

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 09 June 2016 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. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

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, which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

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Access

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www.colchester.gov.uk

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Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable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

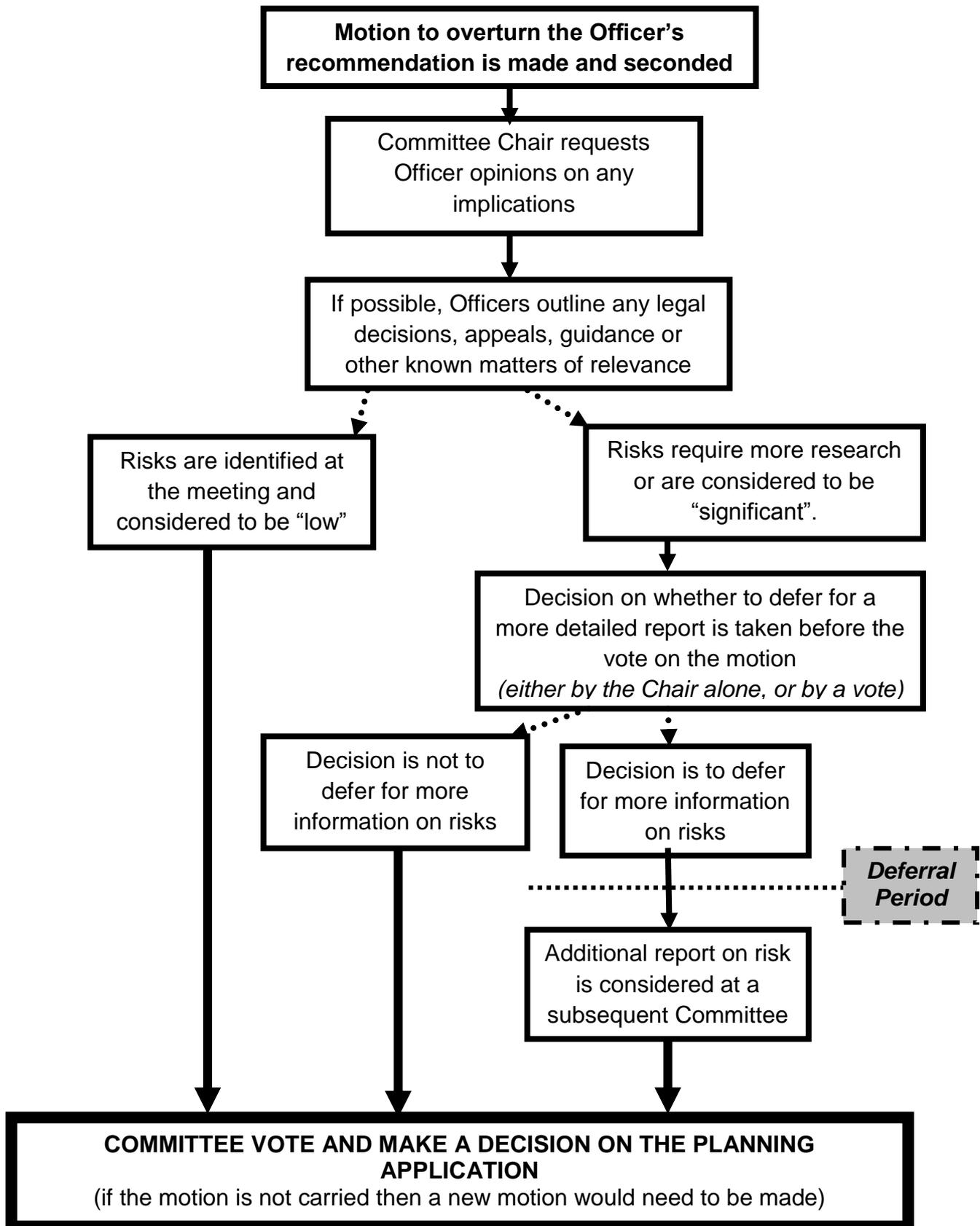
Interpretation of Class C4

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

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.



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 09 June 2016 at 18:00

Member:

Councillor Theresa Higgins
Councillor Cyril Liddy
Councillor Lyn Barton
Councillor Helen Chuah
Councillor Pauline Hazell
Councillor Brian Jarvis
Councillor Derek Loveland
Councillor Jackie Maclean
Councillor Philip Oxford
Councillor Rosalind Scott

Chairman
Deputy Chairman

Substitues:

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

Councillors Christopher Arnold, Lyn Barton, Tina Bourne, Roger Buston, Karen Chaplin, Nigel Chapman, Peter Chillingworth, Helen Chuah, Phil Coleman, Nick Cope, Robert Davidson, Beverly Davies, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dominic Graham, Dave Harris, Pauline Hazell, Theresa Higgins, Brian Jarvis, Darius Laws, Cyril Liddy, Mike Lilley, Sue Lissimore, Fiona Maclean, Jackie Maclean, Patricia Moore, Gerard Oxford, Philip Oxford, Chris Pearson, Lee Scordis, Rosalind Scott, Jessica Scott-Boutell, Lesley Scott-Boutell, Paul Smith, Martyn Warnes, Dennis Willetts, Julie Young and Tim Young.

AGENDA - Part A

(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief and agenda items may be considered in a different order if appropriate.

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Members of the public please note that any further information which they wish the Committee to consider must be received by 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.

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
 - action in the event of an emergency;

- mobile phones switched to silent;
- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

2 **Have Your Say! (Planning)**

The Chairman to invite members of the public to indicate if they wish to speak or present a petition on any of the items included on the agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

These speaking provisions do not apply in relation to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 **Substitutions**

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

4 **Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

5 **Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely

to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6 Minutes

There are no minutes for confirmation at this meeting.

7 Planning Applications

In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.

7.1 152730 Land west of Brook Street, Colchester 17 - 64

Hybrid planning application comprising of an outline planning permission (with appearance and landscaping reserved) for the development of 61 residential dwellings (27 x 1 bedroom, 34 x 2 bedroom) together with associated car and cycle parking, landscaping and open space access and servicing arrangements & full planning permission for the change of the former Rectory building to C3 (residential) to provide 5 residential dwellings (5 x 2 bedroom) together with associated car parking, access and servicing arrangement.

7.2 160531 91 Chapel Road, West Bergholt 65 - 74

Demolition of existing bungalow and garage and construction of detached four bedroom house with detached garage.

7.3 160603 Ivy Cottage, 4 Leech's Lane, Colchester 75 - 84

Demolition of existing large detached residential unit split into two flats to create site for two new one and half storey dwellings. Re-submission 152594 Council recommending re-submission for two units.

7.4 160935 8 The Lane, West Mersea 85 - 92

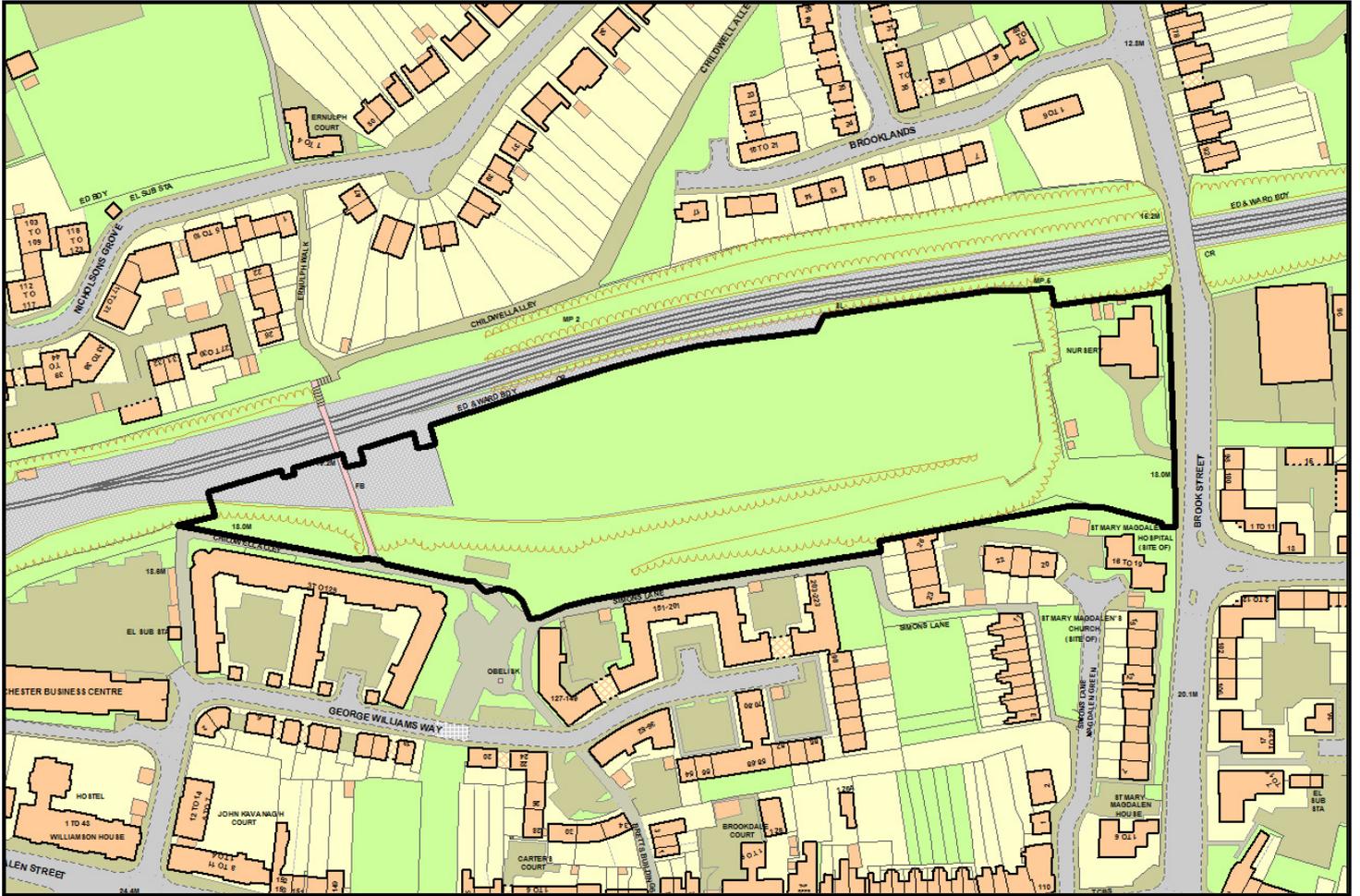
Single storey rear extension and first floor front and side extensions.

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)



Application No: 152730
Location: Land West of, Brook Street, Colchester
Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **9th June 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Sue Jackson Due Date: 30/06/2016

MAJOR

Site: Land west of Brook Street, Colchester

Application No: 152730

Date Received: 14 December 2015

Agent: Mr David Symonds

Applicant: Inland Homes

Development: Hybrid planning application comprising of an outline planning permission for the development of 58 residential dwellings (26 x 1 bedroom, 32 x 2 bedroom) together with associated car and cycle parking, landscaping and open space access and servicing arrangements & full planning permission for the change of the former Rectory building to C3 (residential) to provide 5 residential dwellings (5 x 2 bedroom) and new build (1x 1 bedroom and 2 x 2 bedroom) together with associated car parking, access and servicing arrangement.

Ward: New Town

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

Introduction

This application was deferred at the meeting on 26 May 2016 for officers to seek revisions to provide a greater number of parking spaces to achieve compliance with adopted standards. A revised plan has been submitted which indicates a further 24 parking spaces making a total of 118. This is only 4 less than the adopted parking standard. Ten additional spaces are

provided within the proposed parking courts and fourteen are parallel spaces along the access road opposite the buildings. The latter will require a small retaining wall.

As the main application is an outline application it is proposed to add a condition requiring the provision of a total of 105 spaces, (13 are proposed for the full application) which will ensure this number of parking spaces are provided but will allow a degree of flexibility in terms of their exact location when the reserved matters application is submitted. The unallocated spaces will be available for use by residents/visitors in properties on both the outline and full application site.

The previous report to members is set out below. The only amendments relate to the references to parking spaces in **bold text**, section 11.0 Parking Provision in **bold text** and an additional condition requiring the provision of 105 parking spaces on the outline application also in **bold text**. The recommendation is unchanged.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application and material objections have been received. In addition, a legal agreement is also required.
- 1.2 The application has been called in to committee by Councillor Theresa Higgins for the following reasons:-

“I object on the grounds that the road onto Brook Street is unnecessary. The last application for a new junction in Brook St was refused on air quality issues. These have not changed significantly to warrant a new junction and it poses a risk to the area. New Town needs more houses with three bedrooms, this proposal does not have any. There is an access from Magdalen Street that has not been in use but it does exist. This is the correct access for this application.

