

Planning Committee Meeting

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

Thursday, 20 October 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.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Your Council> Councillors and Meetings>Have Your Say at www.colchester.gov.uk

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The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Councillors are permitted to use devices to receive messages and to access papers and information via the internet and viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, 21 Trinity Square, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A water dispenser is available on the first floor and a vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

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telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call
e-mail: democratic.services@colchester.gov.uk

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 scrapyards or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

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

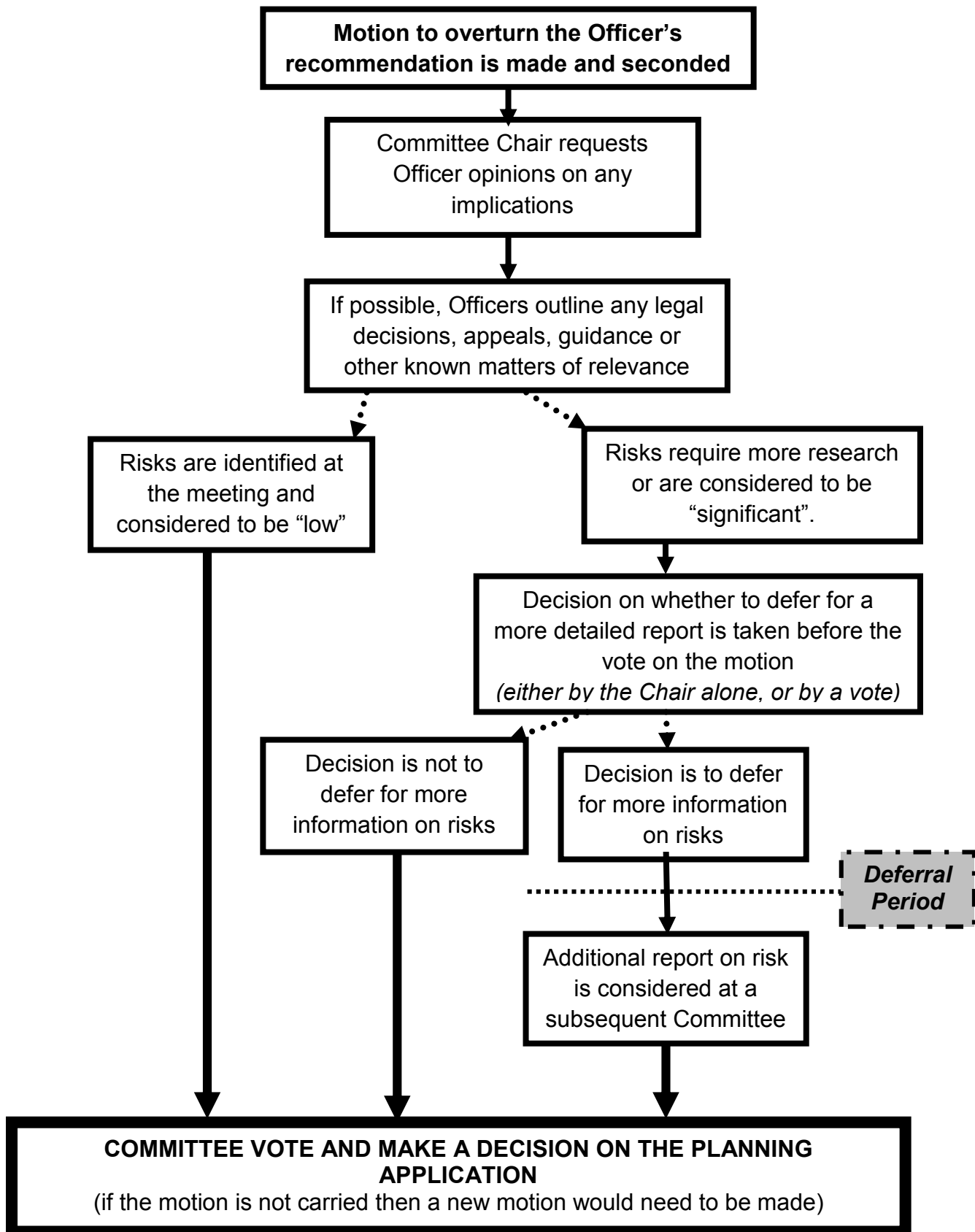
Interpretation of Class C4

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

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, 20 October 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, Tina Bourne, Roger Buston, Karen Chaplin, Nigel Chapman, Peter Chillingworth, Phil Coleman, Nick Cope, Robert Davidson, Beverly Davies, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dominic Graham, Dave Harris, Darius Laws, Mike Lilley, Sue Lissimore, Fiona Maclean, Patricia Moore, Gerard Oxford, Chris Pearson, Lee Scordis, 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.

6.1 **Minutes of 6 September 2016** 17 - 24

6.2 **Minutes of 6 October 2016** 25 - 30

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 **160906 Land adjoining Church of All Saints, London Road, Great Horkesley** 31 - 80

Removal of the existing glasshouses and ancillary buildings; change of use and replacement with a new residential scheme comprising of 18 private dwellings and 4 affordable dwellings along with enhancement measures to improve both the surrounding AONB and the Church of All Saints and its setting.

7.2 **160661 Lakelands, Phase 2, Church Lane, Stanway, Colchester** 81 - 96

Application for approval of reserved matters following outline approval 121040.

7.3 **161296 Jacks, 5 St Nicholas Street, Colchester** 97 - 112

Change of use to 7 flats and a flexible A1/2 or A3 use, including first-floor extension, three-storey rear extension, and roof extensions.

7.4 **161668 The Philip Morant School, Rembrandt Way, Colchester** 113 - 128

Erection of two-storey teaching block (D1) together with an all-weather sports pitch, amended internal vehicle access route, car parking, cycle racks and associated facilities.

7.5 **161912 West Stockwell Street, Colchester** 129 - 136

Replacement of windows and some external doors to flats in various locations. 1-9 (odds) Ball Alley, 2-14 (evens) John Ball Walk, 2-16 (evens) Nunns Road, 2- 8 (evens) Shortcut Road, 7-9 (cons) Walters Yard, 1-7 (cons) Wat Tyler Walk, 2-20 (evens) Stockwell and 22-28 (cons) 32, 33, 34a, 34b, 34c, 44, 44a and 45 West Stockwell Street.

7.6 **161543 Town and Country Lighting Ltd, 61-65 North Station Road, Colchester** 137 - 148

Retention of existing ground floor retail and construction of two storey block containing 9 flats on existing roof.

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|-----|--|--------------|
| 7.7 | 161584 Land Adjacent to Coronilla, Little Horkesley Road, Wormingford | 149 -
156 |
| | Application to remove/vary condition 2 of planning permission 152553. | |
| 7.8 | 162182 6 St Monance Way, Colchester | 157 -
166 |
| | Two storey front extension. (Revision to scheme granted permission under 152311) | |
| 8 | Exclusion of the Public (not Scrutiny or Executive) | |
| | In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). | |

Part B

(not open to the public including the press)

Planning Committee

Tuesday, 06 September 2016

Attendees: Councillor Lyn Barton (Member), Councillor Helen Chuah (Member), Councillor Pauline Hazell (Group Spokesperson), Councillor Theresa Higgins (Chairman), Councillor Brian Jarvis (Member), Councillor Cyril Liddy (Deputy Chairman), Councillor Derek Loveland (Member), Councillor Jackie Maclean (Member), Councillor Philip Oxford (Group Spokesperson), Councillor Rosalind Scott (Member)

Substitutes: No substitutes were recorded at the meeting

372 Site Visits

Councillors Barton, Hazell, Higgins, Jarvis, Liddy, Loveland and J. Maclean attended the site visits.

373 Minutes

There were no minutes for confirmation at this meeting.

374 152817 Parcel SR6, Tollgate Road, Stanway

Councillor Maclean (in respect of her acquaintance with a number of the objectors to the application) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a reserved matters application for approval of 28 affordable dwellings on Parcel SR6 including access, appearance, landscape, layout and scale at Tollgate Road, Stanway. The application had been referred to the Committee because it had been called-in by Councillor Bentley. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Vincent Pearce, Planning Projects Specialist, presented the report and, together with Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations.

The Planning Projects Specialist confirmed inclusion in the amendment sheet of

commentary on the legal opinion provided to Stanway Parish Council and an update on consultation responses from the public whilst a letter of objection that had also been received from the Right Honourable Priti Patel MP was summarised. He further explained that the Secretary of State for the Department of Communities and Local Government had not issued a holding objection to the application prior to the meeting advising that the Secretary of State was considering whether to call-in the application for his determination and requested that the Council did not determine the application but, as such, it did not prevent the Committee from determining the application.

At the start of the meeting the Chairman accepted a petition from Katy Adams entitled 'Keep our green open space to the Churchfields Avenue entrance to Lakelands, Stanway' which had approximately 1,032 signatures attached to it.

Steve Mann, on behalf of Stanway Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the Parish Council had no objection to the principle of affordable housing, rather it was concerned about the proposal for three storey dwellings and the impact these would have upon the existing properties located nearby. He referred to the Council's policy on affordable housing which specified a pepper-potting approach in clusters of 15 and he did not consider the proposals to accord with this principle. He referred to the very large number of objections to the proposals on the Council's website and explained that the Parish Council had commissioned a Barrister's report in order to provide an independent view on the background to the development. He considered the offer made by Flagship to give responsibility for the open space area to the Parish Council a method to buy support for the proposals from the community and he urged the Committee to oppose the application.

Matt Free, on behalf of the local community, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered the proposals did not respect the local context and that they were out of character with the existing residential area. He was of the view that the quality of design and character of the proposals were poor. The existing development was of low density with generously spaced dwellings whereas the proposals included a large terraced block which would be particularly out of character for the area. He was of the view that Robin Crescent was not a typical example to use as a comparison. He considered the views of local people had not been adequately sought and that the local community was not being allowed to participate in shaping this local development.

