current application does not have a significant detrimental

impact on the amenity of the adjacent residential properties, it is not considered that an objection can be sustained due to the size and location of the single storey front and side extension. The proposed garage and two storey side extension with rear extension are considered to be acceptable on their own merits.

16.7 It is accepted that the proposed new development will affect (change) the character of the dwelling and surrounding area. Whilst the single storey front and side extensions are publicly visible, the difference between the already approved (172552) and the submitted scheme is considered to be marginal. The findings of the appeal Inspector are noted however the small increase is not considered to materially harm the character and appearance of the dwelling or the surrounding area. The appeal decision noted the harm came from the increase in size and the inclusion an external staircase. The reduction in footprint and removal of the external staircase are considered to overcome the previous appeal dismissal.

16.8 On balance, the design and layout of the proposed development is considered to be consistent with relevant adopted and emerging policies and the guidance set out in the NPPF.

Impact upon neighbouring amenity

16.9 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.

16.10 Objections have been received from neighbouring properties in relation to harm to amenity. It is noted that one letter requests the retention of privacy screening.

16.11 Adjacent to the application site are detached residential dwellings with further dwellings to the rear of the site (accessed along Broomhills Road). It is acknowledged the previous application 172552, granted permission for a first floor balcony. This was held to be acceptable on the grounds of 1.8m obscure screening to the east and south of the balcony. In this instance, the proposed balcony would be adjacent to the boundary of No. 20 Shears Crescent. It is considered there is a good degree of separation between the properties and although No. 20 has a side extension there remains a small area of amenity space between it and No. 19, and the properties are subdivided by a boundary wall.

16.12 The side and rear balcony would be fitted with privacy screening which would prevent overlooking of the neighbouring amenity space and any views from the balcony would be limited to the frontages of neighbouring properties which are already visible from the road and pavement. It is likely that any views from the balcony would be of the sea. Subject to an appropriate planning condition to ensure the erection and retention of 1.8m high privacy screening, the proposal

would not result in any harmful degree of overlooking, perceived or actual. The proposed garage and two storey side extension with rear extension are considered to be acceptable on their own merits.

- 16.13 It is noted the Inspector dismissed the appeal on the grounds the proposal would result in an overbearing impact upon the neighbouring property (No. 20). It is important to note that the current application is smaller than the previous application dismissed at appeal and the external staircase which caused an overbearing impact upon No.20 previously has been removed from the scheme. In this instance, it is considered the proposal will not infringe a 45° line when taken from the mid-point of the closest neighbouring window in elevation. The Essex Design Guide suggests this line not to be infringed in either plan or elevation. The scheme is considered to comply with the Essex Design Guide in this regard.
- 16.14 The proposal is located approximately 3m from the shared boundary of No.19 which is considered to be a sufficient distance to ensure the scheme is not overbearing.
- 16.15 In terms of impact to No.18, the proposal is considered to be a sufficient distance from No.18 to ensure any impact upon No.18 is minimal. It is noted the proposed balcony is approximately 14m from No. 18. This distance is considered to be quite generous and therefore it is not considered the proposal causes a harmful impact upon No.18.
- 16.16 On balance, for the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the amenity of neighbouring properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 and DP12 or the NPPF insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

Landscaping and Trees:

- 16.17 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within section 15 of the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.
- 16.18 In this instance, the application is not considered to create a harmful impact upon existing trees or landscaping. It is noted that harm to trees is raised as a concern in relation to the proposal. In this instance, there are conifer trees located along the rear of the site. These trees are not protected and could be removed from site without prior notification to the Council. Further to this, the proposal is to be constructed on existing hardstanding, as such any impact upon vegetation is considered to be minimal. The proposal is not considered to result in the loss of any vegetation of any significance. In this regard, the proposal is considered to be acceptable on balance.

Flooding:

- 16.19 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures less than a hectare and as such a FRA is not required to support the application. While the concerns in relation to flooding are appreciated, given that the proposal is outside of any flood zone, the proposal is not considered to have a harmful impact upon surface water drainage within the locality.

Ecology:

- 16.20 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity. The proposal has been assessed in line with the NPPF and Natural England Standing Advice. The site is not considered to encompass suitable habitat for protected species, nor is the proposal considered likely to have an impact upon protected species. The proposal is therefore acceptable in regards to biodiversity.

Highways and Parking:

- 16.21 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access. Paragraph 109 of the NPPF confirms 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. Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009).
- 16.22 It is noted that the applicant has parked along the highway, causing a nuisance to neighbouring properties. However, as this is unrestricted and it is legal to do so, causing an inconvenience to neighbouring properties would not be a robust reason for refusal.
- 16.23 In this instance, the proposal provides one off road car parking space and a garage. This provision is considered to comply with the aforementioned Vehicle

Parking Standards SPD. It is noted the Highway Authority does not raise any concerns in relation to this application and therefore the scheme is not considered to create a harmful impact upon the highway network. The concerns in relation to the impact upon the highway are noted, however the proposal does not result in the net loss of parking on site.

17.0 Conclusion

- 17.1 To summarise, the site is allocated in a sustainable, urban area of West Mersea and is therefore acceptable in principle and in accordance with policy. The development is also considered to be acceptable in terms of the design, parking, amenity, flooding and in terms of the landscape impact. Conditions are recommended to ensure the proposal is undertaken in accordance with the approved drawings and does not result in harm to neighbouring amenity.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Approved drawings

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 29/PA002A, 29/PA003 and 29/PA001.