I also object on the grounds that a restricted level of parking is being suggested. The present New Town Ward does not have enough parking space. It may be situated near the town centre but this should not be the reason why the correct amount of parking should not be provided. The town station has NO trains on a Sunday.”

2.0 Synopsis

- 2.1 The key issues explored below are land use allocation and adopted policies and guidance, the development proposal, planning history, air quality and access and parking provision. The viability of the scheme will also be addressed in so far as it relates to necessary planning contributions towards infrastructure. The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended, subject to the completion of a legal agreement.

3.0 Site Description and Context

- 3.1 The site is 1.84 hectares and can be divided into two elements; Brook Street and the Former Sidings.

Brook Street

- 3.2 This part of the site has a frontage of approx. 75metres onto Brook Street. It includes land previously owned by British Rail with a narrow frontage to the road and land which until recently was owned by Essex County Council. The Essex County Council part contains a former rectory, a locally listed building, last used as a day care nursery and community resource centre. It includes vehicular access leading to a parking area. There are a number of trees on the site particularly along the boundaries and a mature Holme Oak close to the car park. The land is elevated above road level. The British Rail part of the site is overgrown and has a wall along the front and side boundary the latter abuts residential property on the site of the former St Mary Magdalen Church.
- 3.3 The rear boundary of this area abuts land known as the "Former Sidings" which comprises the second part of the site and is described below.

The Former Sidings

- 3.4 As the name suggests this land was former railway sidings and the Hythe to Colchester Town railway line forms the north boundary of the site. The south and west boundaries abut residential development, known as South Central, along George Williams Way. The east boundary abuts the Brook Street part of the site described above and at this point there is a steep bank down to the sidings land.
- 3.5 When the land was formerly used as rail sidings it was accessed from Magdalen Street. The internal road is still visible and extends close to the south boundary and then turns through 360 to serve land which is at a lower level. The access from the site to Magdalen Street is in the applicants' ownership but it does not form part of the application site. Since use of the sidings ceased the residential development known as South Central has been constructed around the sidings road and forms an amenity area to this development but has been reserved should it be required to provide an access.
- 3.6 Topographically, the land is split into two comprising an elevated upper level to the south, west and east and a lower section to the north.
- 3.7 A public right of way extends along the south and west boundaries and connects to a footpath at Simons Lane leading to Magdalen Street and a pedestrian foot bridge over the railway line connecting to Priory Street and the town centre. The footbridge is elevated above the site.
- 3.8 The site is overgrown and includes small areas of woodland, grass, scrub and small ponds.
- 3.9 The application site is in a sustainable location owing to its proximity to Colchester Town Centre: the town station is a walk time of approx. 5 minutes to the bus station approx. 7 minutes and 10 minutes to Culver Square.

4.0 Description of the Proposal

- 4.1 This planning application comprises two elements; full planning permission is sought for the Brook Street part of the site and outline planning permission for The Sidings. Whilst this hybrid type of application is not common; it is nevertheless an acceptable form of application particularly as in this case a change of use of an existing building is involved (it is not possible to have an outline change of use).

Full Application

- 4.2 The full application involves the change of use of the former rectory to 5 No. 2-bed flats and the erection of a new building comprising 3 no. units with a 1-bed and a 2-bed on the 1st floor and a 2-bed unit on the 2nd floor. Parking for 9 cars is provided on the ground floor for the residents of both buildings. Four visitor parking spaces are provided along the new access road; a temporary location for these spaces is also indicated (if required). Nine cycle racks are indicated
- 4.3 The buildings will be located either side of a new access road which will be cut into the site to deal with the change in ground levels.

Outline Application

- 4.4 The outline application proposes the erection of 58 residential units. This element comprises 26 no. 1-bed and 32 no. 2-bed flats. A linear development is proposed with a series of buildings fronting onto the new road. The proposed buildings are 3-4 storeys in height with parking courts between. Whilst the application is in outline, the details of the access, layout and scale form part of this application. Appearance and landscaping will be the subject of the reserved matters application. A 12m buffer zone is indicated parallel to the railway line.
- 4.5 Eighty one parking spaces, **amended to 105**, are proposed and 64 spaces for cycle parking.
- 4.6 A footpath/cycleway is proposed through the site linking to Brook Street and Magdalen Street via George Williams Way. Public open space, landscaped areas together with new landscaping and ecology enhancements are proposed.
- 4.7 The following documents are submitted with the application:
- Planning Statement
 - Design and Access Statement
 - Statement of Community Involvement
 - Archaeology Assessment
 - Ecological Appraisal
 - Air Quality Assessment
 - Noise Assessment
 - Heritage Statement
 - Geo-Environmental Assessment
 - Landscape Design Statement, Arboricultural Impact Assessment and Method Statement and Landscape Masterplan

- Flood Risk Assessment
- Transport Assessment
- Sustainability and Energy Assessment

5.0 Land Use Allocation

- 5.1 East Colchester Special Policy Area: The site is allocated for redevelopment comprising residential development with site access improvements.
- 5.2 The Magdalen Street Rail Sidings Development Brief Adopted August 2014 (an extension to the Adopted Magdalen Street Brief February 2014)

6.0 Relevant Planning History

- 6.1 112446 Application for a new planning permission to replace extant planning permission 081794 for new vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. Resubmission of 11157 Refuse - 07/03/2012
- 6.2 111570- Application for a new planning permission to replace extant planning permission 081794 for new vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. Withdrawn - 17/10/2011 as the application was not accompanied by an air quality assessment or an arboricultural assessment.
- 6.3 081794 New Vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. Approve Conditional - 22/12/2008
- 6.4 O/COL/05/0241 Provision of new road/pedestrian junction to Brook Street for future access to residential development at the former railway sidings. Approve Conditional - 12/10/2005
- 6.5 152705 Erection of 4no.1 bedroom flats and 2no.1 bedroom maisonettes and associated parking; land between", 145a-151 Magdalen Street, Colchester. Application approved 4th February 2016.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

7.4 Further to the above, 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
- SA EC1 Residential development in East Colchester
- SA EC2 Development in East Colchester
- SA EC5 Area 3: Magdalen Street
- SA EC8 Transportation in East Colchester

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Backland and Infill
 - Community Facilities
 - Vehicle Parking Standards
 - Sustainable Construction
 - Open Space, Sport and Recreation
 - The Essex Design Guide
 - External Materials in New Developments
 - Affordable Housing
 - Archaeology and Development Strategy
 - Sustainable Drainage Systems Design Guide
 - Street Services
 - Planning Out Crime
 - Development and Public Rights of Way
 - Air Quality Management Guidance

Magdalen Street Rail Sidings Development Brief Adopted August 2014
Adopted Magdalen Street Brief February 2014

8.0 Consultations

- 8.1 Network Rail has submitted a list of detailed comments that the developer needs to adhere to. *Officer comment this will be set out in an informative*
- 8.2 Landscape Officer It was noted during off-site inspection of the site that tree cover appeared to indicate wet/saturated soil conditions to the lower (sidings) area. This was compounded by sight of a stream to the western end of the site that appeared to be flowing, this further indicating potential high water levels within the site. Given this, moisture loving shrubs & trees need to be agreed as forming the principal cover to the lower lying areas of the site below the escarpment. There are no Planning Projects Team objections to this application on landscape grounds provided it is confirmed that moisture loving shrubs & trees will forming the principal cover to lower lying areas area of the site below the escarpment. Officer comment : moisture loving shrubs and trees relates to the outline part of the application and the landscape condition will make reference to this requirement.
- 8.3 Arboricultural Officer has no objection
- 8.4 Archaeological Officer: Comments "The Desk Based Assessment submitted with the application states that archaeological impacts through construction of the former railway sidings are severe and widespread, removing all archaeological assets across 90% of the site, which required a 4m+ reduction in ground level. However, it does conclude there might be some potential for unknown undesignated archaeological assets in the eastern area of the site, fronting Brook Street – although it also states the potential for the occurrence of assets dated prior to the Post-Medieval/Modern period to be low/nil. While, undoubtedly, there has been significant truncation and terracing of the site, as a result of the construction of the railway siding in the first quarter of the 20th century, a geotechnical borehole undertaken to the west of this site, and in a similar topographic setting, defined deep waterlogged archaeological deposits (at a depth over 4m below the current ground level). The borehole's location is likely to be close to the course of a stream (a minor tributary of the River Colne) shown on John

Speed's 1610 map of Colchester, and this may account for the unusual depth of organic material encountered here. Consequently, it should not necessarily be assumed that the terracing will have removed all archaeological assets on the current site and there is still some potential, both for archaeological and palaeoenvironmental deposits, to be preserved.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), 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."

- 8.5 Natural England: Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species.

Impacts to Invertebrates and their Habitats

Natural England has produced standard advice for use by local planning authorities in Essex. This advice can be used to assist your authority and applicants in determining whether the open mosaic s41 habitat and s41 invertebrate species are reasonably likely to be present on, or in the vicinity of, the development site, and how we advise that these are considered in the planning process.

Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006

The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

Green Infrastructure

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR)

the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

- 8.6 Environmental Protection has no objection subject to conditions
- 8.7 Contaminated Land Officer This submitted report is acceptable for Environmental Protection purposes. The assessment has identified some potential sources of contamination and has recommended further investigation and assessment (including delineation of hydrocarbon impacted materials and additional ground gas monitoring) and completion of a Remedial Strategy.
However, based on the information provided, it would appear that the site could be made suitable for the proposed use, with the appropriate investigative and remedial actions being dealt with by way of conditions.
- 8.8 Highway Authority From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.
- 8.9 CBC Air Quality Officer: Colchester Borough Council as the relevant planning authority has a duty in decision making to achieve compliance with limit values for pollutants. Currently breaches of the air quality objectives occur at residential receptors near to the proposed development, and the air quality assessment identifies that the development may further extend time to achieve compliance with air quality legislation.

However no objection is raised subject to the developer implementing a scheme of mitigation to enable this proposal to be acceptable on air quality grounds the detailed wording of a condition is set out which should be applied.

8.10 Urban Design Officer

Outline Application

This is a sensitive site, where the scheme has improved significantly through pre-application dialogue. I would generally support the submitted application, though only subject to conditions and minor amendments

Height and Massing: The building footprints, height and massing appear appropriate for the context, actively framing streets and spaces, and reasonably protecting significant areas of landscape and views from neighbouring development.

Access and Car Parking: There are no ideal options for providing vehicular access needed to regenerate the site, though on a positive note this is one of the last remaining sites in the area. I would support the choice of Brook Street (over George William Way), given this is likely to have significantly less detrimental impact on existing residents and areas of landscaping. Allocated car parking is now predominantly tucked out of public view and well contained with reasonably landscaped parking courts, though at the detailed level this slightly leaks untidily into public view. Visitor parking is appropriately provided on-street within the development. In principle I would back the proposed reduced parking standards, which is consistent with Section 2.5 Urban Areas of the Essex Parking Standards considering proximity to the town centre and the need to encourage more sustainable forms of mobility considering local congestion issues. I understand car parking is a sensitive issue locally, where the George William Way scheme is known to have issues and is often used to evidence the need for applying (non-urban) default standards. However, George William Way was developed at a parking ratio of 0.6 spaces per dwelling (i.e. approximately half of what is being offered here), excessive parking would conflict with adopted place-making policy and would require further greenfield land to be allocated for housing to offset the linked loss of units. The balance of issues highlights the need for any reduced provision to be more clearly justified and mitigated, e.g. (i) clear evidence of car ownership levels in comparable locations, (ii) a suitable proportion of spaces to be unallocated (catering for average car ownership levels) and, (iii) improved foot and cycle access with the town centre. (see below). Another key outstanding issue is the need to suitably provide a key missing section of the strategic cycle network guaranteed as part of the application and justifying the reduced car parking, i.e. linking Town Station and Brook Street (running through the site and to the east).

8.11 Anglian Water

ASSETS

Assets Affected

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted. "Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the

owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.”

WASTEWATER SERVICES

Wastewater Treatment

The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows.

Foul Sewerage Network

Development may lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to confirm an agreed pumped rate.

We will request a condition requiring the drainage strategy covering the issue(s) to be agreed.

Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option.

Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer

The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable as the planning application states that infiltration will be used to drain surface water, whereas the FRA states that a connection will be made to the public surface water sewer.. We would therefore recommend that the applicant needs to consult with Anglian Water and the Environment Agency.

We will request that the agreed strategy is reflected in the planning approval

Trade Effluent

Not applicable

Suggested Planning Conditions

Anglian Water would therefore recommend a planning condition if the Local Planning Authority is mindful to grant planning approval.

- 8.12 ECC SuDS: As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015. In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

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

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA and other documents submitted with this application are implemented as stated.