Robert Tovey, on behalf of Lakelands residents, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was a resident of Nightingale Place, facing the proposed development, and wished to make representations in relation to the eastern part of the SR6 application and in relation to the legal opinion commissioned by Stanway Parish Council. He considered that the proposals did not comply with the 2010 masterplan

objectives for the area on the grounds that the affordable housing element was not located in accordance with the principle of pepper-potting in parcels of units of 12 or less and because it was never intended to have development of a built form across the middle of entrance land to Lakelands that was shown in the Adopted Local Plan as open space. He was of the view that the number of spaces proposed for the parking courtyard serving the properties at the entrance was excessive and the courtyard itself should be relocated to the rear of the properties to lessen the visual impact for existing residents. He considered that the proposals for flats to be located on the entrance land did not blend in with previous phases of development and referred to advice in the legal opinion sought by Stanway Parish Council which confirmed that the proposals needed to comply with both local and national planning policies and guidance and was of the view that the affordable housing element, providing for 28 affordable units did not comply with the pepper-potting principles stipulated in the Council's affordable housing policy. He considered that the proportion of SR6 land allocated for open space in the Local Plan strongly suggested development of a much lower density. He supported the stance set out in the legal opinion commissioned by Stanway Parish Council that the applicants could easily formulate an alternative proposal which would retain all the open space at the entrance land. He also agreed with a further view of that legal opinion that the Committee was able to refuse the application on the basis that a better proposal which retained more open space whilst still complying with local and national policies could be produced. He was therefore of the firm view that the entrance land could be retained as open space which was what the community wanted.

Nicole Wright, of La Ronde Wright Ltd on behalf of Flagship, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She referred to the comprehensive presentation made to the Committee by the case officer and the legal opinion included in the Committee report. She considered that the principle of the development had already been approved and the current application was being determined in order to agree the reserved details. She referred to comments regarding the number of affordable houses being proposed and explained that this would not be the largest affordable housing scheme given approval in the Borough and that the Local Plan currently quoted a ratio of 19.2%. She considered that the proposals, including the open space allocation, were in accordance with the masterplan requirements. As such, she was of the view that there were no grounds to refuse the application and hoped the Council would avoid the potential risk of costs should the application be the subject of an appeal.

Carla Ridgeway, on behalf of Flagship, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that the balance of the Section 106 agreement requirements was being provided from elsewhere on the Lakelands development. She explained that a contract had been let to complete the building of a number of plots within the wider Lakeland development. This contract had been held back pending the determination of the two applications being considered by the Committee at this meeting and Flagship were now

very keen to progress the schemes in order to avoid increased costs. She considered that the proposals would deliver good quality housing in-keeping with the surroundings. Flagship had 25 years of experience of managing affordable housing schemes in Colchester and they worked to ensure that they were managed to a very high standard. She confirmed that Flagship would be happy to retain ownership of the open space areas should the Parish Council not wish to assume responsibility for them. She was of the view that the proposals would fulfil the Section 106 obligations in line with the design and access statements and, as such, there was no planning reason for the Committee not to give its approval.

Councillor F. Maclean attended and, with the consent of the Chairman, addressed the Committee. She explained that she was representing the residents of Stanway who considered the application should be refused. She said that residents had bought their properties on the basis that the land would be retained as open space. The design contained in the proposals was not in-keeping in that the dwellings were too high and too dense. She considered that compliance with the design and access statements had been achieved through the 'goal posts' being moved by the Council. She was concerned that reasonable expectations for consultation to be undertaken had been disregarded and that the National Planning Policy Framework had been ignored. She was of the view that 28 affordable housing units were unreasonable for the size of the SR6 plot as a whole. She considered that the developers could be more flexible in their approach and that a revised proposal could be formulated to provide a larger area of open space to the eastern side of the site. She referred to the very considerable level of opposition to the proposals from residents, Borough Councillors, County Councillors and a Member of Parliament and she considered it important to ensure that Councillors were held to account and that the decision making was reasonable.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He thanked the Committee members for considering the application at a special meeting and had been unaware that there was concern in relation to contractual costs for the applicant. He explained that residents' concerns were not about nimbyism, bearing in mind the amount of development which had recently taken place in Stanway. He did not consider the application to be straight forward due to a number of questions. He understood that the area of land known as the 'mound' was to be excavated but that some of the proposed dwellings would be taller than existing properties. He referred to the area of open space, its designation as such and residents' decisions to purchase their properties on this basis. He was also concerned that no consultation had been undertaken in relation to the change to the masterplan and the resulting reduced size of open space which would remain. He also questioned the future maintenance responsibility for the open space and referred to the need for the affordable housing element to be properly pepper-potted in accordance with the Council's policy.

The Chairman read a statement on behalf of Councillors Jessica and Lesley Scott-Boutell who were unable to attend the meeting due to a prior holiday commitment. The

statement referred to the significant level of local opposition to the application, the legal opinion obtained by the Parish Council and the need for an Ecological Impact Assessment Study, given evidence of protected wild flowers in Stanway. The statement also mentioned the absence of a drainage strategy and concerns regarding the impact of the proposals on the local highway network and of the design on the existing dwellings.

In response to comments raised, the Planning Projects Specialist demonstrated that, in planning terms, no significant adverse impact would be caused to existing residents due to the distances between the existing and the proposed dwellings. In particular he highlighted the 42 metre distance between the nearest dwelling in Partridge Way. He acknowledged the legal advice provided to Stanway Parish Council and confirmed that the determination of the application remained a judgement to be made by the members of the Committee, in consideration of all the facts. He confirmed that it was outside of the Committee's remit to suggest to the applicant an alternative design or layout involving removal of 12 units. He further indicated that the proposals could not be deemed to be high density. An offer had been made by Flagship to the Parish Council to transfer ownership of the open space area, however, if this was declined, Flagship had confirmed their willingness to continue to maintain it for the future. He was of the view that the design of dwellings was similar to existing properties at Lakelands. The three storey element in the proposals was below the maximum height criteria included in the masterplan, whilst the proposals were also in accordance with parking, garden and overlooking standards. He further explained that the site of the open space was the subject of outline planning permission for residential development and both the Borough and Parish Council's legal opinions had agreed that this status outweighed any alternative designation in the Local Plan. The Section 106 agreement for Lakelands provided for a number of open spaces, including the Country Park and the lake, which were far in excess of the 10% required for the development as a whole and, as such, there was no specific requirement for any open space provision within the SR6 plot. It was also confirmed that a Community Centre would be provided within the site of the Country Park, as part of the Wyvern Farm development. The affordable housing elements had been well dispersed across the various plots comprising Lakelands. The provision of affordable housing was a Council priority in order to address the significant numbers of people in the Borough in housing need and the Brook Street development was an example of 100% affordable housing provision, much greater than the Council's current target. The level of affordable provision in other phases of development at Lakelands had also been a reflection of the requirement to deliver the Western Bypass at an early stage of the development with the affordable housing phased in with the later stages. The legal opinions had also confirmed that the revision of the masterplan in 2010 had been lawful with no statutory requirement to undertake consultation. The Planning Projects Specialist went on to explain that the mound area would be subject to excavation to reduce the difference in levels. He explained that, in the course of house conveyancing, prospective purchasers would have been made aware, through local searches and associated additional information, of the wider planning history of the site beyond the basic land use allocation. He stated that the Wildlife Trust had confirmed no

rare orchids had been found on the site and that what had been reported as orchids were evening primrose and that a drainage strategy for Lakelands as a whole had been agreed at an earlier phase. The local Highway Authority had raised no objection in relation to the existing highway network, impact on congestion and safety of pedestrians whilst the proposals were in accordance with the current parking standards, including those for visitor parking. It was also confirmed that it was possible for the Committee to either await the outcome of the Secretary of State's consideration or to proceed to determine the application.

Some members of the Committee were concerned regarding the absence of consultation on the revision to the masterplan, potential overshadowing from the three storey dwellings on existing properties and the location of amenity space requiring the crossing of a very busy road in order to gain access to it and expressed their disappointment that the applicants had been unwilling to revise their proposals to accommodate concerns from local residents and with references being made to the awarding of costs if the application were referred to appeal. The significant number of residents objecting to the proposals was also acknowledged together with the comments in relation to the grouping of the affordable housing element.

One member of the Committee referred to the holding objection from the Secretary of State and, as such, questioned whether it would be possible to defer consideration of the application.

Other Committee members referred to the legal opinions which had both confirmed that the revision of the masterplan had been lawful and welcomed the good quality design and layout of the proposals. The concern of residents was also acknowledged but there was not considered to be sufficient material grounds to refuse the application, particularly given the Government's stated priority for the delivery of additional housing.

The Planning Projects Specialist explained that proposals for a formal crossing to the Country Park had previously been rejected by the highway authority. He was of the view that a request to include the provision of a crossing as part of these proposals was unlikely to be considered reasonable and would in any event require Essex County Council's acceptance in highway terms. The applicants were very keen to progress with implementing the proposals as further delays were likely to lead to increased costs, as such, although the masterplan provided for a maximum of four storey elements, he considered it unlikely there would be a request for the three storey units proposed to be increased. The Stanway Village Design Statement had made no specific reference to this site or the acceptability or otherwise of residential development upon it.

RESOLVED (SIX voted FOR and FOUR voted AGAINST) that the application be approved subject to the conditions set out in the report.

375 151479 Lakelands Development Site, (Parcel NE2), Church Lane, Stanway

The Committee considered an outline application for the proposed residential development of land known as parcel NE2 (including affordable housing) together with associated landscaping, access roads, car parking, infrastructure and other ancillary works at the Lakelands Development Site, Church Lane, Stanway. The application had been referred to the Committee because it was a major application which was a departure from the Adopted Local Plan and was also subject to a Section 106 Agreement. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Vincent Pearce, Planning Projects Specialist, presented the report and assisted the Committee in its deliberations. He explained that, prior to the start of the meeting, the applicants had agreed to amend the description of their application by means of the withdrawal of a reference to 'up to 65 new dwellings'.

Alex Chapman, on behalf of O and H Properties, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that all the Section 106 agreement Heads of Terms relating to sports, community facilities, affordable housing and education provision had been agreed and were awaiting signature. He considered that the site was capable of providing up to 65 new homes with a 20% affordable housing element but as they had not had sufficient opportunity to adequately demonstrate this in plan form, the suggested amendment to the application was acceptable.

RESOLVED (UNANIMOUSLY) that –

(a) The Head of Commercial Services be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet, also as advised at the meeting in relation to the amendment of the wording to Condition 5 and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months authority be delegated to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide for:

- 20% affordable housing;
- an education contribution;
- community facility contribution;
- sports and recreation contribution and
- including a clause triggering an appropriate financial contribution from the developer/owner or relevant party with an interest in the land to the Council in lieu of any affordable unit not provided on the site of NE2 in order that the Council or its nominee can facilitate or otherwise procure the delivery of affordable housing.