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

3. ZBB – Materials

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

4. Z00 – Balcony Screening

Prior to first use, the side screen (south facing) and rear screen (east facing) to the balcony hereby permitted, shall be obscure glazed to a minimum of level 4 on the Pilkington scale. The obscure glazing shall be to a height of 1.8 metres as measured from the internal finished floor level. The glazed balcony shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Reason: To protect residential amenity.

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.

INS – Highways

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

The applicants should be advised to contact the Development Management Team by

email at development.management@essexhighways.org or by post to:

SMO1 – Development Management

Essex Highways Ardleigh Depot,

Harwich Road,

Ardleigh,

Colchester,

Essex

CO7 7LT

Appeal Decision

Site visit made on 16 December 2019

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2020

Appeal Ref: APP/A1530/D/19/3239650

19 Shears Crescent, West Mersea CO5 8AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by D Cook against the decision of Colchester Borough Council.
 - The application Ref 191956, dated 25 July 2019, was refused by notice dated 10 October 2019.
 - The development proposed is extension of previously granted balcony (ref 17552) with access and additional doors on front elevation.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the dwelling and area; and
 - the living conditions of 20 Shears Crescent with particular regard to privacy and outlook.

Reasons

Character and appearance

3. The appeal site is a 2 storey detached dwelling located towards the end of Shears Crescent in a residential housing estate comprising other similar two storey detached development. Whilst the estate is modern the uniformity in the design of the properties is a notable feature that adds to the character of the area. Balconies are also a common feature within the locality, with a number of properties having balconies located over existing flat roof additions. In addition, the properties within Shears Crescent have a generous frontage, with vegetation creating a spacious pleasant character.
4. The proposal would include the construction of a single storey front extension with a balcony above. The balcony would be accessed from the first floor bedroom and via an external staircase located on the side of the existing dwelling.
5. The scale of the extension, due to its overall width, would be out of proportion and therefore not subservient to the existing dwelling. This would lead to a discordant form of development which would be uncharacteristic having regard

<https://www.gov.uk/planning-inspectorate>

to the uniformity of the other dwellings within the estate, harmful to the character and appearance of the dwelling.

6. In addition, I consider that the extension, with balcony over, owing to its overall scale would appear dominant within the street-scene detracting from the uniformity and openness that I have identified above which add positively to the character and appearance of the area.
7. I have taken account of the alterations and extensions that have taken place at 18 Shears Crescent which have resulted in a property which is not of the same uniform character which is displayed elsewhere within the estate. However, this dwelling does not follow the same linear pattern of development which is exhibited within 19 – 21 Shears Crescent due to its position within a corner plot set at an angle to the road and therefore it was already of a different character to the appeal property.
8. In addition, this example confirmed that such alterations and extensions do appear prominent within the street scene and are detrimental to the character and appearance of the area and therefore should not be used as a reason to allow a similar development such as that before me.
9. Whilst other balconies are present within Shears Crescent these consist of railings or glazing which are of a uniform height without external staircases and are well related to the size and scale of the host property. The side elevation of the property, due to the spacing between the properties, and the open frontages, is visible from within the estate and from the corner of Shears Crescent. The proposed external staircase and associated screening which would be at differing heights in order to mitigate the effects of overlooking, which I shall come onto, would be visible from the public realm and appear as a discordant and prominent feature which would be harmful to the character and appearance of the area.
10. I have had regard to the planning permission that has been granted under reference 172552 for the "Removal of single garage for two storey side extension and single storey rear extension with balcony to front." The appeal scheme differs from the approved scheme by increasing the footprint of the single storey extension and the balcony and the addition of an external staircase. It is this increased footprint and the external staircase, with the associated screening which results in the harm I have identified.
11. In conclusion the development would be detrimental to the overall character and appearance of the dwelling and area, resulting in an incongruous feature within the street scene, contrary to policy DP1 of the Colchester Borough Council Local Development Framework - Development Policies 2010 (LDF) and policy UR2 of the Colchester Borough Council Local Development Framework - Core Strategy 2008 (CS) which require developments to respect and enhance the character of the site and be of a high quality design.

Living conditions

12. The proposed balcony and external staircase would be adjacent to the boundary of 20 Shears Crescent. However, there is a good degree of separation between the properties and although No 20 has a side extension there remains a small area of amenity space between it and No 19 and the properties are subdivided by a boundary wall.

13. The side of the balcony and staircase would be fitted with privacy screening which would prevent overlooking of the neighbouring amenity space and any views from the balcony would be limited to the frontages of neighbouring properties which are already visible from the road and pavement. Therefore I do not consider that the proposal would result in any harmful degree of overlooking, perceived or actual.
14. However, the external staircase would encroach further along the side boundary with No 20 and includes privacy screening which would extend in height to just below the eaves of the original dwelling. As a result of its overall height the privacy screening would have an overbearing impact when viewed from the garden immediately to the rear and in my view that would be harmful to the living conditions of neighbouring residents.
15. In conclusion the proposed development would have a harmful effect upon the living conditions of the occupiers of 20 Shears Crescent, with particular regard to outlook. The proposal is therefore contrary to policy DP1 of the LDF which requires development to demonstrate that they will protect existing residential amenity and policy UR2 of the CS which promotes development which makes better places for residents.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

G. Pannell

INSPECTOR

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 withstand 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.