8.13 Environment Agency has confirmed the application falls outside of their remit

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 numbers of support (2) /objection (16) and issues raised

10.2 Objection comments

1. Residents in 16-19 Magdalen Green will lose our privacy and have overlooking in to our gardens. Officer comment: amendments to the Brook Street elevation include the removal of the windows in the side elevation which have the potential to overlook and conditions will prevent new windows being inserted
2. Traffic issues
 - 2.1. The increased traffic generation will have an adverse impact on an already very busy and congested road i.e. Brook Street.
 - 2.2. Magdalen Street and Brook Street do not have the capacity to accommodate further traffic and have been pushed beyond acceptable levels by more recent developments
 - 2.3. A large number of School parents and children walk down the side of the road where the entrance is supposed to be. The site entrance will be close to the other entrances and the entrance to businesses opposite making it even more dangerous for the school run up and down the hill
 - 2.4. Existing parking issues within residential streets
3. Lack of amenities Building program over the past 10 years has put an unacceptable level of pressure on health services, education and roads. Colchester cannot support more people without considerable investment in hospital, GP, schools and infrastructure.
4. The development appears to limit the potential for the development of the railway into the Town Centre and would limit it to its current level.
5. Air Quality
 - 5.1. No development should take place in this town centre area until the County Council and Borough Council have put in place measures to reduce air pollution and congestion.
 - 5.2. Air pollution is still above EU maximum.
 - 5.3. More pollution in both Brook Street and Magdalen Street already one of the worst polluted areas in Colchester with the overload of traffic queuing up morning and evening rush hours and most of the time in between. Whilst the site was previously identified with potential for residential development traffic congestion and resulting worsened air quality mean that the risks of public health would be intolerably increased by such a sizeable development. Both Magdalen Street and Brook Street already suffer traffic congestion and poor air quality. Neither has the capacity to be worsened

- 5.4. This area is struggling under the weight of residential and through traffic already. It is under measures to reduce pollution so how can adding more cars and 90 central heating boilers help with this
- 5.5. The comment (in the applicants report) that this development will have negligible impact is an insult to the residents who have to breath the air daily Year on year traffic has increased in both directions in Brook Street with queuing now for over 6 hours daily Monday to Saturday.
6. Wildlife - loss of important urban space for wildlife the developer should agree to provide appropriate offsets, including extra space for wildlife sites, maintenance and maybe regular litter-picks of local wildlife sites.
7. Drainage & Flooding (the area proposed to be built on serves as a natural drain and run off. Building on it will increase water run off on to surrounding homes and increase flood risk further down hill).
8. Noise and disturbance from construction resulting in dust and hazardous materials.
9. Development is in contradiction of the local development framework for Colchester: This development jeopardises an area that should be reserved for future transit options (Policy SA EC5 Area 3: Magdalen Street) Building here will further increase risk of localised flooding and increase run-off (instead of absorption) causing further problems downstream/downhill (Policy SA EC2). The need for a pumping station only highlights the unsuitability of this land for building. This development reduces green space - it doesn't increase it. If the argument is to create further open spaces for the local community (referenced throughout the local development framework) then this area should be a park, not a housing estate.
10. Application was cynically submitted the week before most people and businesses closed for Christmas. This application should be stopped until proper consultation has taken place
11. Concern expressed that many residents of George Williams Way will not provide feedback on the proposals as many of the properties are rented; tenants will not be concerned and the landlords will not be unduly concerned as they do not live in their property.
12. Archeological some historical remains exist given the long history of urbanisation since Roman times, notwithstanding construction of the railway.
13. The applicant, has highlighted Asbestos on the site

10.3 Support Proposal

1. It will certainly tidy up a bit of scrub land. It would be nice to see a children's play area included as there is not one in the local vicinity. The site has been left undisturbed since the creation of the George Williams Way site and, therefore, many trees/bushes/plants have been left to flourish - creating a truly natural habitat for various wildlife, including birds. I was relieved to be informed that the proposed development would only encompass 1/3 of the site and that green areas would be retained and that the area of land on the other side of the railway tracks to the proposed development would be left completely untouched. These wild green areas should receive no, or very minimal, interference/maintenance so these areas can continue to provide a much-needed habitat for the wildlife within Colchester town
2. Emphatically support the vehicular access coming from Brook Street (to the west) rather than from George Williams Way. The gravel access path which it was initially proposed by the Council would provide the vehicular access to the proposed development site would not be viable to be used for vehicles. This

path leads straight through the central area of the George Williams Way site, which is essentially a focal point for the site, providing a welcome green and open outlook, if this was used it would not be the quiet and safe area it is now. George Williams Way is a particularly narrow road with inadequate allocated parking creating severe difficulties in relation to parking especially as many of those who park down the road during the day are workers/commuters and shoppers. Cars are parked on both sides of the road and despite drivers generally parking with 2 wheels on the pavement, this does not leave sufficient space for lorries and emergency vehicles to access the site at all or without great difficulty, and children in prams have to be pushed in the middle of the road. A residents parking scheme should be considered.

10.4 Colchester Cycling Campaign objects to this proposal in its current form (comments summarised). We are disappointed to see that the Dutch company (Haskoning) engaged for the traffic survey has not been more imaginative in providing high-quality cycle routes to and from this site.

- the report notes that the site is near the Wivenhoe Trail at East Bay ... but how to get there? Should people take their bikes on their cars?. A 94-page document pays lip service to cyclists and pedestrians but has screeds on traffic-light and junction configurations. It notes that there have been no inherent highway safety issues in Brook Street, could it be because all except the most hardened cyclists are scared to use that road because of the speed/traffic levels, and people only walk it if they have to?
- We are disappointed to see no formal response from ECC Highways (from documents on site, Jan 3). We hope that any eventual submission will give due weight to the county's own draft cycling strategy. CCC would like to see the developer come up with a scheme that includes:
 - a) a direct connection using a toucan crossing (separate to the roundabout) to connect with a path to the Wivenhoe Trail via the land to the east of Brook Street (a substandard path has been provided as part of a previous planning application)
 - b) segregated paths, not shared use
 - c) a cycle connection to the town centre that passes to the front of the proposed new homes
 - d) a connection with Magdalen Street via the land that has been left open for that purpose
 - e) an investigation into the feasibility and part-funding of a new cycle/pedestrian railway bridge to connect to Rosebery Avenue, with measures to increase subjective social safety
 - f) a deal with one of the locally based car hire firms to provide a car club on the site for residents, to take up 20 of the 80 spaces (car hire, not van hire).

CCC would be happy to work with Haskoning to try to improve this scheme.

11.0 Parking Provision

11.1 A total of 94 parking spaces, **amended to 118**, are proposed for 66 units.

11.2 The outline application proposes 26 1-bed and 32 2-bed flats and the full application 7 2-bed and 1 1-bed. The adopted parking standards indicate 1 space for a 1 bed dwelling and 2 spaces for a 2 bed. The visitor parking standard is 0.25 space per dwelling. The cycle parking standard is a covered space per dwelling

- 11.3 The outline proposal requires a total of 105 spaces to satisfy the adopted parking standard 90 for the flats and 15 visitor spaces. Eighty one spaces are proposed 1 per unit and 23 visitor spaces, **105 spaces are now proposed.**
- 11.4 To meet the adopted standard the full application requires a total of 17 spaces 15 for the flats and 2 visitor spaces. Thirteen spaces are proposed 1 per unit and 5 visitor spaces.
- 11.5 The parking Standards document also states “Reductions of the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport. The development proposes 1 space for each flat. The visitor parking proposed exceeds the standard, as these spaces will be unallocated they give greater flexibility for parking within the site. It is difficult to imagine a more sustainable location for residential development given its proximity to the town centre with its range of facilities and transport links; a reduction in the parking standard is considered appropriate in this location.
- 11.6 Provision is made for 73 cycle spaces.

12.0 Open Space Provisions

- 12.1 The masterplan submitted with the outline application indicates an area of public amenity space of 600 square metres, native scrub retained on the slopes along south boundary an area equivalent to approximately one third of the total site area.
- 12.2 The flats in the retained building will have a substantial communal amenity area well in excess of the 25 square metre per unit policy requirement and the flats in the new build will each have a private sitting out area well in excess of the 5 square metre balcony requirement

13.0 Air Quality

- 13.1 The site is within the Air Quality Management Area. An Air Quality Assessment has been submitted with the application which has been assessed by Environmental Protection and their specialist, no objection is raised subject to a condition requiring electric charging points

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that the following Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.
- Affordable Housing: 20% on-site provision
 - Education:
 - Open Space, Sport and Recreation
 - Community Facilities
 - Improvements to off-site footpaths/cyclepaths
 - CCTV on the footbridge

- 14.2 Following confirmation of the planning obligations required, the Applicant submitted a Viability Appraisal, which concluded that the development would be unviable should the obligations be met. Paragraph 173 of the NPPF states that 'pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.' Therefore, issues surrounding the viability of the scheme need to be assessed and taken into consideration.
- 14.3 The appraisal underwent an Independent Viability Review by the District Valuation Service (DVS) who agreed that the development would be unviable if planning obligations were pursued.
- 14.4 The application has therefore been re-considered by the Development Team and whilst they accept the DVS report it is considered a mechanism for reviewing viability is required as costs could change as and when the site is actually developed leading to a potential surplus over and above the developer's cited profit of 17.5%. The applicant has agreed to a review mechanism which will be secured in a legal agreement.

15.0 Report

Relevant History and Planning Policy

- 15.1 In 2005 and 2008 planning permission for a new vehicular/pedestrian junction onto Brook Street to provide future access to residential development at the former railway sidings was approved. This involved the land owned by British Rail described in the site description. In 2011 an application reference, 112446, to renew the 2008 planning permission was refused planning permission for the following reason:

Planning Policy Statement (PPS) 23: Planning and Pollution Control advises that '...any consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration, in so far as it arises or may arise from or may affect any land use...' The PPS requires that '...local planning authorities must be satisfied that planning permission can be granted on land use grounds taking full account of environmental impacts...' The PPS highlights the importance of the precautionary principle when considering potential impacts on the environment and requires that '...pollution issues should be taken into account as appropriate in planning decisions (having regard to development plan documents and all material considerations)...Local Planning Authorities must be satisfied that planning permission can be granted on land use grounds taking full account of environmental impacts...' Leading on from this, Policy DP1 of the Local Development Framework Adopted Development Policies (Adopted October 2010) requires inter alia that '...All development must...avoid unacceptable impacts on amenity...Development proposals must demonstrate that they...protect existing public and residential amenity, particularly with regard to...pollution...' Following the previous grant of planning

permission for this development in 2008 the application site has been included within an Air Quality Management Area (AQMA)(Area 1) as defined by Colchester Borough Council. The Council considers that to grant planning permission for the proposed road, without the full impact of the development on the land it would serve on the AQMA being known, would be premature and contrary to the requirements of the identified Planning Policy Statement and the relevant Development Policy. The Council is also mindful that the cumulative effects on the AQMA of the approved development on the opposite (east) side of Brook Street are not known at this time.

- 15.2 It is important to note that the refusal reason does not say any development would have an adverse impact on air quality; the issue was that the application related only to an access with no indication of the scale of development it would serve. It was considered that to permit the access in isolation would be premature until the full impact of the associated development could be assessed. This application proposes a specific number of dwellings and bedrooms and the impact of the development has been assessed.

Principle of Development

- 15.3 Within the adopted Core Strategy policy SD1 identifies the “East Growth Area” (which includes the site) as a strategic area for new development. Policy H1 confirms that housing development will be focused in strategic areas, to meet the Borough’s housing target. The site also has a specific allocation within the adopted Site Allocations Development Policies Document where the site forms part of “Land to North of Magdalen Street”, and allocated for ‘predominantly residential’ development under policy SA EC1. The site is also within “East Colchester Special Policy Area 3” (Magdalen Street) – policy SA EC5. Here, housing development will be extended and consolidated, and other small scale uses that are compatible with overall housing proposals will be permitted. In addition, the policy confirms that land will be safeguarded adjacent to the railway line, in order to provide for a future transit link (ETC) and will also include footpaths and a cycleway.
- 15.4 Policy SA EC8 refers to ‘Transportation in East Colchester’, and confirms that land will be safeguarded for the transit link between Colne Causeway and Recreation Road, and alongside the south of the railway from Hythe Station (Station Road) to Colchester Town. Supporting paragraph 5.80 confirms that the exact requirements of safeguarding shall be agreed on a site by site basis either within an agreed Development Brief.
- 15.5 The development of the site for residential purposes is therefore acceptable in principle. One of the core planning principles set out by the National Planning Policy Framework (NPPF) is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. The application site is brownfield land, so its redevelopment would be encouraged, subject to material planning considerations.