(b) The reserved matters application be referred to the Committee for consideration and determination.

Planning Committee

Thursday, 06 October 2016

Attendees: Councillor Lyn Barton (Member), Councillor Helen Chuah (Member), Councillor Pauline Hazell (Group Spokesperson), Councillor Theresa Higgins (Chairman), Councillor Brian Jarvis (Member), Councillor Cyril Liddy (Deputy Chairman), Councillor Derek Loveland (Member), Councillor Jackie Maclean (Member), Councillor Philip Oxford (Group Spokesperson), Councillor Rosalind Scott (Member)

Substitutes: No substitutes were recorded at the meeting

384 Site Visits

Councillors Barton, Chuah, Hazell, Higgins, Jarvis, Loveland, J. Maclean and Scott attended the site visits.

385 Minutes of 15 September 2016

The minutes of the meeting held on 15 September 2016 were confirmed as a correct record.

386 161976 Hunters Rough, 18 Chitts Hill, Colchester

The Committee considered an application for the variation of condition 2 (Drawings) on planning permission 131538. (Demolition of two residential units and erection of 16 detached dwellings, garages and access road) at Hunters Rough, 18 Chitts Hill Colchester. The application had been referred to the Committee because it was a major application with a linking agreement and an objection had been received. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

387 161819 25 Elianore Road, Colchester

The Committee considered an application for a proposed single storey rear extension at 25 Elianore Road, Colchester. The application had been referred to the Committee

because it had been called-in by Councillor Barber. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Ishita Sheth, Planning Officer, presented the report and, together with James Ryan, Principal Planning Officer, assisted the Committee in its deliberations.

Lloyd North addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was of the view that the proposed extension failed to comply with the criteria set out in the Council's 'Extending Your Home' guidance and that the dimensions should be taken from the original rear wall of the dwelling rather than the existing rear wall. He explained that he had taken advice from solicitors who had confirmed to him that the proposal, if approved, would breach the Council's own policies. He also made reference to a similar application, the details of which he was familiar with, which he considered had been determined differently and led him to the view that policies were being interpreted inconsistently. He was also concerned about the proximity of the development to the boundary of his property as well as the height of the proposal which would be harmful to residential amenity, create an overbearing impact and visual intrusion.

Andrew Feasey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that an application had been submitted under permitted development rights which had been amended to a householder application. He was of the view that the proposal would not be harmful in planning terms and there would be no significant impact in relation to loss of light for the neighbour. He was further of the view that the proposal would create no overlooking to 25 Elianore Road but would enable the applicant to regain privacy to their own dwelling in relation to a side facing window at the neighbouring property which overlooked the applicant's garden.

Councillor Barber attended and, with the consent of the Chairman, addressed the Committee. He explained that he had been convinced by Mr North's assertions regarding the criteria set out in the 'Extending your Home' guidance and the legal advice which had indicated the guidance would be breached. He was concerned about the interpretation of 'main rear wall' as set out in the guidance and considered that the development would have an overbearing impact on the neighbour. He was not unsupportive of an extension in principle but considered more could have been done to involve the principal objectors in the process than had seemed to be the case.

In response to comments raised, the Planning Officer confirmed that the interpretation of the 'main rear wall' criteria had been made correctly and that the proposal did comply with both national policies and various relevant local standards and guidance. She explained that, in circumstances where the impact of a proposal can be adequately

assessed from the application site, it was not always necessary to visit neighbouring properties when assessing planning applications.

Members of the Committee sought an assurance regarding the contrary legal advice referred to by the objector but were generally satisfied that the application was one which was acceptable, particularly so having benefitted from visiting both the application site and the neighbouring premises.

The Principal Planning Officer confirmed that the 'Extending your Home' guidance was one of a suite of Supplementary Planning Documents (SPDs) adopted by the Council to provide guidance in assessing the acceptability of planning applications. He confirmed that this guidance was one of a number which had, in recent years, been superseded by the Government's drive towards less restricted permitted development which, in many instances far exceeded the guidelines contained in the Council's SPDs.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

388 161930 83 Ernest Road, Wivenhoe

The Committee considered an application for proposed alterations and extensions at 83 Ernest road, Wivenhoe. The application had been referred to the Committee because the applicant was an employee of Colchester Borough Council. The Committee had before it a report in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

389 161860 9 Welshwood Park Road, Colchester

The Committee considered an application for a two storey side and rear extension, first floor extension with new roof and first floor habitable accommodation and single storey side extension involving removal of existing garage, new vehicular access, enlarging existing access and new carriage driveway to front at 9 Welshwood Park Road, Colchester. The application had been referred to the Committee because it had been called-in by Councillor Smith. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Eleanor Moss, Planning Officer, presented the report and, together with James Ryan, Principal Planning Officer, assisted the Committee in its deliberations.

Kent Stabler addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained his concern regarding the impact of the proposal on his own property and was of the view that it was likely to mean that his house would be made dark for most of the day. He appreciated that compromises had been made and the application had been amended in response to neighbour's concerns. However, he considered there remained a large number of concerns which remained. He referred to ambiguous information and discrepancies contained in the Committee report which led him to the view that the application may not have been assessed accurately. He considered Welshwood Park Road had a particular rural character which should be preserved and was of the view that the 'boundary to boundary' proposal was detrimental to the rural street scene.

Jared Doouss addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he worked at Severalls Business Park and considered himself lucky, despite the property's current state of disrepair, to have been successful in purchasing the application site to enable him to create a home in an area with a wealth of character. The brief he had given to his architect was for a dwelling which would fit in with the existing surrounding area. Care had been taken with the proposed ridgeline of the dwelling so that it was broadly in line with neighbouring properties. He referred to amendments which had been made to the original plans to mitigate concerns raised by objectors, including the cropping of roof gable ends, removal of a balcony and barbeque area and inclusion of obscure glazing to side windows. He considered the amended proposals met all relevant planning requirements, fitted well with the surroundings and would add to the rich character of the area.

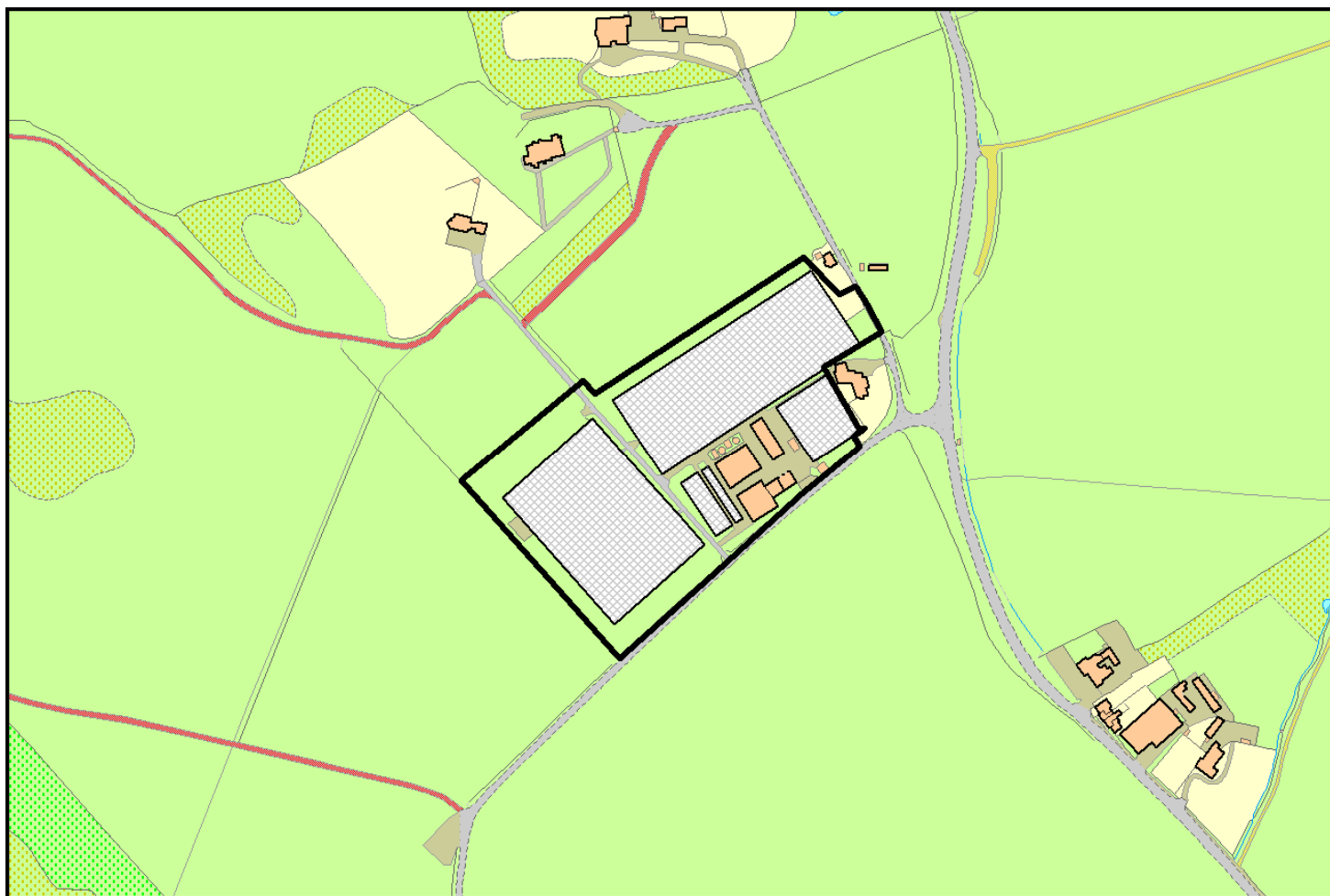
Councillor Smith attended and, with the consent of the Chairman, addressed the Committee. He acknowledged that this would be a finely balanced assessment of the application. The proposal was for the bungalow to be significantly extended but he gave credit to both the applicant and the objectors who had all sought to narrow their differences amicably. He was aware the Committee had undertaken a site visit and he considered the application merited due consideration by the Committee in the context of a public meeting and he welcomed the Committee's views.

In response to comments raised, the Planning Officer confirmed that, in order to preserve the amenity of the site, proposed conditions had been included which would provide for the retention of boundary hedging and trees. She acknowledged inaccuracies in the Committee report which had been corrected in the amendment sheet and confirmed that the aspect of the plot would mean that shadowing would not have a significantly detrimental impact on the neighbouring property. Whilst Welshwood Park Road contained an eclectic mix of dwellings, it was not a designated Conservation area and, as such, the proposed extension was considered to be acceptable. Many of the neighbouring properties were large which would mean that the proposal, on what was a very large plot, would not appear to be overbearing but would satisfactorily conform to

the street scene.

Members of the Committee welcomed the concessions which had been made by the applicant and considered the proposal had been well thought through and would contribute positively to the street scene. The proposed condition to remove permitted development rights for the installation of side windows above ground level was considered acceptable and sufficient.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the amendment sheet.



Application No: 160906

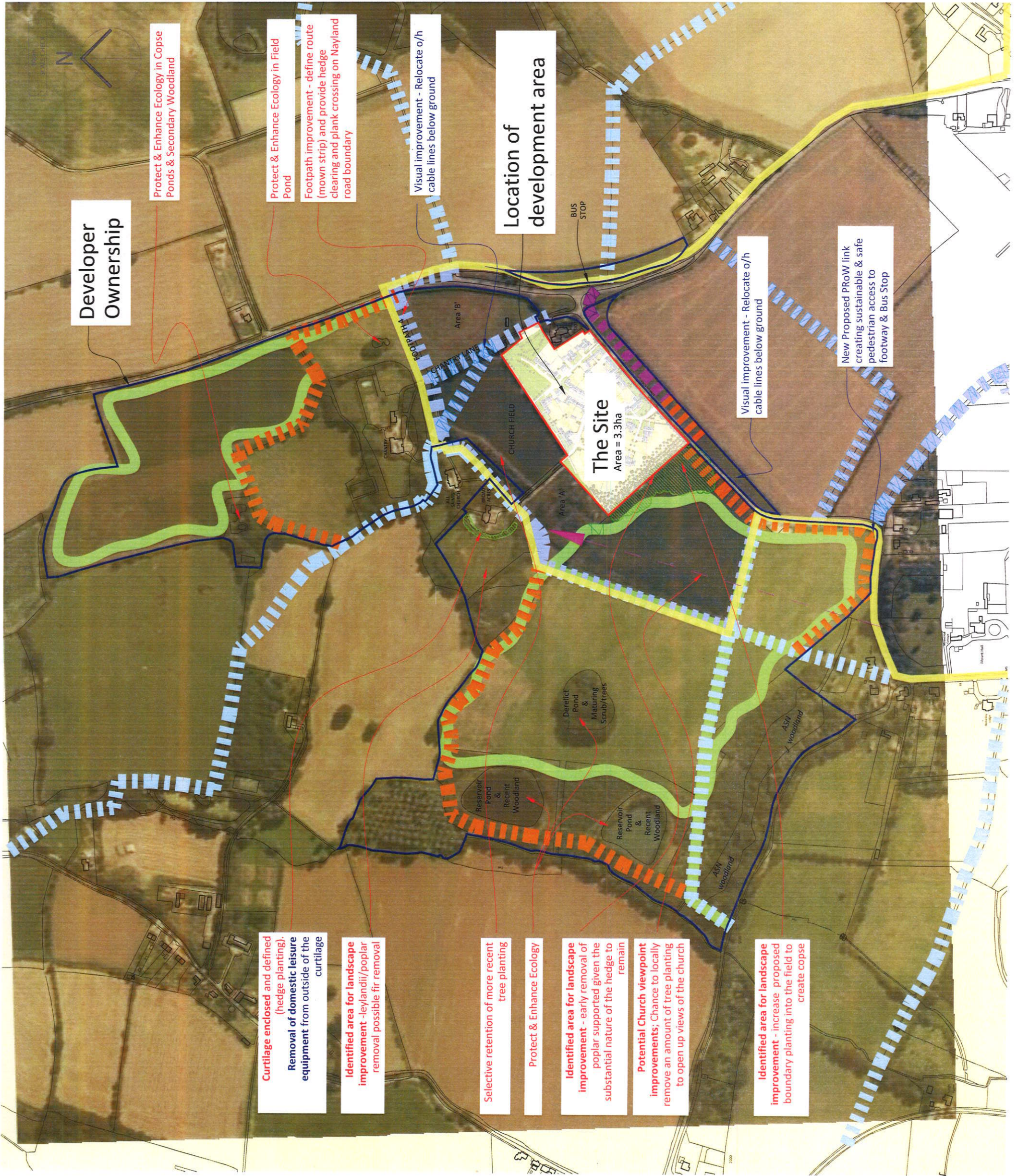
Location: Land Adjoining Church of All Saints, London Road, Great Horkesley, Colchester

Scale (approx): 1:2500

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Site Location Plan (1:2,500 scale)



KEY TO IMPROVEMENTS



AONB



Existing PRoW



Proposed PRoW Accessibility Improvement



Proposed Footway to Bus Stop



Proposed Field Margins

Management Enhancement Works

Development Improvements

RED TEXT

BLUE TEXT

TO BE READ IN CONJUNCTION WITH DOCUMENTS :

Appendix 1

Enhancement of Land within Ownership Boundary by Woolerton-Dodwell

Appendix 2

Ecological Value - Protect, Enhance, Create (Little Horkesley Development Site) by Eco-Planning UK Ltd

Amendments:	
Client:	merseahomes
Project:	Redevelopment of Existing Glasshouses & anc. bldgs Land Adj. Ch. of All Saints, London Rd, Gt Horkesley
Dwg. Title:	WIDER PUBLIC BENEFIT PLAN
Dwg. No:	1119 - L - WPB
Approved By:	
Scale:	as shown
Original Sheet Size:	A1
Date:	17.08.16
	A D P



Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **20th October 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Simon Cairns

MAJOR

Site: Land adjoining Church of all Saints, London Road, Great Horkesley, Colchester

Application No: 160906

Date Received: 19 April 2016

Agent: Mr David Rose

Applicant: W & H Park Ltd & Mersea Homes

Development: Removal of the existing glasshouses and ancillary buildings; change of use and replacement with a new residential scheme comprising of 18 private dwellings and 4 affordable dwellings along with enhancement measures to improve both the surrounding AONB and the Church of All Saints and its setting.

Ward: Rural North

Summsary of Recommendation: Conditional Approval subject of signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because:

- the site has a controversial history and objections have been received from local residents and amenity groups;
- the proposals represent a departure from the adopted local plan; and

- approval is recommended subject to a s.106 agreement and prior resolution of outstanding matters of detail.

2.0 Synopsis

2.1 The key issues explored below are:

- the site history, and in particular, the Secretary of State's recovered decision in April 2014 following a public inquiry into the development of a rural themed visitor's centre at Horkesley Park (120965);
- the detailed scheme now proposed for 22 houses (including 4 affordable) on the site of the existing glasshouses together with the package of contributions/public benefits now on offer.
- the policy context and the weighting to be applied to the development of homes in this countryside location in terms of whether the package of enhancements/benefits associated with the scheme can be considered to outweigh the presumption against housing development in this location.

3.0 Site Description and Context

- 3.1 This detailed full application relates to a parcel of land covering 3.3 hectares to the north of London Road and to the west of the A314 Colchester-Sudbury Road, Little Horkesley. The site is currently occupied by disused glasshouses and forms part of a larger holding of agricultural land extending to the west and north of the site, centred on the grade I church of All Saints, Great Horkesley. The total holding covering an area of 47.4 Hectares. The application site lies outside the Dedham Vale and Stour Valley AONB but is immediately adjacent and clearly contextual to that designated area. The remainder of the site in the applicant's ownership is mainly within the designated AONB. The site is elevated on the crest of the southern flank of the Stour valley and the land gently falls to the north and west. The existing glasshouses are prominent and intrusive being punctuated by the brick flue of the boiler house and present a quasi-industrial
- 3.2 Prior to the submission of this full application a Screening Opinion was sought (151179) under the Town & Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015 and the Council concluded that an EIA was not required. The application site is in close proximity to several dwellings to the immediate east (Hillside, Chantry Lodge) and north (Broad Acres and The Chantry). The Chantry is a grade II listed, stuccoed villa set in spacious and well screened grounds to the north east of the parish church. Immediately to the north of the application site is a meadow that provides separation between the application site and the parish church/Chantry. All of these neighbouring properties are currently in the applicants' ownership.
- 3.3 The area immediately to the north east of the site is an area of spoil heaps that extend towards the detached house known as Broad Acres. The southern site boundary to London Road is partly screened by a boundary hedgerow with a mature hedgerow inset behind a line of hybrid black poplar trees on the western boundary of the site. The northern flank of the site is open to the church field and existing spoil heaps giving direct views to the grade I listed parish church.

4.0 Description of the Proposal

4.1 The proposals comprise a residential development of 22 units (of which 4 are affordable homes). The house types are each of bespoke design and based on vernacular precedents found in the Stour valley area. The houses are essentially laid out to address three new street frontages. The first is grouped along the north side of London Road and seeks to suggest a farmstead group with barnyards and farmhouse type units. The four affordable units are sited within this frontage and form part of a 'model farm' style courtyard group and each comprises a two bedroomed single storey dwelling (designed in response to a request from the affordable housing officer). The second consists of a village street of detached and terraced units aligned along a new thoroughfare set on an approximate south-west to north-east alignment with the built form increasing to the north east end and grouped around a proposed junction. The third frontage responds to the undeveloped church meadow that immediately adjoins the application site. This element presents a dispersed soft edge of cottages and houses set in large plots with vehicular access achieved from the area. All of the proposed units comply with relevant adopted local plan policies in respect of parking, separation distances and amenity space. All of the proposed units are considered faithful in design to their vernacular precedents and propose traditional vernacular materials, detailing and proportioning of plan forms. A single unit (no.14) is part thatched in response to its prominent location facing the parish church. It is anticipated that the roads would not be adopted but maintained by a management company.