Site Brief

- 15.6 A Brief for Magdalen Street Rail Sidings was adopted in August 2014. The Brief identifies the significant change in levels and concludes creating a level site would not be viable. In terms of air quality it states that both Brook Street and Magdalen Street form part of an Air Quality Management Area and that any application must be accompanied by a detailed air quality report. The Brief proposes residential development and suggests the site could accommodate circa 70 units. Access is proposed off Magdalen Street because there was no certainty that the land owned by ECC would form part of any application.
- 15.7 The Brief indicates buildings 2/3 storeys. It recommends the retention of woodland on the east and south embankments, safeguarding a 12m strip for the rapid transport link and improved pedestrian and cycle links.
- 15.8 The application proposes 61 dwellings, building heights range from 2-4 storeys the 4 storey element is limited and whilst this exceeds that refers to in the brief it will not adversely affect either residents or public amenity. The application includes improved pedestrian and cycle links and retains the required 12 m buffer strip
- 15.9 Whilst the Brief indicates access onto Magdalen Street the application proposes access onto Brook Street. Providing access onto Magdalen Street involves land which passes between residential properties off George Williams Way then crossing this road passing close to other dwellings and then joining Magdalen Street. The land, then owned by British Rail, was reserved for potential access when the South Central development was constructed. These properties have been occupied for several years and residents are used to this land providing an amenity open area. The use of this access would also add further traffic to George Williams Way and ultimately onto Magdalen Street which is also in the Air Quality Management Area.
- 15.10 This application has to be determined on its planning merits and the access from Brook Street is acceptable to the Highway Authority in matters of highway safety and to Environmental Protection in respect of impact of the AQMA.

Layout and Design

Full Application

- 15.11 A new building is proposed fronting Brook Street which will enhance the street scene. A traditional design is proposed with a pitched slate roof and brick elevations and will complement existing development. The change of use of the former rectory building involves minimal changes externally as the conversion involves mainly internal works conversions works. Unsightly metal railings will be removed. The car park will be removed and the area landscaped this will enhance the setting of the building and mature oak tree. The new access from Brook Street is between the two buildings.

Outline Application

- 15.12 Design will form part of the reserved matters application. A linear form of development is proposed with a series of buildings fronting the new road and the landscaped embankment. Parking courts are proposed between the buildings and will be generally screened from public view. Visitor parking is shown in front of the buildings **and along the access road**. The layout plan also shows substantial areas retained as amenity land, open space, wetland and new habitats. A cycle path footpath is proposed on the line of the existing internal road linking to existing footpaths. It is considered that the site can satisfactorily accommodate the level of development proposed and a condition will restrict the outline planning permission to the number and mix of units proposed.

Scale, Height and Massing

Full Application

- 15.13 The new building is 3 storeys in height but as the lower storey is set into cut ground it appears as 2 storey height from the road and roof line is lower than the adjacent residential development. It is of a domestic scale and mass which reflects the adjacent rectory and other new developments facing Brook Street.

Outline Application

- 15.14 The massing reflects the context of the site and buildings in the South Central development. The buildings are mainly 3 storeys high with a small element of 4 storey building.

Impact on the Surrounding Area

- 15.15 The visual impact of the proposal is considered to be relatively minimal; the ground level of the sidings is lower than nearby development and the new building fronting Brook Street compliments existing buildings. Whilst the development will be visible from the public right of way and pedestrian bridge over the railway it will improve the outlook from these paths and make pedestrians feel safer. The development will not have an impact on the surrounding area as residential use is compatible with surrounding uses. (Issues relating to traffic and air quality are considered below)

Impacts on Neighbouring Properties

Full application

- 15.16 Windows in the side elevation on the upper floors of the new building which could have resulted in overlooking issues have been removed. A condition will be imposed removing permitted development rights to insert new windows. Amendments also include a higher screen wall to a first floor external amenity area. The potential for the development to have an adverse impact on neighbouring amenity has therefore been overcome by the amended plans.

Outline application

- 15.17 This part of the site is at a much lower ground level than adjacent dwellings in George Williams Way and the new buildings are remote from existing residential properties. Section drawings have been submitted and these will form part of the committee presentation. There will be no adverse impact on neighbouring properties. A condition relating to maximum storey heights of buildings will be imposed. There will be no loss of privacy or overlooking and Council policies and guidance in the Essex Design Guide are satisfied.
- 15.18 The greatest impact upon neighbouring properties is likely to be during the construction phase of development and to minimise any impact a condition requiring a construction management plan will be imposed.

Amenity Provisions

- 15.19 The private amenity areas for the proposed development are described above. The buildings on the former Sidings involve approx. 1/3 of the site area with the remainder forming amenity space. The development of this derelict area will enhance public amenity. In particular it will enhance the use of the adjacent footpaths and footbridge as it will provide natural surveillance to these public areas

Highway Issues

- 15.20 The new road from Brook Street will serve both the full and outline development and this access forms part of both applications. To construct a road at a suitable gradient to deal with the change in ground levels cut and fill is involved. The ground level will be cut at the Brook Street frontage with ground level for the existing and proposed building retained. An access will be cut into the bank to serve the parking spaces in the proposed building. The steep bank between the two parts of the site will be filled and the road gradient to the area of former sidings. Cross sections through the road have been requested and submitted and these indicate the change in ground levels can be accommodated with only limited use of low retaining walls and also that ground levels surrounding the mature oak tree will be unaffected. The sections will form part of the presentation to members.
- 15.21 The access would serve both the full and outline elements of the application. Once full planning permission is granted this development could be implemented immediately but the outline application would require the submission and approval of reserved matters. Should the full planning permission be implemented prior to the reserved matters the access and section of road from Brook Street, a temporary area for visitor parking and turning facility, would be required and these matters are secured by condition.

15.22 The applicant has asked for the following to be taken into consideration in respect of the proposed access:-

“We also wanted to set out some of the background to the access position. Following a review of the site and its surrounding area, the Applicant team identified a number of site constraints and opportunities which informed the overall design development process. As part of this, it was established that direct access could be achieved from Brook Street, and it was considered that this design approach represented the best solution for the site.

In particular, we note:-

- That the proposed access off Brook Street would enable a gradual gradient into the site allowing a serviceable road
- Access from Brook Street opens the currently underutilised site for development, ensuring that it's potential and developable area are maximised
- An Alternative vehicle access proposal from George Williams Way gives rise to serious concerns with regard to the impact upon the residential amenity of adjacent residents by reason of noise, and disturbance
- The application proposals have demonstrated that there would be no impact to air quality with this proposed access, and as such the Council's Environment team have no objection; and
- Access from Magdalen Street would also significantly compromise the proposed public landscape and ecological areas within the scheme.
- The vehicular and pedestrian access have been designed in discussion with and agreed in principle with the LPA / Highways”.

Air Quality

15.23 The application includes an Air Quality Assessment which has been considered by the specialist consultant used by Environmental Protection. This document considers impacts on air quality during the construction phase and post construction. The modelling assessment predicts a negligible impact on both Nitrogen Dioxide and Particulate Matter 10 concentrations as a result of traffic generated by the proposed development. Environmental Protection has consulted their specialist and the response is set out above no objection is raised subject to a condition requiring electric car points.

Drainage and Flood Issues

15.24 A Flood Risk Assessment incorporating Surface Water and Foul Water Drainage Strategy Report has been submitted in support of the application. Whilst the site is development is in Flood Zone 1 as it exceeds 1 hectare a site specific Flood Risk Assessment is required The Flood Risk Assessment demonstrates that the proposed development can be safeguarded against the risks from the primary sources of flooding for its lifetime and not exacerbate flood risk to neighbouring development. The residential development footprint is in Flood Zone 1 which classifies the site as having a low probability of fluvial flooding. It is therefore precluding the necessity for Sequential or Exception Testing and is deemed to satisfy the NPPF. The conceptual surface water drainage strategy is based on Environment Agency requirements and has demonstrated that the site development proposals can cater for storm events up

to and including a 1 in 100 year plus 30% climate change by way of a Sustainable Drainage System. The foul water drainage strategy proposal would offer an on-site foul sewer network with a proposed pumping station that will convey the development's foul flows to the existing Anglian Water foul network at Brook Street. The proposed adoptable sewers and the new connection of the foul drainage system from the development will be subject to Section 106 Agreement in accordance with the Water Industry Act with Anglian Water.

- 15.25 The development proposals will adhere to the FWMA through the provision of SuDS as a fundamental element of the surface water drainage system.
- 15.26 Whilst Essex County Council Essex County Council, as the Lead Local Flood Authority (LLFA as lead drainage authority originally objected to the application following the receipt of further details and clarification they withdrew their objection. Anglian Water has raised no objection subject to a condition and the environment agency has confirmed the proposed development falls outside their remit.

Ecology/Landscaping

- 15.27 The site is overgrown and contains a variety of habitats and landscape features. The new buildings cover only part of the site and woodland and embankments will be retained and enhanced. The application includes draft proposals for significant landscaping and creation of new habitats. These include native tree planting and retention of existing trees, a pond, wildflower areas, areas of scrub, sandy scrapes and the provision of bat, insect and bird boxes, information boards, bee houses and deadwood piles.

Heritage Assets

- 15.28 The former rectory is a locally listed building and is retained as part of the development proposal. There is little change to its external appearance with the main alterations comprising the internal conversion works. The retention of this building is welcomed and the proposed works are acceptable. The removal of the hard surfaced parking area next to the building will improve its setting. The application documents include an Archaeological Assessment which has been considered by the Councils Archaeologist his comments are detailed above with no objection being raised to the application.

Contamination

- 15.29 Due to previous uses of the site, a Preliminary Environmental Risk Assessment was submitted as part of the application to ascertain contamination risks. The Council's Contamination Officer is satisfied with the content of the report and has no objections to the proposed development subject to conditions.

16.0 Conclusion

- 16.1 The application involves the development of a brown field site in a highly sustainable location. The site can accommodate the scale of development proposed. The development retains a locally listed building and will provide a new footpath and cycle link as well as providing surveillance to existing paths. Substantial areas will be retained for amenity space and the existing landscape features will be enhanced and

new habitat and ecological measures implemented. Part of the site is safeguarded for a possible transport link. Whilst the site access is onto Brook Street which is within the Air Quality Management Area no objection is raised by the specialist consultant. Magdalen Street is also with the Air Quality Area. The application is considered acceptable, it complies with planning policies and Government guidance all consultees have raised no objection. Permission is recommended subject to the legal agreement and conditions set out below.

17.0 Recommendation

17.1 APPROVE 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 Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- A review mechanism in respect of financial viability
- Provision of a private management company
- Provision of open space plus submission and approval of scheme for the setting out and landscaping and management/ maintenance of this area
- Provision of footpath and cycle way for public use
- 12metre area along the north boundary to be reserved for Rapid Transport Route

17.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Conditions

FULL APPLICATION PERMISSION

1 – Time Limit for Full Permission

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

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

2 – Development to accord with approved plans

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

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

3 – Non Standard Condition

The development shall take place in accordance with the submitted 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 and identifying all areas of cut or fill.

Reason: To ensure the development is carried out without an have an adverse impact of the surrounding area and trees within the site.

4 – Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

5 – Refuse and Recycling as shown

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

6 – Non Standard Condition

The development hereby permitted shall not be occupied until the access onto Brook Street and the internal road to the rear of the site has been constructed in accordance with the approved drawings and either the parking spaces and turning area shown on the approved drawing or alternative provision approved by the local planning authority have been provided to the satisfaction of the local planning authority.

Reason: To ensure there is satisfactory access and parking provision to serve the development.

7 – Non Standard Condition

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the south side elevation WALL or roof FACE of the new building HEREBY PERMITTED.

Reason: To protect the privacy of adjacent dwellings.

8 – Non Standard Condition

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

9 – Full Landscape Proposals

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:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- 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.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- 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.

10 – 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.

11 – Earthworks

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

12 - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

13 – Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

14 – Non Standard Condition

The development shall be carried out in accordance with the submitted Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837. An Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development shall be employed on the site.

Reason: To adequately safeguard the continuity of amenity afforded by existing trees.

15 – 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.

16 – Non Standard condition

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 shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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 with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

On request of the applicant, a brief will be provided for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation incorporating palaeoenvironmental assessment, will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

Pre-determination archaeological evaluation is not required for this proposal however it is recommended that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

17 – Non Standard Condition

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.

18 – Non Standard Condition.

All residential units shall be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax)

The noise mitigation measures specified in the accompanying acoustic report shall be fully implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter.

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

19 - Contaminated Land Part 1 of 4 (Site Characterisation)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops,

livestock, pets, woodland and service lines and pipes,

- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

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

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

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

20 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

21 - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

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

22 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 19 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 20, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification

report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 21.

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

23 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 19.

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

24 – Non Standard Condition

No occupation of the development shall take place until the following have been provided or completed:

- a) A priority junction off Brook Street to provide access to the proposal site as shown in principle on planning application drawing number PB1250/P/04 Rev P2
- b) Upgrading of the footway along the western side of Brook Street between the proposal site access and the mini roundabout to the south to a shared footway/cycleway
- c) Residential Travel Information Packs

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.