4.2 The application comprises the following documents:

- Planning Statement (ADP); Design and Access Statement (ADP); Heritage Statement (ADP); Arboricultural Impact Assessment (TPS); Ecological Assessment: Faunal Surveys (Eco-Planning UK); Geo-environmental Assessment (Hydrology & Geology) (LDA Design); Statement of Community Involvement; Comparison of existing and proposed traffic levels and accessibility of the site by alternative modes (Intermodal Transportation); Flood Risk Assessment & Drainage Strategy(KWL); Horkesley Green: Executive summary of local archaeological and heritage assets (CAT); Landscape and Visual Impact Assessment (WoolertonDodwell); Package of wider landscape and ecological enhancement 15.08.16 (Eco Planning/WoolertonDodwell); Architectural detail reference sheets 1119.D.0-17 (ADP);
- ADP Drawings: 119.L.01 Site Location Plan; 119.L.002 Existing Site Plan; 119.L.003 Proposed Site Plan; Plot 1- Plans & Elevations 1119.L.010; Plot 2 Plans & Elevations 1119.L.011; Plot 3 Plans & Elevations 1119.L.012; Plots 4-7 Plans & Elevations 1119.L.013; Plot 8 Plans & Elevations 1119.L.014; Plot 9 Plans & Elevations 1119.L.015; Plots 10 & 11 Plans & Elevations 1119.L.016; Plots 12 & 13 Plans & Elevations 1119.L.017; Plot 14 Plans & Elevations 1119.L.018; Plots 15 & 16 Plans & Elevations 1119.L.019; Plot 17 Plans & Elevations 1119.L.020; Plot 18 Plans & Elevations 1119.L.021; Plot 19 Plans & Elevations 1119.L.022; Plot 20 Plans & Elevations 1119.L.023; Plot 21 Plans & Elevations 1119.L.024; Plot 22 Plans & Elevations 1119.L.025. Woolerton Dodwell Illustrative Landscape Proposals drawings ref: 781.201 & 781.202

5.0 Land Use Allocation

- 5.1 The site is 'white land' and is not allocated for development and was last used for horticultural purposes (glass houses).

6.0 Relevant Planning History

- 6.1 LEX/63/62- glasshouse nursery, boiler house and packing shed- Approved 9.4.62
- 6.2 LEX/222/69 Extension of glasshouse, packing shed and boiler house and erection of Dutch barn. Approved 01-07-1969
- 6.3 LEX/388/70- extension to existing greenhouse to provide cover for storage tanks- Approved 3.11.70
- 6.4 LEX/489/71- extension of existing greenhouse at the nurseries- Approved 6.10.1971.
- 6.5 LEX/117/74 Extension of existing horticultural nursery including erection of new glasshouses Approved 25-07-74
- 6.6 O/COL/01/0553- Outline application for redevelopment and creation of the John Constable Countryside and Heritage Centre at Horkesley Park - Withdrawn 11 June 2001.
- 6.7 C/COL/01/1259 – Change of use of two former horticultural and industrial units to Unit 1- Distributor of fitness equipment to gyms, hotel and leisure centres and Unit 2- Maker of quality kitchens and luxury bedroom furniture. Temporary approval 11 October 2001.
- 6.8 F/COL/03/0784 – extension for a further 18 months of Units 1 and 2 granted planning permission under C/COL/01/1259- Approved 27 June 2003.
- 6.9 An application submitted in September 2003 for a Heritage Park on the site was not registered as the Local Planning Authority requested that it should be accompanied by an Environmental Statement.
- 6.10 F/COL/05/1558- Proposed redevelopment and change of use of land at Buntings Nursery Site and adjoining land to create a heritage and conservation centre, incorporating main centre building, Suffolk Punch horse breeding centre, farm barn, nature watch (underground) building and rustic adventure playground, and ancillary specialist garden centre with ancillary catering and parking facilities. Change of use of The Chantry main house to art gallery, out buildings to craft studios and part of private gardens to public gardens. Change of use of 27 hectares of land to form a country park with informal recreation and visitor facilities. Withdrawn – 5 April 2006
- 6.11 071084 Change of use from agricultural building to mixed use agricultural/brewery temporary permission 07-11-2007

- 6.12 090231 Change of use and redevelopment of land to form a heritage and conservation centre comprising a 40.89 hectare country park, art gallery and craft studios (The Chantry) public gardens, main building, suffolk punch breeding centre, farm barn, underground nature watch building (The Warren) rustic adventure playground and main and overflow car parks. Planning permission was refused in February 2009 for the following reasons (paraphrase):
The site is not allocated for major development and is set in open countryside, divorced from existing settlements. It has not been demonstrated that there is a requirement to locate the development at this site or that there are other material planning considerations that would justify a departure from the development plan. The amount of retail development was significant and it had not been demonstrated as essential in this countryside location. It was not concluded that there was an appropriate planning mechanism by which the extent of retail sales could be appropriately controlled to prevent intensification.
The deliverability of the key economic benefits was questionable together with the overall viability of the attraction. Relevant local plan policies identify that Colchester Town will be the focus of larger scale tourist, leisure and cultural activities in order to concentrate development at the most accessible and sustainable location. The proposal by virtue of its scale, location and design was considered to conflict with adopted policy objectives. National and local plan policies direct major development away from designated areas including AONB otherwise than in exceptional circumstances and such a case had not been made in this instance.
- 6.13 121013 Temporary storage of waste skips for a period of three years on two areas of open land adjacent to existing glass houses. Refused 17-07-2012
- 6.14 120965 Development of a rural-themed visitor attraction ('The Stour Valley Visitor Centre') comprising a country park, art and craft studios (The Chantry), public gardens, a central building complex with indoor display ring, 'Suffolk Punch Breeding Centre', entrance building, shop, café, 'Field to Fork', 'Farming through the ages', 'Active Learning', 'Nature Watch', demonstration nursery and gardens, 'Energy Centre', car parks and highway improvements.
- 6.15 The application was refused and Members may recall the controversy that surrounded the public inquiry for a themed visitor attraction on the wider holding. The appeal proposals were 'recovered' for determination by the Secretary of State (SoS) himself having determined that the proposals gave rise to 'substantial regional or national controversy'. The inspector recommended that the appeal be dismissed and the Secretary of State agreed with the recommendation. The SoS concluded that:
- The site cannot be considered to be in a sustainable location with regard to accessibility for a development that would generate significant traffic movements;
 - The proposals would not conserve or enhance the natural beauty of the landscape and would undermine the aim of providing quiet enjoyment of the countryside contrary to local plan policies DP22 and ENV1 and the objectives of the AONB Management Plan;
 - Whilst the new jobs would create increased prosperity in accordance with local plan policies DP9 and DP10 and paragraph 29 of the Framework, the proposed Chinese Garden would not preserve the Chantry or its setting contrary to local plan policy

DP14 and the provisions of the Framework. He concluded the proposals would have a neutral effect on the setting of the grade I church.

- 6.16 The Inspector makes some insightful observations in his reasoning that are of relevance to the consideration of the current proposals in particular:

Paragraph 283 “..the existing industrial scale agricultural buildings are something of an eyesore.....In closer views from the public footpaths in the AONB, and in wider views outside it, the full extent of the somewhat utilitarian structures is evident. I consider that, notwithstanding their agricultural use, the group of existing buildings on the nursery site currently has a harmful visual impact on the character of the rural surroundings.”

Paragraph 284. “As land occupied by agricultural buildings, the nursery does not fall within the definition of previously developed land. It is agricultural land but, since it has been built on, I do not accept the Council’s argument that it should be treated as greenfield land. “

Paragraph 287. “The distinctive character of the AONB is not solely derived from the natural environment. The traditional buildings of the area contribute in no small part to the special character of the AONB landscape...”

The relevance of these statements will be explored in the report and their implications for considering the current development proposals will be expanded upon further.

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 how 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

UR2 - Built Design and Character

PR1 - Open Space

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic

TA5 - Parking

ENV1 - Environment
ENV2 - Rural Communities
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP22 Dedham Vale Area of Outstanding Natural Beauty

- 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

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

Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Cycling Delivery Strategy
Street Services Delivery Strategy SPD
Little Horkesley Village Design Strategy (July 2010)

- 7.6 **National Planning Policy Framework (NPPF) 2012**

Relevant paragraphs to consider include:

Paragraph 9. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):

- making it easier for jobs to be created in cities, towns and villages;
- moving from a net loss of bio-diversity to achieving net gains for nature;
- replacing poor design with better design;
- improving the conditions in which people live, work, travel and take leisure; and
- widening the choice of high quality homes.

Paragraph 55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should: – be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; – reflect the highest standards in architecture; – significantly enhance its immediate setting; and – be sensitive to the defining characteristics of the local area.

Paragraph 56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 109. The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; • preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 111. Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land.

Paragraph 115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.²⁵

Paragraph 116. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Paragraph 125. By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Paragraph 129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 137. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Paragraph 140. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

Paragraph 187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

7.7 National Planning Practice Guidance (NPPG) provides guidance to underpin the policies set out in the framework. The following paragraphs are considered to be of relevance:

What is meant by the term public benefits?

Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework ([Paragraph 7](#)). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

Public benefits may include heritage benefits, such as:

- sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- reducing or removing risks to a heritage asset
- securing the optimum viable use of a heritage asset in support of its long term conservation

Revision date: 06 03 2014

Does planning need to take account of management plans for National Parks and Areas of Outstanding Natural Beauty?

Planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area. As part of this, local planning authorities and neighbourhood planning bodies should have regard to management plans for National Parks and Areas of Outstanding Natural Beauty, as these documents underpin partnership working and delivery of designation objectives. The management plans highlight the value and special qualities of these designations to society and show communities and partners how their activity contributes to protected landscape purposes.

National Parks and Areas of Outstanding Natural Beauty management plans do not form part of the statutory development plan, but may contribute to setting the strategic context for development by providing evidence and principles, which should be taken into account in the local planning authorities' Local Plans and any neighbourhood plans in these areas.

National Parks and Areas of Outstanding Natural Beauty management plans may also be material considerations in making decisions on individual planning applications, where they raise relevant issues.

Revision date: 06 03 2014

Related policy

National Planning Policy Framework

[Paragraph 165](#)

Paragraph: 005 Reference ID: 8-005-20140306

How is major development defined in National Parks and Areas of Outstanding Natural Beauty, for the purposes of the consideration of planning applications in these areas?

Planning permission should be refused for major development in a National Park, the Broads or an Area of Outstanding Natural Beauty except in exceptional circumstances and where it can be demonstrated to be in the public interest. Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable. Revision date: 06 03 2014

7.8 The Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Project Area Management Plan 2016-2021.

Areas of Outstanding Natural Beauty management plans do not form part of the statutory development plan, but may contribute to setting the strategic context for development by providing evidence and principles, which should be taken into account in the local planning authorities' Local Plans and any neighbourhood plans in these areas. Areas of Outstanding Natural Beauty management plans may also be material considerations in making decisions on individual planning applications, where they raise relevant issues. The following sections are extracted from the most recent plan and are of relevance to the consideration of the current proposals.

7.9 Excerpts from part 2.5 of the 2016-2021 Management Plan. Sections in bold are added to highlight particular sections considered to be of direct relevance.

2.5. Natural Beauty and Special Qualities

Section 89 of the Countryside and Rights of Way Act (2000)¹ requires Local Authorities to formulate policy for the management of AONBs. This Management Plan formulates that policy. Section 85 of the Act places a duty on all relevant authorities to 'have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'.

Landscape quality is enhanced by a sense of tranquillity experienced in the area. Some forms of development and recreational pursuits can lead to a loss of relative tranquillity which the Campaign to Protect Rural England includes:

- Perceived links to nature
- Positive features in the landscape
- The importance of wildlife
- Peace, quiet and calm
- The Campaign to Protect Rural England notes that factors included in the loss of tranquillity include:
 - Disruptive behaviour of other people
 - Noise, especially from cars
 - **Overt signs of human development**
 - **Negative features in the landscape**

Scenic quality:

A distinctive sense of place is achieved due to the landform, woodland cover, and land-use and settlement pattern. **Villages play a key part in contributing to the scenic quality, being historic in nature with many timber framed building and often dominated by churches situated in prominent locations.** The sense of place is further enhanced by the areas close association England's finest landscape artist, John Constable.

The special qualities of the AONB can be summarised as:

- Iconic lowland river valley associated with the artist John Constable RA, the views he painted are still recognisable today
- **Historic villages with timber framed housing and prominent churches** □ Valley bottom grazing marshes with associated drainage ditches and wildlife □ Naturally functioning River Stour with associated tributaries, meres and historic river management features
- **Semi natural ancient woodlands on valley sides with associated wildlife** □ **Traditional field boundaries intact and well managed**
- **Apparent and buried archaeology indicating millennia of human activity**
- **A sense of relative tranquillity**
- **Surprisingly long distance views from higher ground along the valley in an area associated with large skies**

3.1.5 Management Plan Policies:

- Lobby for national and local planning policies to reflect the significance of the natural beauty and special qualities of the AONB and Stour Valley.
- **Support development that contributes to the appropriate economic development and contributes to the conservation and enhancement of the AONB and Stour Valley.**
- **Protect the area, including its setting, from developments that detract from its natural beauty and special qualities, including its relative tranquillity.**
- Resist fragmentation of farmland and wildlife habitats and encourage landscape scale co-ordination of initiatives, including Environmental Stewardship, to conserve and enhance the natural beauty and special qualities of the AONB and Stour Valley.
□ Support the aspiration to extend the AONB boundary to the west of its existing limit.
- Improve understanding of the AONB and Stour Valley in particular its natural beauty and special qualities.
- **Maintain the local distinctiveness of the AONB and Stour Valley.**
- Work in partnership to minimise impacts of diseases and pests such as Chalara on the landscape features.

3.2.7 Management Plan Policies

- Ensure Local Plans reflect the need to conserve and enhance the AONB and Stour Valley
- **Support development that contributes to the conservation and enhancement of local character**
- Encourage communities to increase their understanding of the area and become involved in environmental projects to conserve and enhance the area
- Promote the appeal and distinctiveness of villages to help develop the visitor attractiveness
- Promote the role of villages as centres of rural economy, particularly their shops and service providers
- Lobby for Local Enterprise Partnerships to support activity that recognises the economic benefits of the area's natural capital
- Support the provision of high quality infrastructure, including roads, where it does not detract from the area's special qualities
- Work with Amenity Societies such as Dedham Vale Society and Colne Stour Countryside Association whose objectives support the Partnership's work
- Utilise Ofgem allowances and similar schemes to remove unsightly and redundant infrastructure from the landscape

8.0 Consultations

8.1 Planning Policy Response

Date of Response: 14.09.16

Application ref 160906;

Land Adjoining Church of All Saints London Road, Great Horkesley Colchester

The removal of the existing glasshouses and ancillary buildings; change of use and replacement with a new residential scheme comprising of 18 private dwellings and 4 affordable dwellings along with enhancement measures to improve both the surrounding AONB and the Church of All Saints and its setting.

Background

These Planning Policy comments relate to matters of principle associated with the proposed development and make no judgement on issues of detail such as design.

At a high level it must be acknowledged that the proposed development in this location is not immediately supported by local planning policies. However the planning history associated with this site together with the fact that the proposed development does not extend beyond the foot print of the land currently occupied by the glasshouses, must have some bearing on the consideration of this planning application and this response reflects the key considerations relevant.

The site lies adjacent to the Dedham Vale Area of Outstanding Natural Beauty and currently is occupied by former glasshouses and semi- derelict nursery buildings. Although by legal definition this is not technically viewed as brownfield land, it is also difficult to see it as green field land in the true sense of the word as mentioned by the Inspector in the recent appeal decision set out below.

National Planning Policy

A core principle in the National Planning Policy Framework 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. Although not strictly defined as brownfield land, the site is currently occupied by disused semi derelict buildings / glasshouses and as such shares some characteristics relevant to land defined as brownfield. The comments referenced below refer to a previous appeal decision in respect of the current uses on the site and are relevant to this point.

Part 11 of the Framework states, at para 109, that the planning system should contribute to and enhance the natural and local environment by, among other things 'protecting and enhancing valued landscapes.' It goes on, at para 116, to state that "planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest."

Also relevant is the requirement under the CROW Act 2000 which places a requirement on the Local Planning Authority to "have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty".

Local Plan Policy

The Adopted Core Strategy and Development Management Policies comprise the relevant Local Development Plan in respect of this application. Policies ENV1 and DP22 are both relevant. ENV1 indicating that development that has an adverse impact on the AONB will not be supported, and DP22 similarly only providing support in or near to the Dedham vale AONB that makes a positive contribution to the special landscape character and qualities of the AONB; does not adversely affect the character, quality views and distinctiveness of the AONB, or threaten public enjoyment of these areas, including by increased vehicle movement; and supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan. One of the key objectives stated in the Management Plan is ... "seeks to conserve and enhance the AONB and Stour Valley by ensuring that land use decisions and development proposals reflect the special qualities of the area."

Relevant Planning History

The most relevant planning history on this site is application Ref 120965 which was subject to appeal and review by the Secretary of State. Although the nature of the proposals the subject of that application were quite different in scale and scope from this planning application there are some useful key issues referenced in the decision letter which are relevant to its consideration. In respect of the part of the site which is the subject of this planning application, the Planning Inspector for the aforementioned Appeal APP/A1530/A/13/2195924 stated the following; *"As it stands, the existing industrial scale agricultural buildings on the site are something of an eyesore. As I saw on my site visit, while the glasshouses are largely screened in longer views from the AONB, the boiler house chimney in particular is very prominent. In closer views from public footpaths in the AONB, and in wider views outside it, the full extent of the somewhat utilitarian structures is evident. I consider that, notwithstanding their agricultural use, the group of existing buildings on the nursery site currently has a harmful visual impact on the character of their rural surroundings."* Furthermore the Secretary of State concurred with this view stating; *"Having had regard to the Inspector's remarks at IR283 – 289, the Secretary of State sees no reason to disagree with that analysis. Taken on balance, he too concludes that, while the replacement of the former tomato nursery buildings would substantially improve views into and from the AONB".....*

Conclusion and Recommendation

In principle the proposal represents development in the countryside which is not supported by the national or local planning context and is contrary to the principles of sustainable development underpinned by the Development Plan and the National Planning Policy Framework;

The site is currently disused, including run down / dilapidated buildings and is widely recognised as an “eyesore”. This view was stated by the Planning Inspector at the previous Planning Appeal and supported by the Secretary of State. Both confirmed that development which replaces this eyesore would represent an enhancement to the character of the area.

The site is situated adjacent to the Dedham Vale AONB which has a policy context which only supports development which does not cause an adverse effect and seeks opportunities for enhancement of the character of the AONB.

The proposal in its entirety would not take any land beyond the footprint of the site currently occupied by the rundown glasshouse buildings;

Due to the scale of the scheme it is unlikely to cause unacceptable harm to the character of the area and therefore no adverse effect is caused therefore is supported by Policies ENV1 and DP22;

In view of the current state of the site, its proximity to the AONB and the relevance of the planning history require a more pragmatic approach to be taken in respect of other planning considerations;

As the site is situated adjacent to the AONB, it is appropriate to support proposals which provide an opportunity to enhance the area, particularly in the light of a conclusive view of the site comprising an “eyesore”. Support for enhancement of the character of the AONB comes from the NPPF, the Access to the Countryside and Rights of Way Act (2000) and the Local Plan.

The proposed development is therefore supported by the NPPF, CROW Act, Local Plan Policies ENV1 and DP22 and the Dedham Vale and Stour Valley Management Plan objectives.

Recommendation

As a matter of principle it is recommended that this proposal is supported as an exception for the reasons stated above which together justify a pragmatic approach and enable an overall enhancement to the site in close proximity to the AONB. It is considered that the benefit of the development will outweigh any harm and furthermore the removal of the “eyesore” and replacement with a permanent planning solution will enhance the character of the AONB in this area. Support for this approach is provided by national and local policy as outlined above.

Subject to satisfactory, design, layout, access and other detailed matters (which have not been considered in this Policy response), it is recommended that this proposal is approved.

- 8.2 **Anglian Water** comment that “As the developer is not proposing to connect to any of Anglian Water’s assets to dispose of foul sewage or surface water; we have no comment.”
- 8.3 **ECC SUDS** comment “Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission.” Conditions are suggested and these are incorporated into the suggested decision.
- 8.4 **Natural England** comment:

“Wildlife and Countryside Act 1981 (as amended)
The Conservation of Habitats and Species Regulations 2010 (as amended)
Countryside and Rights of Way Act 2000
Landscape advice

The proposed development is for a site within or close to a nationally designated landscape namely Dedham Vale Area of Outstanding Natural Beauty (AONB). Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 115 of the National Planning Policy Framework which gives the highest status of protection for the ‘landscape and scenic beauty’ of AONBs and National Parks. For major development proposals paragraph 116 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB’s statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape’s sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area’s natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to ‘have regard’ for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

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. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a ‘reasonable likelihood’ of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

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 NPPF. 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’*.

Other advice

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity)
- local landscape character
- local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#). “

- 8.5 **Urban Design** comments: “The scheme design generally successfully provides new housing in a way which complements the sensitive rural setting, will help instil a sense of community and appears incrementally derived using an accurately applied range of bespoke vernacular house types.