25 – Non Standard Condition

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding.

26 - Non Standard Condition

No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding.

27 - Non Standard Condition

No works 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, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

1. Surface water run-off restricted to the greenfield rate calculated from the impermeable area served by the drainage network. The run-off rate should be a minimum of 1l/s.
2. Attenuation storage for the 1 in 100 inclusive of climate change storm event.
3. An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
4. Demonstration of approval from the relevant authority to connect to a surface water sewer.

5. Further detail as to how the drainage scheme for the existing building on site fits into the wider drainage scheme at the site.

6. A drainage plan highlighting final exceedance and conveyance routes, location and sizing of storage features, discharge rates and outfall/s from the site.

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

28 - Non Standard Condition

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 has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented. The scheme shall be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development.

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.

29 - Non Standard Condition

No works shall take place until 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.

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.

30- Non Standard Condition

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.

31 - Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity).

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

32 – No Unbound Surface Materials

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.

33 – Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle 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 that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

34 - Cycle Parking (as approved plan)

Prior to the first OCCUPATION/USE of the development, the bicycle parking facilities indicated on the approved plans shall be provided and made available for use. These facilities shall thereafter be retained as such.

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.

35 – Non Standard Condition

Prior to the commencement of any works, additional drawings that show details of the proposed new windows, doors, eaves, verges, cills, arches and all other architectural features to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these features which are important elements to the appearance of the buildings

OUTLINE PLANNING PERMISSION

1 - *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 the ACCESS, 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 - 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 - 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 – Reserved matters Application

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference 152730 relating to this site and the conditions attached thereto remain in force.

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

5 - Development to accord with approved plans

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

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

6 – Non Standard Condition

This permission relates to the erection of 61 residential dwellings comprising 27 x 1 bedroom and 34 x 2 bedroom units.

The reserved matters shall in substantial conformity with the outline drawings in terms of layout, massing and building heights.

Reason: To avoid doubt as to the scope of the consent hereby granted and to ensure a satisfactory form of development.

7 - Non Standard Condition

The construction of the road shall be carried out in accordance with the approved cross section drawings drawing no 1339-D8511-rev02.

Reason: To ensure the road is constructed in a satisfactory visual manner.

8 - Non Standard Condition

No works shall take place until full details of all ecology mitigation and enhancement works, including an implementation timetable, have been submitted to and agreed, in writing, by the Local Planning Authority. The approved works shall be carried out in accordance with the approved implementation timetable.

Reason: To ensure that there is a suitable ecology proposal to be implemented at the site.

9 – Non Standard Condition

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:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- 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.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

The submitted draft landscape scheme shall be amended to include moisture loving shrubs and trees forming the principal cover to the lower lying areas of the site below the escarpment.

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.

10 – 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.

11 – Earthworks

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

12 – Full Arboricultural Survey

No works shall take place until details including a survey of the development site as existing and, as appropriate, a Land Survey in accordance with BS 5837, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To allow the proper consideration of the impact of the proposed development on the amenity value of the existing site.

13 - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

14 - Light Pollution for Major Development

Prior to the first occupation/use 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 (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity) shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and 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.

15 – Materials to be agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

16 – Tree and Hedgerow Protection

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

Reason: To adequately safeguard the continuity of amenity afforded by existing trees.

17 – Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle 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 that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

18 - Parking Space/Hardstanding Sizes (Open)

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

19 - Parking Space/Hardstanding Sizes (Contained)

Any vehicular hardstanding which is bounded by walls or other construction shall have minimum dimensions of 3.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety.

20 – Cycle Parking TBA

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

21 – Non Standard Condition

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 shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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 with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

On request of the applicant, a brief will be provided for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation incorporating palaeoenvironmental assessment, will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

Pre-determination archaeological evaluation is not required for this proposal however it is recommended that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

22 - Non Standard Condition

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; measures to control noise.

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.

23 - Non Standard Condition

The reserved matters shall include a scheme of enhancements and long term management of the land edged blue. The approved scheme shall be implemented in accordance with an agreed timetable.

Reason: To ensure a satisfactory appearance to this public area.

24 - Non Standard Condition

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.

25 - Non Standard Condition

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.

26 - Non Standard Condition

All residential units shall be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAm_{ax})

The noise mitigation measures specified in the accompanying acoustic report shall be fully implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter.

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

27 - Contaminated Land Part 1 of 4 (Site Characterisation)

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

28 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

29 - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

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

30 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 27 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 28, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 29.

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

31 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 27.

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

32 – 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.

33 - Schedule of Types & Colours to be Submitted

No works shall take place until a schedule of all types and colours of external materials to be used has been submitted to and approved, in writing, by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved schedule.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application. used.

34 – Communal Storage Areas

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

35 – Non Standard Condition

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any approved as part of the reserved matters shall be erected.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

36 - Non Standard Condition

No occupation of the development shall take place until the following have been provided or completed:

- a) A priority junction off Brook Street to provide access to the proposal site as shown in principle on planning application drawing number PB1250/P/04 Rev P2
- b) Upgrade to current Essex County Council specification the two bus stops which would serve the proposal site with the highest frequency of bus services (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) Upgrading of the footway along the western side of Brook Street between the proposal site access and the mini roundabout to the south to a shared footway/cycleway
- d) Residential Travel Information Packs

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.

37 - Non Standard Condition

Development shall not commence until a scheme for the provision of active electric vehicle charging points and associated electrical infrastructure has been submitted to and approved in writing by the local planning authority. Charging points shall be provided at the rate of 1 charging point per unit (dwelling with dedicated off-road parking) and 1 charging point per 10 spaces (unallocated off-road parking). The electric vehicle charging points shall thereafter be provided in accordance with the approved details.

Reason: To mitigate any adverse impact on the Air Quality Management Area.

38 – Non Standard Condition

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding.

39 - Non Standard Condition

No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding.

40 - Non Standard Condition

No works 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, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

1. Surface water run-off restricted to the greenfield rate calculated from the impermeable area served by the drainage network. The run-off rate should be a minimum of 1l/s.
2. Attenuation storage for the 1 in 100 inclusive of climate change storm event.
3. An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
4. Demonstration of approval from the relevant authority to connect to a surface water sewer.
5. Further detail as to how the drainage scheme for the existing building on site fits into the wider drainage scheme at the site.
6. A drainage plan highlighting final exceedance and conveyance routes, location and sizing of storage features, discharge rates and outfall/s from the site.

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

41 - Non Standard Condition

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 has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented. The scheme shall be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development.

42 - Non Standard Condition

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.

Reason: 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.

43 - Non Standard Condition

No works shall take place until 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.

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.

44 - Non Standard Condition

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.

45 - Non Standard Condition

The reserved matters application shall include a minimum of 105 parking spaces; the layout of the spaces shall be substantially in accordance with drawing no160527A. The parking spaces shall be provided prior to the occupation of any of the dwellings and shall thereafter be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

19.0 Informatives

(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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) 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. Please pay particular attention to these requirements.

(4) Informative on Any Application With a Site Notice

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

(5) 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.

(6) Informative on Land Contamination Advisory Note

PLEASE NOTE that the site is known to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

Tiered risk assessment shall be carried out in accordance with the procedural guidance and UK policy relating to the contaminated land regime.

Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.

The Local Planning Authority will determine the application on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post-development and that the applicant had prior knowledge of the contamination, the applicant is likely to be liable for this under Part IIA of the Environmental Protection Act 1990 and as such become an Appropriate Person. In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.

Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this the applicant or those acting on his behalf will be liable under Part IIA of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment. During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public, property and the environment are protected against noise, dust, odour and fumes.

The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site.

The Local Planning Authority will provide a Validation Certificate for completion by the applicant/developer. This certificate will not only provide confidence in the site for the local authority in terms of development control and the Part IIA regime but will help discharge conditions applied by the approved inspector and also provide confidence for solicitors and homebuyers in the conveyancing process.

(7) Informative on Air Quality for Outline Permissions

PLEASE NOTE: With regard to air quality assessment, a competent person is defined as someone who has demonstrable experience in complex air quality modelling, using current DEFRA approved software applications, with specific emphasis on urban and traffic-related situations. Their assessment should take full account of the Local Air Quality Management Process including, where relevant, the presence of any Air Quality Management Areas.

(8) Informative on Steep Sloping Sites (Outline)

PLEASE NOTE that if it appears that difficulties may be encountered with levels on this site, it is recommended that the applicant submits details of road gradients with their detailed application.

(9) Informative on Trees Adjacent Highways

PLEASE NOTE that the area(s) directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway. In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

(10) Informative on Retaining Walls Affecting Highways

PLEASE NOTE that in situations where retaining walls or other similar methods are required to support either the Highway or land directly adjacent to the highway, their design, construction or composition (in the case of embankments) should be agreed in advance with the Highway Authority.

(11) Informative on Protected Wildlife

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

(12) Informative on Watercourses

PLEASE NOTE that any culverting, damming, diverting or infilling of a watercourse requires the prior written approval of the Local Authority under the terms of the Public Health Act 1936 and the prior written consent of the Environment Agency under the terms of the Land Drainage Act 1991 and the Water Resources Act 1991. The Environment Agency does not normally grant consent for culverting a watercourse. The term watercourse includes all open, bridged, culverted or piped rivers, streams, ditches, drains, cuts, dykes, sluices and passages through which water flows.

(13) Informative on Surface Water Drainage

PLEASE NOTE that it is the responsibility of the developer to ensure proper provision is made for the surface water drainage of the site to ground, watercourse or surface water sewer. To avoid foul sewer flooding, surface water must not be drained to a foul sewer. The use of sustainable drainage systems (known as SUDS) is very much encouraged. SUDS offer an alternative approach to traditional engineered drainage solutions by detaining run-off on site and releasing it slowly into watercourses or to ground (e.g. dry ditches/swales, detention/attenuation ponds, integrated wetlands). Source control techniques are also increasingly popular, e.g. the use of porous (as opposed to impermeable) paving and 'green roofs' which allow rainwater re-use. These techniques reduce the likelihood of flash flooding, result in greatly improved water quality, are often cheaper and easier to maintain than traditional engineered drainage solutions (i.e. involving seal-trapped gullies and petrol interceptors), and can provide wildlife habitats.

(14) Essex County Council Informatives

For the outline element of the planning application, in making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only

- 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
- 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
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All highway related details should be agreed with the Highway Authority
- The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009
- Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River

If the applicant believes they need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively they can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk

Planning permission does not negate the requirement for consent and full details of the proposed works will be required at least two months before the intended start date

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of

this application or as part of preceding applications to make a balanced decision based on the available information.

Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time.

(15) Informative on Archaeology:

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

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

(16) Landscape Informative

Note: Detailed landscape proposals, if/when submitted in order to discharge these conditions, should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ 'Guidance Notes LIS/C'.

(17) Network Rail Informative

The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

Comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

Future maintenance

The development must ensure that any future maintenance can be conducted solely on the applicant's land. The applicant must ensure that any construction and any subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land and air-space, and therefore all/any building should be situated at least 2 metres (3m for overhead lines and third rail) from Network Rail's boundary. The reason for the 2m (3m for overhead lines and third rail) stand off requirement is to allow for construction and future maintenance of a building and without requirement for access to the operational railway environment which may not necessarily be granted or if granted subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant. Any less than 2m (3m for overhead lines and third rail) and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works. The applicant / resident would need to receive approval for such works from the Network Rail Asset Protection Engineer, the applicant / resident would need to submit the request at least 20 weeks before any works were due to commence on site and they would be liable for all costs (e.g. all possession costs, all site safety costs, all asset protection presence costs). However, Network Rail is not required to grant permission for any third party access to its land. No structure/building should be built hard-against Network Rail's boundary as in this case there is an even higher probability of access to Network Rail land being

required to undertake any construction / maintenance works. Equally any structure/building erected hard against the boundary with Network Rail will impact adversely upon our maintenance teams' ability to maintain our boundary fencing and boundary treatments.

Drainage

No Storm/surface water or effluent should be discharged from the site or operations on the site into Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Proper provision must be made to accept and continue drainage discharging from Network Rail's property; full details to be submitted for approval to the Network Rail Asset Protection Engineer. Suitable foul drainage must be provided separate from Network Rail's existing drainage. Soakaways, as a means of storm/surface water disposal must not be constructed near/within 10 – 20 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property. After the completion and occupation of the development, any new or exacerbated problems attributable to the new development shall be investigated and remedied at the applicants' expense.

Plant & Materials

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no plant or materials are capable of falling within 3.0m of the boundary with Network Rail.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant/applicant's contractor must consider if they can undertake the works and associated scaffold/access for working at height within the footprint of their property boundary.