Such an exceptional approach to design has the potential to positively contribute to the setting. Nevertheless, there is still opportunity for further refinement which should be taken given the sensitivities of the scheme.” Small scale revisions were suggested to the detailed scheme as submitted. Agreement has since been achieved in relation to the majority of these issues.

- 8.6 **Dedham Vale and Stour Valley Project** comment as follows:

“The existing glasshouses rest on land outside, but adjacent to the nationally designated AONB. The land is within the setting and is related in landscape character and visual terms to the AONB itself. Whilst the land in question is not designated per se, it is so closely related, that full consideration must be given to whether there is potential for the development to have an adverse impact on the AONB.

There are of course a number of policy considerations which have already been highlighted in the application documents and by other consultees which will need to be tested in order to ensure that the principle of development at this location is appropriate. In particular, the site does not represent the obvious location for residential development in terms of its lack of connectivity with nearby settlements and associated facilities. Local policies relating to the AONB should also be applicable in the determination of this application, including those detailed in the AONB Management Plan. The attached AONB Partnership Position Statement relating to development within the setting of the AONB is of particular relevance.

Specific attention is drawn to the question of whether the development contributes to the character and special qualities of the AONB. The potential landscape enhancement as a result of the removal of the glasshouses, hybrid poplar shelter belts etc. at the site is not disputed. However, the introduction of a residential development of this scale does represent a significant development which will have a visual impact on the AONB which cannot be fully mitigated – i.e. a permanent change in landscape character and pattern of settlement will result from the development.

As detailed in the Landscape and Visual Impact Assessment, viewpoints 4,5,6,7 along with the images of proposed development do emphasise the need for a robust landscaping plan. The successful establishment of this planting is essential to achieve the desired effect to reduce visual impact from the AONB.

Should the local planning authority be minded to approve the application, appropriate conditions to secure the landscaping, such as an extended period of maintenance and management would be required.

Viewpoint 1 – although off-site, hedgerow planting alongside the A134 to mitigate the impact from this viewpoint should be considered.

To offset the visual impact and change in landscape character, we consider that measures, such as the covenants and s. 106 agreement are secured to protect the surrounding land from future development. The area detailed as 'Horse Paddocks' should not be subject to any permitted development rights and strict controls to ensure that structures, lighting etc. are not permitted. Similarly, the land in between the church and the development, and the cricket field is very important to the setting of the Grade II* listed church and should be safeguarded from any future development.

It is noted that there are several areas of amenity land within the site, including the uncultivated buffer zone either side of the footpath running south west from the site. These elements, which seek to improve landscape and biodiversity will need to be managed appropriately in the future. A mechanism to detail and secure this management into the future are required.

Attention is drawn to the need to control exterior lighting within the development. Measures to prevent the introduction of inappropriate lighting are recommended. It is noted that no street lighting is proposed, however, this comment relates to lighting within the domestic curtilage of each property. Similarly, controls relating to boundary treatment for each curtilage are required to prevent the introduction (at a later date) of structures, materials, planting etc. which would be inappropriate in this setting.

Policy DP 22, in particular – “the development should seek to support the wider environmental, social and economic objectives as set out in the Dedham Vale AONB & Stour Valley Management Plan.”. It is noted that great effort has been made to engage with the local community and to consider the local distinctiveness of the built development and landscape. The measures, such as removal of non-native Poplar and planting of native hedgerows, establishing meadows etc. are predominantly proposed within the ‘red’ line of the built development. There are opportunities to extend this beyond the ‘red line’ and to contribute to supporting the wider environmental, social and economic objectives, such as:

- Improving ecological connectivity across intensively farmed arable land
- Improving connectivity in the local public rights of way network and in particular ensuring that a local circular walk is available for residents of the development to reduce the need to travel by car to walk for recreation elsewhere
- Securing measures on within land in the ownership of the applicant to enhance landscape character and biodiversity. We would be happy to provide further detailed advice on site specific and appropriate measures which would support the conservation and enhancement of the AONB.

Please note that these comments represent officer views and recommendations.”

Comments on Draft Heads of Terms – Landscape and Ecology Enhancement

The principle of enhancing the land surrounding the proposed development site is something we see as extremely important in the context of the proposed development and fundamental to achieving the primary purpose of conserving and enhancing the natural beauty and special qualities of the AONB.

The draft Heads of Terms for the ecology, landscape and access enhancements is broadly in line with our recommendations, however it fails to go far enough to define and quantify the actual benefits to be delivered and how this will be achieved over a defined period of time. The submitted plan refers to broad themes such as ‘identified area for landscape enhancement’ or ‘protect and enhance ecology’ to which we are supportive, however, for the purposes of the Management Plan, much more detail is needed so that all parties are clear on what activity is proposed.

It would be useful if all elements as detailed in Appendix 1 and 2 were identified on a detailed proposal plan, or explained in further detail as this is not consistent in the information submitted.

I have some detailed comments on specific elements of document:

Aquatic Habitat – There are no management suggestions for the existing aquatic habitats. We would advise that there is an undertaking to survey as required and provide a management proposal which details the features of each of the existing ponds, with recommendations for any intervention to improve their biodiversity potential. A series of ponds at different stages of succession may be achievable for maximum biodiversity benefit. An up to date ecological report for baseline purposes would be required for the production of the Management Plan.

Other opportunities to enhance the aquatic habitats were considered at our site meeting in July, but these have not been included in the plan (although brief reference is made to them on Appendix A B4). There are opportunities, particularly in naturally low lying areas which we would expect to be incorporated in an overall plan for the enhancement of the site. The area we consider to have natural potential in terms of proximity to existing water bodies is located in a low-lying area of the field and is highlighted on the attached plan.

River Stour Restoration. The parcel of land located to the south bank of the River Stour has not been included in the document or proposal plans (although is briefly noted in Appendix 1 B3). The Dedham Vale AONB and Stour Valley Project are actively working on a river restoration proposal on the north bank and will be approaching the landowner to the south (the applicant) in any case. This seems the ideal opportunity to collaborate on the delivery of a high profile and highly beneficial project. Our detailed suggestions have been shared with the applicant and we are disappointed to see that they do not feature in the document. In terms of delivering multiple biodiversity benefits, the river restoration project rates highly. If required, we may be able to provide an estimated cost for this project.

Hedgerows are noted to be limited in their connectivity and conservation value in the document. A simple walkover survey to note the lengths of new hedgerow being proposed and identification of any gaps that can be filled is required. Ideally this would be presented on a plan to be included in the Management Plan. This would be accompanied by a specification for the works, agreeable to the LPA.

My initial advice was to plant a new hedgerow to define the public footpath which runs in a south-westerly direction from the site. Following a site visit and much deliberation about the appropriateness or otherwise of this suggestion, I have sought advice from Jess Tipper to check on the historic mapping. He confirms that there is evidence of field boundaries here. As such, restoration of this field boundary would be appropriate - a hedgerow crossing the full extent of the arable field would offer the ecological connectivity that we are seeking to achieve and would define the public footpath effectively whilst also fitting in appropriately with the landscape character of the area.

In addition, the boundary adjacent to London Road, following south westwards, then southwards from the development site would benefit from the removal of cricket bat willow and replacement with native hedgerow with hedgerow trees, consistent to the landscape character of the AONB. This is partially covered in Appendix A, A4.

The extensive information included in the document regarding maintenance of hedgerows should be accompanied by a detailed plan and schedule of works in the Management Plan.

Lowland Neutral Grasslands

It is not explicitly clear where the grasslands are to be established. I understand that Areas A and B are to be managed as grassland, and presumably also the buffer strips proposed around the field boundaries although this is not explicit in the proposal document and needs to be clarified for the purposes of the Management Plan.

Arable land

There is no explanation of what measures are proposed on the remaining arable land. The future use of the land should be defined clearly in the Management Plan. Appendix 1 B1 refers to the enhancement of agricultural land through reduced intensity of agricultural production. How this will be achieved requires further definition.

Public rights of way

A proposed route has been included close to the southern tip of the arable land and labelled as new proposed PRoW link creating a sustainable and safe pedestrian access to footway and bus stop. From a PRoW network perspective, there is already a network in place which achieves this particular link, and it also runs through the area that we have previously identified as suitable for pond creation. I would advise that part of this particular link (marked as A-B on the attached plan) is removed from the proposal plan, leaving B – C in place to connect to the already proposed footway link to the bus stop.

Additional routes around the periphery of the development should be labelled so that each can be considered separately. The principle of creation of a connected network is supported, further detail on how this would be achieved within or in addition to the field margins is required along with a principle for how these will be maintained in the future.

Principles of a Management Plan

We consider that the proposed principles for the enhancement of the surrounding AONB landscape can be delivered through a Management Plan, under the terms of a section 106 agreement which could be agreed following determination of the planning application. We consider that this method of securing the wider public and environmental benefits is essential to ensure that all parties are clear on what benefits are to be delivered, how these will be achieved and within what timeframe. On production of the Management Plan, the Dedham Vale AONB & Stour Valley Partnership will consider it for formal endorsement.

8.7 Contaminated Land, Environmental Protection comment:

“Re: Brown 2 Green Associated Ltd, Updated Phase 1 Geo-environmental Desk Study Report, Ref. 1634/rpt 1v1, May 2016

Thank you for supplying me with a copy of the above. I note that this report provides an up-to-date re-assessment of the site, including initial conceptual model and potential contamination risks for the proposed residential use. This report is acceptable for Environmental Protection purposes and has identified some potential pollutant linkages requiring further investigation, possible remediation and validation, following the removal of the fuel storage tanks.

From the photographs, it would appear that there may be asbestos containing material within existing buildings: whilst not strictly with my remit to comment on, the applicant should be advised that where asbestos containing material is suspected, we will expect there to be appropriate surveys undertaken and any relevant material to be suitably removed and disposed of, prior to the main demolition of structures, and reporting of these matters should be provided to Colchester Borough Council.

However, based on the information provided, it would appear that the site could be made suitable for the proposed new use, with contamination matters addressed by way of condition. Consequently, should permission be granted for this application, Environmental Protection would recommend inclusion of the following conditions:” The suggested conditions have been incorporated into the recommended decision.

8.8 Historic England comment:

“The applicants sought advice from us in the development of these proposals.