Piling

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Fencing

In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.

Noise and Vibration

The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which holds relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Permitted: Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrs Communis*), Fir Trees – Pines (*Pinus*), Hawthorne (*Cretaegus*), Mountain Ash – Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (Shrubby *Salix*), Thuja Plicatata "Zebrina"

Not Permitted: Alder (*Alnus Glutinosa*), Aspen – Poplar (*Populus*), Beech (*Fagus Sylvatica*), Wild Cherry (*Prunus Avium*), Hornbeam (*Carpinus Betulus*), Small-leaved Lime (*Tilia Cordata*), Oak (*Quercus*), Willows (*Salix Willow*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), London Plane (*Platanus Hispanica*).

Vehicle Incursion

Where a proposal calls for hard standing area / parking of vehicles area near the boundary with the operational railway, Network Rail would recommend the installation of a highways approved vehicle incursion barrier or high kerbs to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing. As the site is adjacent to Network Rail's operational railway infrastructure, Network Rail strongly recommends the developer contacts AssetProtectionAnglia@networkrail.co.uk prior to any works commencing on site, and also to agree an Asset Protection Agreement with us to enable approval of detailed works. More information can also be obtained from our website at www.networkrail.co.uk/asp/1538.aspx.

20.0 Positivity Statement

20.1 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.

7.2 Case Officer: Jane Seeley

MINOR

Site: 91 Chapel Road, West Bergholt, Colchester, CO6 3HB

Application No: 160531

Date Received: 8 March 2016

Agent: Mr Richard Young

Applicant: Mrs Pauline Rideout

Development: Demolition of existing bungalow and garage and construction of detached 4 bedroom house with detached garage

Ward: Lexden & Braiswick

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it was called in by Marcus Harrington who was, at the time, Councillor for the then West Bergholt and Eight Ash Green ward. It was called in for the following reason: *“The proposed development is over-prominent within its street scene, being so much larger than the bungalow it seeks to replace. This is exaggerated by the contour of Chapel Road. The front of the proposed building encroaches too close to Chapel Road putting it unacceptably in front of the building line. Its height dwarfs neighbouring buildings although these are not demonstrated on the plans.”*

2.0 Synopsis

- 2.1 This report gives consideration to the erection of a house on the site to replace the former two bedroom bungalow. The proposal is assessed in light of policy, consultation responses and representations. It is concluded that, subject to a number of conditions, the proposed development is acceptable

3.0 Site Description and Context

- 3.1 The application site is within the defined West Bergholt Settlement Boundary. It is on a bend in Chapel Road and a slight hill. Development along Chapel Road is mixed; there are some late 20th/early 21st century housing and bungalows adjacent to and opposite the site. There is housing to the rear of the site access off Spring Lane.

3.2 The site currently supports the remains of a bungalow and the walls of an extension which was commenced prior to the majority of the bungalow being demolished. The extension was permitted development (which was confirmed by a Lawful Development Certificate for various extensions and alterations to the original bungalow). The developer advises that when work commenced on the extension it became apparent that the bungalow had structural problems and for safety reasons much of it needed to be demolished.

4.0 Description of the Proposal

4.1 It is proposed to demolish the remains of the bungalow. As originally submitted the proposed house was intended to incorporate the new walls for the previous extension (to be a single storey side element to the new house). Since submission the design has been amended. The partially-built single storey element has been deleted. Neighbours and other consultees have been advised of the revised drawings. At the time of drafting this report the period for comments on the revised scheme had not finished. Any further representations received will be reported on the amended sheet.

5.0 Land Use Allocation

5.1 Predominantly residential

6.0 Relevant Planning History

6.1 145415 - Erection of 3 bedroom detached House and detached single-storey garage after demolition of existing 2 bedroom bungalow and detached single garage. Refused. Appeal Dismissed

6.2 150744 - Lawful development certificate for proposed - Erection of extensions to sides, rear dormer to roof ,porch to front and detached single garage. Determined that the works are permitted development,

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- SD1 - Sustainable Development Locations

- UR2 - Built Design and Character
- ENV2 - Rural Communities

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

- Backland and Infill
- Vehicle Parking Standards
- The Essex Design Guide
- External Materials in New Developments
- West Bergholt Village Design Statement

8.0 Consultations

8.1 Urban Designer Comments on original scheme:

I would generally support the application, which reviewed against adopted policy in the Essex Design Guide and Colchester Development Policies SPD, is not out of character for the mixed setting and reasonably addresses possible privacy, outlook and shadowing concerns. However, I would suggest in line with the Essex Design Guide (pp.103-109), for the apparent traditional design style key materials and details should be agreed, though perhaps through condition, i.e. wall, roof and front boundary materials; eaves, dormers and (generally) lintel and 100mm recess for masonry walls and pentice board/surround for rendered walls.

8.2 Highways Comments on original scheme:

As this proposal does not intensify the use of the existing access this Authority does not wish to submit a formal recommendation

8.3 Archaeological Officer

No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. No objection

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website. As the consultation period expires after the finalising of this report any further comments will be reported on the Amendment Sheet.

9.0 Parish Council Response

9.1 West Bergholt Parish Council has responded as follows::

Comments on original scheme:

- Strongly recommend REFUSAL
- PC is not opposed to a development on this site, as long as it is more in keeping with the street scene, especially as the property is on a bend, and will be very prominent when approached from both directions.
- This is a sensitive site and the current application is not acceptable; specifically because of the bulk of the proposals, being excessive for the location.
- There should be no development in front of the existing front wall of the now partly demolished bungalow.
- The ridge is too high and should be about lower by about 1.00m thus allowing a more sensible transition between 89 and 93 Chapel Road. This will also help with the impact the proposal will have on Sanborn in Chapel Lane.
- The proposal is too close to 89 Chapel Lane there should be at least a 1.00m gap to the West boundary, due to the scale of the existing cottage.
- The roof levels on the ridges of 89, 91 and 93 Chapel Road as part of the conditions of any approval.

10.0 Representations

10.1 Comments on original scheme have been received from the occupants of 89a Chapel Road and Sanborn, Spring Lane:

- proposal is too overbearing, too high and bulky; dwarfing and too close to 89a Chapel Rd;
- adverse impact on light and privacy of the adjacent properties
- height of house will have an overbearing impact on Sanborn; both the house and garden gardens;
- garage is too far back and will be visible from Sandon impacting outlook;
- house is further forward than existing causing overshadowing to No 89a;
- adverse impact on light to window/door in the side of No 89a overlooking;
- concerned about drainage due to adjustments be made to flow of natural spring on the site and that the proposed soak away will not be adequate;
- choice of brick will be over imposing

10.2 Comments on the revised scheme have been received from 93 Chapel Road Sanborn, Spring Lane and 89a Chapel Road

- The revised scheme does not address concerns about height of the house and garage or the and the proximity to the rear boundary;
- Development will still over shadow and impact on light to No 89a;
- Suggest ground level is reduced below the dwelling and garage as per 93 Chapel or the height of the dwelling and garage is lowered and the size of the kitchen reduced;
- Concerned that PD rights will be used to build the single-storey side element that has been removed from the scheme;

- the size and position of the dwelling should be clear and agreed prior to commencement of any further construction;
- Although dimensions have been provided to set out the distance from the property at 89a and we would like to ensure that the property cannot increase or move closer to 89a or 93 Chapel Road;
- Suggest that further information regarding levels and positioning is provided.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 The garage is smaller than Parking Standards suggest; however there is parking for two cars (in line with Standards) on the drive.

12.0 Open Space Provisions

- 12.1 Not Applicable

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of the development:

- 15.1 As this is within the settlement boundary the principle of a replacement dwelling is acceptable (as it would be *outside* a settlement boundary). Policies including UR2, DP1 and DP12 require that new housing development needs to respect and enhance the character of the site and its context and be a high standard of design and layout.

Design of the dwelling/impact in street scene:

- 15.2 The site has a very low key bungalow (No89a) to the east and a house to the west which is at a lower level. Given the bend in Chapel Road and the differing levels the new dwelling will be prominent in the street scene.
- 15.3 The design of the proposed house reflects the recent development in the locality. The submitted street-scene illustrates that the house has a similar ridge height to No 93. The proposal dwelling is significantly higher than No 89a; however the revised scheme allows for an appropriate level of space between the bungalow and the two-storey bulk of the proposed dwelling.

15.4 Part of the house would be closer to the road than the former bungalow; the front projecting gable is approximately one metre further forward than the front elevation. The dwelling will be more dominant than the former low-key bungalow; however it is not considered that it will have an unacceptable impact in the street-scene. Conditions to ensure the levels are as per the submitted drawings are necessary.

15.5 Revised drawings detailing the design details suggested by the Urban Designer and expected prior to the Committee Meeting/

Amenity:

15.6 Concern has been expressed from the occupier of No 89a regarding loss of light. The scheme accords with SPD requirements regarding amenity for the front and side windows.

15.7 Consideration has been given to the proximity of the side elevation to No 89a. The closest distance between 83a, which is by the glazed front door and glass panel to No 89a, is approximately five metres. The door and panel give access to a hall way. As this is not a habitable room it is not considered that an amenity refusal on the basis of overbearing impact or light is sustainable.

15.8 The use of redbrick for the single storey element has been chosen to help break up the bulk of the dwelling. This element varies between four and five metres from the side wall of No 83a Chapel Road. At this distance the choice of material will not be unduly prominent.

15.9 The proposed dwelling is approximately 1.65 metres higher than the original dwelling. The rear wall is approximately 12 metres from the boundary with Sandborn and the ridge of the new house is approximately 20 metres from the boundary. Whilst the dwelling, will appear more significant than the previous bungalow, at this distance it is not considered that the impact will be unduly overbearing. Likewise the garage which is 3.2 metres to the ridge has a hipped roof which will reduce its impact. It is not considered that it will be unduly prominent from Sandborn or the other neighbouring properties.

15.10 When determining the Appeal for the scheme refused in 2014, which was for a larger, higher house and for a garage with a higher roof, the Inspector, whilst having issues with the design and size of the dwelling in the street scene, did not consider that the bulk of the development would adversely impact on the neighbouring properties

15.11 The dwelling has two rear dormers. One is to a bathroom and can be conditioned to be obscurely glazed. The other window will allow for some, mainly oblique, views into the rear gardens of nearby dwellings. An element of mutual overlooking is inevitable in this type of residential area and whilst it is appreciated that currently there are no views from the site into adjacent gardens, the presence of one bedroom window, is not considered to be so instructive as to suggest refusal.

15.12 It is suggested that Permitted Development rights are removed which will require any future extensions to the dwelling to be the subject of planning application so that the impact on amenity can be assessed.

Drainage/natural springs in the locality:

- 15.13 The site and surrounding area is not within an Environment Agency Flood Zone. The agent has advised that far as we know there has been no issue with drainage or springs on the site. The subsoil is ballast and well drained as the site is on a hill.
- 15.14 The Parish Council and the neighbour who raised these concerns about springs have been asked if they have any knowledge of springs in the locality. The Parish Council has indicated it does not have any such knowledge but has advised that streams in the village are difficult to accurately locate as there are many culverted sections. The neighbor advises that there is a nearby well and a spring in the garden of No 93. They also advise that a former owner of the site spoke of a spring or stream which runs close to the boundary of No 89a.
- 15.15 Environmental Protection records indicate a drain to the south of the site off Spring Lane but no water courses in the immediate vicinity. Neither Building Control nor the Environmental Agency has records that will assist in identifying a spring or water course in the locality. It is likely that only a site specific survey will establish whether or not there is a spring on the site. It is understood that the presence of a spring would not preclude development but appropriate measures would need to be taken during construction.
- 15.6 Building Control advised that the subsoils in the area are sands and gravels which are suitable for soak-aways.

16.0 Conclusion

- 16.1 Matters relating to design and amenity have been responded to and the proposed replacement dwelling is considered to be acceptable.

17.0 Recommendation:

- 17.1 Subject to receipt of the suitably revised drawings the recommendation is APPROVE subject to the following conditions:-

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings 1:1R dated 3/5/2016 and entitled ' Existing and Proposed Floor Plans, Elevations and Street Scene' and 'Block Plan'.

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

3 - Non-Standard Condition/Reason

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4 - Non-Standard Condition/Reason

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 to 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.

5 - Removal of PD for All Residential Extensions & Outbuildings

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

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

6 - Non-Standard Condition/Reason

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the en-suite window in the rear elevation shall be glazed in obscure glass to a minimum of level 4 obscurity and shall be of limited opening before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

7 - *Removal of PD - No Extra Openings

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the en-suite window in the rear elevation shall be glazed in obscure glass to a minimum of level 4 obscurity and shall be of limited opening before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

19.0 Informatives

(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.

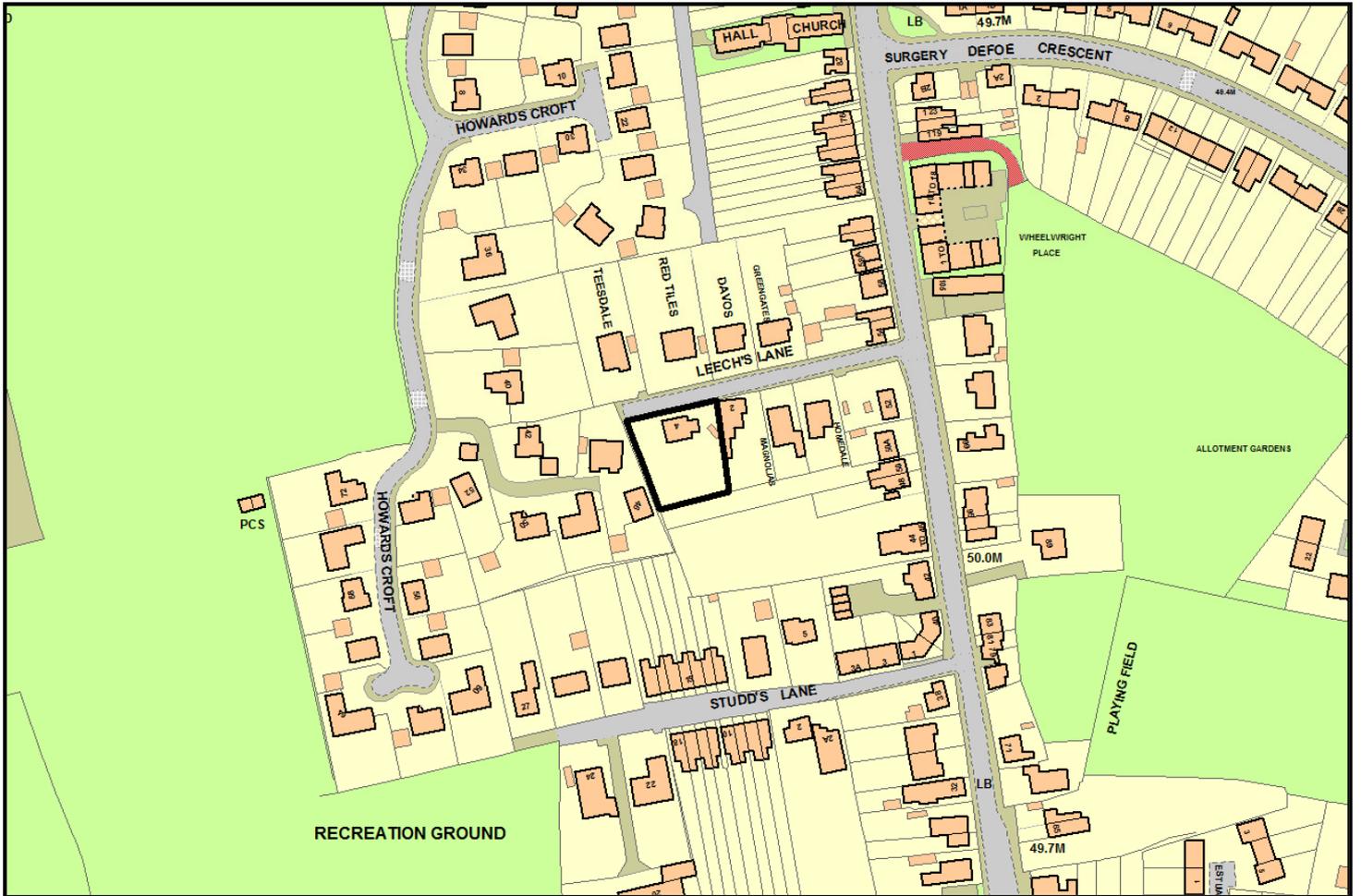
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) 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. Please pay particular attention to these requirements.

20.0 Positivity Statement

20.1 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.



Application No: 160603

Location: Ivy Cottage, 4 Leechs Lane, Colchester, CO4 5EP

Scale (approx): 1:1250

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7.3 Case Officer: Carl Allen**MINOR****Site:** Ivy Cottage, 4 Leechs Lane, Colchester, CO4 5EP**Application No:** 160603**Date Received:** 23 March 2016**Agent:** Michael McGarr, English Architectural**Applicant:** Trinity House Developments**Development:** Demolition of existing large detached residential unit split into two flats ,to create site for two new one and half storey dwellings. Resubmission 152594 Council recommending re submission for two units**Ward:** Mile End**Summary of Recommendation:** Conditional Approval**1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because Cllr Goss has called-in the application for the following reasons: 'Loss of public amenity by residents of 8 properties in the permanent loss of the only 2 shared parking spaces for all visitors/contractors to the Lane. Loss of safety barrier hedge which protects nr 44 Howards Croft from reversing impact damage experiences. Local conflicts will be generated by the seriously flawed design for vehicle turning in and out of Property A, and there has been no attempt by the Applicant to negotiate offers to solve a permanent vehicular turning in terms of a ECCH minimum recommended, type 5 turning head in this location.

There has been no construction period plan submitted to show how contractors personnel, lorries and materials can be safely delivered and accommodated on site in this location'.

2.0 Synopsis

2.1 The key issues explored below are that of design and amenity. The design of the dwellings is acceptable and there are no amenity issues. Car parking would be provided to the required standard and although there maybe issues in regards to Leech's Lane itself, this is a private lane and any issues that need to be resolved need to agreed with the owner(s) of the lane and not Planning. Approval is recommended with conditions.

3.0 Site Description and Context

3.1 Number 4 Leeches Lane is a detached dwelling located at the end of Leeches Lane – on the southern side. The plot is approximately 29 metres long by 28 metres deep. To the east of the plot is the neighbour of no.2, to the south is the rear garden of no.50 Nayland Road, to the west the gardens and dwellings of 46 and 44 Howards Croft. Leech's Lane is a private lane that leads off from Nayland Road and is a cul-de-sac which ends in front of no.4. The site is in the settlement boundary.

4.0 Description of the Proposal

4.1 To demolish the existing dwelling and replace with two detached 4 bedroom houses. Each dwelling would have three off-street parking spaces and the dwellings would be set back 6m from Leech's Lane. The proposed dwelling 'B' would be 4m from the boundary with the neighbour at no.2, whilst dwelling 'A' would be 3m from the boundary with no. 44 Howards Croft. Materials would be; painted render walls, slate roof and permeable shingle vehicle areas.

5.0 Land Use Allocation

5.1 Residential.

6.0 Relevant Planning History

6.1 151494 - Demolition of existing dwelling and erection of 3no. new dwellings with gardens and parking. REFUSED.

6.2 152594 - Demolition of existing dwelling and erection of 3no. new dwellings with gardens and parking. (Resubmission of 151494). REFUSED. It is noted that this scheme is currently being appealed.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP19 Parking Standards

7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

N/A.

7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Backland and Infill

Vehicle Parking Standards

The Essex Design Guide

External Materials in New Developments

8.0 Consultations

8.1 Environmental Protection – No objection, recommend condition regarding demolition and construction working hours.

8.2 Colchester Cycling Campaign – Cycle parking to be provided to the standard.

8.3 Highways – No objection and refer to previous comments on past applications..

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 The Parish Council have stated that; 'MCC are pleased that progress has been made since the previous application for this site (152594). MCC still have concerns about the parking provision and would suggest that the current configuration on Site A is impractical. We would suggest that if the parking spaces and the front garden are switched, manoeuvring in and out of the spaces would be greatly eased and the visitors' spaces at the end of the Lane would be retained.

The spaces on Site B are in very close proximity to the neighbouring property and we have concerns about the potential for damage to this property.

MCC feel that it is very important that the Lane is protected from the impact of construction traffic.

MCC is pleased to see that the number of proposed dwellings has been reduced to two and the height of the properties has been lowered'.

10.0 Representations

- 10.1 Four objections. Comment that; design of property A is unworkable and will cause long-term friction between neighbours, impossible for 2 vehicles to reverse out of the drive, would lose the 2 visitor parking areas at the end of the lane, loss of hedge which protects 46 Howards Croft from reversing damage, services such as water, sewerage could be damaged in the lane, no type 5 turning head provided, how will neighbours have access to the lane during construction deliveries etc, how will it impact on the boundary wall of no.2 Leech's Lane, could damage the side of their property by car doors opening, need access to their gutters, the paving will impact on dampness to their dwelling, how will air-gap be maintained, how will run-off be collected, wood burners as the air will smell of smoke .
- 4.2 Want conditions that a residents representative should be allowed access for monthly site meetings, that residents will have the power to obstruct construction traffic if access needs are not met, a considerate contractor method statement be provided, that there is insurance in place, hours of working, maintenance of the lane, structural survey of no.2 Leech's Lane before and after construction, developers to inform potential purchases of legal constraints on the lane, a S106 towards the repair of the lane, that the owner of Property B allows access to 2 Leech's Lane for maintenance.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 Each dwelling would have three off-street parking spaces.

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Amenity

- 15.1 Given the distance and orientation to the neighbours to the east (2 Leech's Lane) and west (44 Howards Croft) there would be no potential for the proposed dwellings to overshadow these existing properties. The only proposed side elevations that would have first floor windows would be dwelling 'B'. This would have three roof lights to no.2 Leech's Lane but would serve non-habitual rooms (en-suite, bathroom and stairs). As such, there would be little opportunity for any overlooking from these windows, especially if the bathroom and en-suite are conditioned to be obscure glazed. The comment regarding the loss of the hedge between the site (dwelling 'A') and 46 Howards Croft that protects no.46 from reversing damage is a little strange as no.46 is approximately 10m from the proposed parking area and no vehicle access would be near no.46. There has been concern raised that car doors opening near no.2 would result in damage to the wall of no.2. The parking space shown for dwelling 'B' is approximately 3.2m wide so this is wider than the Parking Standard and there is no good reason to believe that this width would result in car doors damaging the neighbours property. The suggested working hours by Environmental Protection are considered reasonable given the number of residential neighbours around the site. Comment has been made on how the proposal may impact on dampness to the neighbour (no.20). It is noted that the proposed dwelling would be 3m from the neighbours home at the closest point and that permeable shingle would be between the two dwellings (as a parking space). Given this arrangement the proposal would not increase dampness to the neighbour. Environmental Protection have requested a working hours condition which is reasonable. Considered that the proposal complies with DP1.

Design.

- 15.2 Leech's Lane has a mix of dwelling types with bungalows mainly on the northern side of the lane and houses/cottages on the southern side. Both the proposed houses would have a more contemporary design than any of the surrounding neighbours, but the contemporary approach is somewhat understated and it would not wildly contrast with its neighbours. The proposed materials are considered acceptable. It is noted that the Parish have not raised any comments with regards to the design and so it must be concluded that they view it as conforming with their Village Design Statement. Complies with UR2 and DP1.

Highways

- 15.3 Leech's Lane is a private lane, which is not an adopted highway and is an unmade lane. The proposal would provide six off-street parking areas. It is noted that two informal parking spaces are at the end of the lane and would be front of the proposed parking areas for dwelling 'A'. Whilst this is far from ideal and in theory the design of dwelling 'A' could be 'flipped' to provide the parking area on the other side of the plot, this would result in the proposed dwelling being much closer to the neighbour of 44 Howards Croft which could well result in amenity issues to this neighbour. Therefore, the proposed arrangement must be considered. As a private lane the applicant would need the consent of the owner(s) before making changes to the existing on-lane parking arrangement, so in this regard the proposal is out of the scope of Planning and

is in the control of the owners(s). Leech's Lane is reasonably wide with parking on the lane possible so the two existing visitor spaces could be relocated – with consent from the owner(s). The various comments about damage to the surface of the lane would be a private matter between the application and the owner(s) of the lane. How delivery lorries access the site and where they park is again, a private matter but the normal planning position would be that this is a temporary disturbance and would not justify a refusal. Given the nature of Leech's Lane a type 5 turning head is not a requirement (noted that Highways have not asked for one to be provided) and if vehicles were to reverse out onto the lane it would not be problematic given the character of the lane and position at the end of the lane. Considered that there are no issues in regards to DP19. The proposed rear gardens would have enough space for sheds for cycle parking and given the location in the settlement boundary, the site is in sustainable area where a cycle storage condition is not needed to make the proposal acceptable.

- 15.4 Comments that have been received but are not within the scope of planning include; damage to the services which are under the lane surface, allowing a neighbour to access the property to maintain their own, the smell of smoke from domestic wood burners. Conditions suggested by the objectors that are not within the remit of Planning are; giving the residents the right to obstruct contractor/delivery vehicles if their own access is obstructed, that the developer is insured, a structural survey of neighbours property, potential purchases to be informed of legal constraints on the lane, a S106 towards the repair of the lane, that the owner of dwelling 'B' allows access to no.2 Leech's Lane for maintenance.

16.0 Conclusion

- 16.1 The design of the dwellings are acceptable and there are no amenity issues. Car parking would be provided to the required standard and although there maybe issues in regards to Leech's Lane itself, this is a private lane and any issues that need to be resolved need to agreed with the owner(s) of the lane.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

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

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

3 - Non-Standard Condition/Reason

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 - Non-Standard Condition/Reason

Prior to the commencement of development, details of surface water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason: To minimise water being discharged onto the lane and neighbours property.

5 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle 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 that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

6 - Non-Standard Condition/Reason

All vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

7 -Non-Standard Condition/Reason

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

Weekdays: 8am to 6pm

Saturdays: 8am to 1pm

Sundays and Bank Holidays: No working at all.

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.

19.0 Informatives

(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.

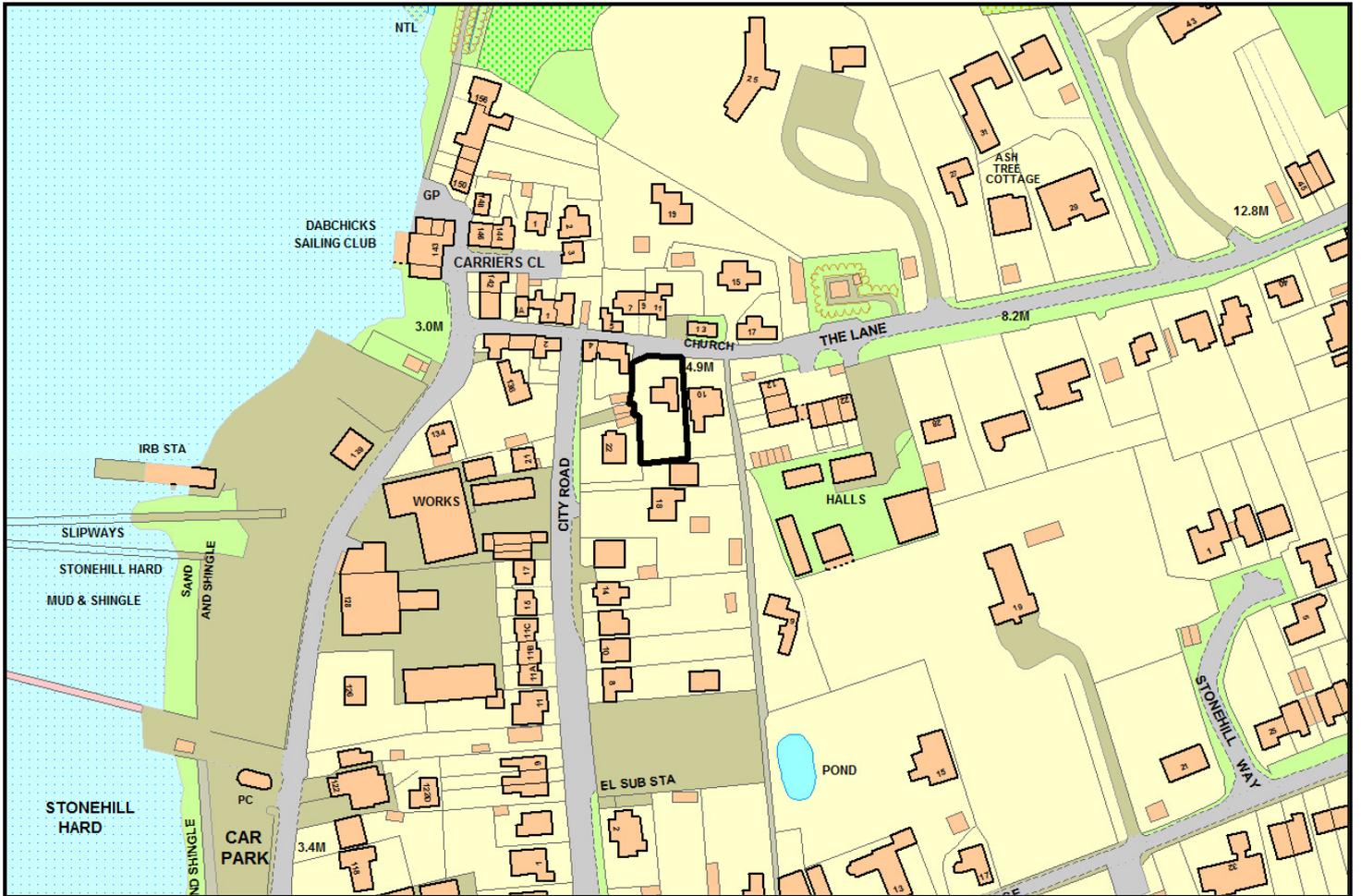
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) **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. Please pay particular attention to these requirements.

20.0 Positivity Statement

20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 160935

Location: 8 The Lane, West Mersea, Colchester, CO5 8NT

Scale (approx): 1:1250

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7.4 Case Officer: Bruce O'Brien Due Date: 15/06/2016 HOUSEHOLDER

Site: **8 The Lane, West Mersea, Colchester, CO5 8NT**

Application No: **160935**

Date Received: 20 April 2016

Agent: Geoffrey Sexton

Applicant: Mr John Vince

Development: Single storey rear extension & first floor front and side extensions

Ward: Mersea & Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because, on approval, it is called in by Councillor Patricia Moore. Cllr Moore has called in the application as she believes that the building would be out of keeping with the West Mersea Waterside Area of Special Character due to the proposal being over-bearing and not in keeping with the street scene.

2.0 Synopsis

2.1 The key issues explored below are the impact of the proposal on the character of the area and harmful affects on the amenity of neighbours. Both of these issues are not warranted as valid reasons for refusal.

3.0 Site Description and Context

3.1 The application site comprises a single, detached two storey dwelling. The site is located on the Southern side of 'The Lane' in West Mersea. To the North and North West of the application property, there are a number of listed buildings, situated within a conservation area which extends further to the West of the site, separated from the site by City Road.

3.2 The application property is neither listed nor situated within the conservation area boundary.

4.0 Description of the Proposal

4.1 The application seeks permission for three extensions.

i. A single storey extension to the rear.

This part of the scheme would fall within the limits of permitted development, and no objections have been raised against it.

ii. A raised front extension.

To the front of the property, there is a single storey lean-to style extension. The proposal aims to build above this lean-to and extend the gable end, that sits behind it, to the front of the property, thus forming a vertical gable. This part of the scheme would provide a small external storeroom at ground floor level and increase the size of a first floor bedroom.

The additional height to the top of the gable ridge will be 3.7m. The depth of this element would be 1.5m and the width 4.5m.

iii. A second storey extension above existing single storey extension.

This part of the proposal is for a second story addition above a single storey flat roofed extension that doubles as a large balcony. A revised design shows the roof to be subservient to the main dwelling. The extension would form a gable end that faces towards the West of the dwelling. Within this gable end would be French doors with a glass Juliet balcony. The height of the addition would be 3.5m to its ridge. It would be 5.3m wide (as wide as the existing first floor) and 4.2m in depth. The proposed first floor extension would provide additional living accommodation in the form of a lounge/study/music room.

5.0 Land Use Allocation

5.1 The site is located within the defined settlement limits and a residential area where development such as this is acceptable in principle.

6.0 Relevant Planning History

6.1 There is no planning history that is relevant to the proposal.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP23 Coastal Areas

7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Extending Your House?
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

8.1 No consultation responses

9.0 Parish Council Response

9.1 The West Mersea Town Council have stated that:

Following discussion it was agreed to recommend refusal in respect of this application on the following grounds:

1. Out of keeping with the street scene.
2. Overbearing impact on adjacent property.
3. Inappropriate for a Conservation Area.

10.0 Representations

10.1 There have been 5 objections; two from neighbours, one from a planning consultant on behalf of a neighbour, the Town Council and the Coast Road Association.
The main issues raised are:

1. Amenity of neighbours including loss of light to properties (7,9,10 The Lane) and loss of privacy (22 City Road).
2. Scale of the property once extended. Dominance within the street scene.
3. The proposal is out of keeping with the character of the area.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 The property has off-street parking for 2 vehicles and this will not be changed as a result of this proposal.

12.0 Open Space Provisions

12.1 This scheme raises no concerns regarding open space.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Design and Layout

- 15.1 It is considered that the proposed design improves the form and look of the existing dwelling. Other two storey and chalet style examples in ‘The Lane’, that are also outside of the Conservation Area, have been extended and have used similar materials, in particular, timber weatherboarding. The design of the property attempts to respect and enhance the character of the area. The design improves a building of non-historical importance and poor design which lies on the periphery of an area of historic, ornamental buildings.
- 15.2 The original submitted design has been modified on the advice of officers. The roof of the proposed two storey extension element to the West of the existing property has now been made to be subservient to the original dwelling. This subservient design and the use of ‘softer’ materials ensures that the original building form remains clearly visible and that it is evident that an extension has been added; these features indicate that the building has evolved over time. It is considered that the addition of the two storey section to the top of the existing flat roof, is a design improvement that helps to create a more traditional building form.
- 15.3 A similar case can be made for the raising of the front, single storey lean-to extension. The proposed front gable end will be traditional in nature and when clad in softwood weatherboard and painted in a traditional colour, will help to improve and integrate the property with its surroundings.

Scale, Height and Massing

- 15.4 The scale of the proposed development respects the existing two storey dwelling and is in keeping with other two-storey dwellings in The Lane. There is an increase in the footprint of the building through the single storey element of the scheme. However, the contentious elements make no further increase to the footprint, just increases in height.
- 15.5 The front gable element is intended to run in line and create a continuous extension to the main roof, whereas the side extension roof will be subservient. The form of the building will change. It will become more ‘complete’ and traditional through the removal of the flat roof and lean-to elements and the replacement of them with gables.

Impact on the Surrounding Area

- 15.6 There have been a number of objections to the proposed scheme. The main issues of contention are the amenity of neighbours and the impact on the character of the area.

- 15.7 The property is not of historic character and is not in the West Mersea Conservation Area. Due to its current character, it is felt that the building was purposely excluded from the Conservation Area. However, the design attempts to integrate the building into its surroundings. A more traditional form and weatherboarding will help to achieve this aim.
- 15.8 Advice has been taken from the Conservation and Heritage Officer at Colchester Council. Their information is that negative effects on the setting of the Conservation Area and the nearby Listed Buildings will be nil. The application property is of a distinct and separate character to surrounding buildings. It does not form a prominent entrance or exit point to the Conservation Area and is not a land mark building. Additions to the current building would not hide or shroud any Listed Buildings from public view. Therefore, it is not considered that the scheme would have any harm on the character of the surrounding area.

Impacts on Neighbouring Properties

- 15.9 In terms of the amenity of neighbouring properties, the proposal does not breach any of the CBC guidelines as stated in the Essex Design Guide and the supplementary document 'Extending Your House?'
- 15.10 The proposed development is not overbearing on the outlook of neighbours. The nearest neighbours to the West (on The Lane and on City Road) have extremely limited views of the property, shrouded by buildings and vegetation.
- 15.11 Similarly, there are no concerns regarding loss of light/overshadowing. The combined plan and elevation tests of a clear 45 degree angle from the center point of the neighbour's nearest rear window are not breached and the proposal therefore satisfies the Councils standards for assessing this issue. One objection suggested a loss of light to numbers 7 and 9 The Lane. These properties are a distance of 23m from the nearest point of the proposed side extension and it is not deemed that the location of numbers 7 and 9 is near enough for the objection to be valid.
- 15.12 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in our policy guidance. As mentioned the view towards 22 City Road and number 6 The Lane, from the application property is very limited and it is not considered that views from new windows in the West elevation of the proposed scheme will infringe on the privacy, or overlook, the sitting out areas of either of these properties. The proposal removes a balcony element that is above the first floor extension. This balcony could be used year round by the applicants. It is to be replaced by a two storey extension with French doors and a Juliet balcony to the rear. It is considered that any suggested overlooking problems will be reduced through the implementation of this proposal.

16.0 Conclusion

16.1 A point in the objection raised by a planning consultant, on behalf of one of the neighbours, addresses the issue of harm versus public benefit, stating that the proposal would cause considerable harm with no public benefit. It is considered by officers that this scheme would cause no material harm. However, it is considered that an approval of this scheme would be of significant benefit to the public in visual amenity terms. The scheme is held to comply with the NPPF, the PPG and the Development Plan.

17.0 Recommendation

17.1 **APPROVE** subject to the following conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1168/02A, 03A, 05B and 07.

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

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

19.0 Informatives

(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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) **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. Please pay particular attention to these requirements.