Historic England Advice

Historic England’s interest in this proposal arises from the relationship between the site and All Saints’ Church. The church is of Norman origin, and was enlarged and remodelled in the 14th and 15th centuries, before being restored by Chancellor in 1882. It stands in an isolated position, but for the presence of the former nursery and a few nearby houses, one a fine stuccoed house, the Chantry, in the manner of Soane. The church is listed at grade II* on account of its special architectural and historic interest; the Chantry is listed at grade II.

The nursery site is derelict, and the applicants seek to use it to build twenty-two dwellings. Their proposals would create a modest settlement evoking through its planning and design the historic settlements characteristic of the area. The informal layout of the proposed development, the variety of sizes of house and of designs, and the relationship between the settlement and its surroundings are the product of close consideration of local precedents.

Historic England consider the proposed development to have been conceived in a manner consistent with the policies of the National Planning Policy Framework. The proposals hold out the promise of meeting the Framework’s objective of providing social, economic and environmental benefits simultaneously (NPPF, 8). Although the development of a small settlement on this site would change the historic setting of the church we believe the sympathetic character of the proposals would ensure that they would not harm its setting or its significance (NPPF, 132).

There are points which might be debated - for example, could the network of roads be more permeable; is the construction of a “converted barn” desirable? The general approach, however, is appropriate, and the designs are thoughtfully conceived. It would be vital to control the detail of materials and craftsmanship if the character illustrated by the application drawings is to be secured in the construction of the development.”

8.9 Archaeological Advisor comments:

“The proposed development is located within an area of archaeological interest recorded in the Colchester UAD. The landscape context of the site, above the Stour Valley, and between two minor tributaries of the River Stour, is topographically favorable for early occupation – particularly later prehistoric and Roman occupation. There are a large number of cropmarks, indicative of archaeological features, to the south-east of the application site. There is also the cropmark of a ring ditch just to the southwest of the application site, possibly the remains of a ploughed-out Bronze Age barrow. It is, therefore, quite possible that there are archaeological remains within the application site.

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.”

An archaeological condition is recommended and this has been incorporated into the recommendation/draft decision.”

8.10 Landscape Planner recommends minor changes to means of enclosure around some of the proposed house plots and, subject to these detailed amendments the use of landscaping conditions. Regarding the strategic landscape content/aspect of the wider public benefit proposals lodged on 19-08-16 the extension of the hedgerow on the south side of London Road is recommended.

8.11 Arboricultural Officer: Has considered the Arboricultural Impact Assessment and confirms that he is satisfied with the proposals.

8.12 Highway Authority ECC comment:

“This Authority has assessed the highway and transportation impact of the proposal and having regard to the fact that the site could through staff, customers, deliveries, and servicing, already generate a high level of vehicular traffic, does not wish to raise an objection.

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

A series of conditions are recommended that are incorporated into the draft decision notice.”

9.0 Parish Council Responses

- 9.1 **Great Horkesley Parish Council** supports the proposal but raises concerns about asbestos in the greenhouses and requests a covenant be imposed to prevent further development across the whole site in the future.
- 9.2 **Little Horkesley Parish Council** expresses conditional support and acknowledges that the proposals represent a considerable improvement yet raise some fundamental concerns:
- Residential development is contrary to policy whereas a single exemplar house would comply with national policy;
 - Development area must be tightly controlled and any development on the Church Field prevented by covenant;
 - Architectural narrative could extend to include contemporary forms other than vernacular;
 - Range of dwellings restricted to large houses at odds with typical hamlet/village and floor areas are not stated;
 - Dwelling designs attractive with varied streetscene;
 - Scant reference is made to sustainability with almost all journeys being by car;
 - Increase in traffic movements inevitable and passing places on London Road is desirable;
 - Setting of grade I listed church must be protected.
- 9.3 **Nayland with Wissington Parish Council** does not object in principle subject to covenants to prevent further development and encroachment into AONB. The following points are raised:
- Better solution to future of site than continued decay;
 - Conditions required regarding drainage and site run-off;
 - Condition required regarding contaminated land and to mitigate biodiversity impacts.

10.0 Representations

- 10.1 Twenty-six letters of objection and eight letters in support have been received from residents together with a further three neutral representations. The following objections were raised:
- Land is not redundant for horticulture/agriculture;
 - Site is poorly served by amenities with inadequate infrastructure;
 - Poorly served by sustainable modes of transport;
 - Loss of agricultural land;
 - Harm to Area of Outstanding Natural Beauty (AONB);
 - Land is protected by restrictive covenant;
 - London Road is unsuitable for increased traffic;
 - Contrary to Local Plan DP13, DP22, DP24 and NPPF para.115/116;
 - Not brownfield land;
 - Undesirable precedent;
 - Potential archaeological impact;

- Site should revert to agricultural land use;
- Over-development;
- Inadequate road network;
- Adverse impact on landscape views;
- Harmful to setting listed buildings (grade I church and The Chantry grade II);
- Excessive height of proposals compared to glasshouses;
- Loss of existing screening from Poplar trees and need for screen planting;
- Guarantees required for future development of site;
- Not allocated for development in local plan;
- Potential for noise and light pollution;
- A134 and London Road are dangerous and speed needs to be restricted to 30mph and controlled by cameras funded by s.106;
- Affordable homes are grouped and not pepper-potted;
- Tree planting must be protected by s.106 agreement;
- Unsustainable location dependent private car trips;
- Insufficient affordable houses;
- Affordable homes are unsuited to first time buyers
- Inadequate parking;
- Lack of justification;
- Footpath required into village
- Two storey houses are intrusive;
- Transport Report Flawed; rural enterprises would be better for rural economy than homes.

10.2 The following 'neutral' comments were received from three individuals:

- Restrictive covenants on remainder of site essential to ensure that future development is strictly controlled;
- Concerns over access traffic and use of London Road for construction;
- View of church from main road required;
- Covenant required to prevent objections to church and bell ringing from new residents;
- Restrictive covenant needs to be effective and suggest National Trust holds covenant for public benefit.

10.3 The following supportive comments were received from eight individuals:

- Potentially enhance local community;
- Something more acceptable is proposed on contentious site;
- Preferable to dilapidated glasshouses;
- Development in scale with surroundings;
- Development will look like a normal part of local landscape
- Sympathetic approach;
- Support especially affordable housing element.

10.4 **The Dedham Vale Society** objects to the proposals and raises the following points:

- Existing site is an eyesore;
- Asbestos in buildings poses a health hazard;
- Scheme presents a well-designed mix and design reflects architectural style;
- Questionable brownfield status;
- Loss of agricultural land;
- Site not designated for development in local plan and should be pursued via emerging plan;
- Effect on setting grade I listed church and The Chantry (grade II);
- Infringement of countryside.

10.5 **Colne Stour Countryside Association** objects to the proposed development. The following points are raised:

- Agricultural land not brownfield
- Scheme too intensive;
- Unsustainable location and car dependant;
- Covenants need to cover adjacent land in AONB
- Precedent;
- S.106 clauses need to be acceptable to Dedham Vale and Stour Valley (DVSV) Project;
- Too many houses and insufficient affordable houses;
- Applicants should be required to make significant contribution to DVSV Project.

10.6 **Stour Valley Action Group (SVAG)** Reserves Judgement upon the development.

The following points are raised:

- Scheme has design merit;
- Planning history of site is irrelevant;
- -Major departure from local and national planning policy;
- -Scheme is of high quality and well considered;
- -Proposed development lacks justification;
- Why are 22 units required to remove harm to the landscape?
- removing unsightly buildings will have significant costs but no information is provided to demonstrate whether costs/revenue are balanced or whether costs are exceeded;
- Financial viability evidence required;
- Local Plan policies ENV1 & DP22 give specific protection for Dedham Vale AONB;
- Unsustainable residential development with adverse impact on AONB;
- Affordable homes are not pepper-potted across development;
- Development car dependant and poorly served by sustainable modes of transport;
- SVAG acknowledges that the developers have consulted widely with the local community and interest groups;
- Restrictive covenants/s.106 required to control development across whole site;
- Careful design of houses and provision of new facilities for Church of All Saints laudable;
- In the event that the Council is minded to grant planning permission SVAG requests that stringent conditions and s.106 clauses are imposed to cover the whole site in order to control future development.

10.7 **Nayland with Wissington Conservation Society** objects to the scheme and raises the following points:

- Land is in agricultural use and proposals are a departure from adopted plan policies;
- Unsustainable location poorly served by sustainable transport modes contrary to policy TA1;
- Contrary to policy H3 that requires a range of house types including elderly and special needs;
- Adverse impact on AONB contrary to policies ENV1 & DP22;
- Removal of glasshouses does not represent a significant landscape enhancement/benefit nor will it conserve or enhance AONB as required by section 85(1) of the CROW Act;
- Proposals are contrary to local plan policies H1, H3, H4, TA1, ENV1, DP13 & DP22;
- Application does not explain how long term management plan delivered and enforced;
- Provision of new church facilities welcomed;
- Marginal benefit to biodiversity;
- S.106 agreement required to (a) Prevent use of land except for agricultural purposes with recreational use on the cricket field (b) strict compliance with submitted plans/elevations (c) Implementation and maintenance of landscape scheme.

10.8 **Colchester Cycle Campaign** (Will Bramhill) requests provision of cycling connectivity to connect lanes to the north and south of Stour valley by s.106 funding; including feasibility of inclusion in national Hovis byway, possibly through EU funding.

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 proposed parking provision accords with Development Policy DP19 and is in conformity with EPOA Vehicle Parking Standards 2009.

12.0 Open Space Provisions

12.1 The proposals satisfy the adopted standards set out in Development Policy DP16 in terms of private amenity space and public open space with generous plots and a large area of meadow to the south of the Church of All Saints to the immediate north of the development.

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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered at the meeting of 19 May 2015 that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:
- £150k to address the outstanding repair issues identified in the quinquennial condition report for the Church of All Saints, Great Horkesley together with the provision of electricity/drainage to the church boundary;
 - Transfer of parking area to immediate south of The Chantry to provide church of All Saints with parking to facilitate viable use of the church;
 - ECC Highways request transport packs be provided for all new residents together with improvements to the bus shelter on the A134 to the south of the site. It was not accepted that improvements to London Road were appropriate as this would lead to increased speeds;
 - Archaeology a contribution of £2200 towards maintenance of the HBSMR;
 - Education: ECC seek a contribution of £16,872 towards Secondary education transport costs;
 - Affordable housing: Four units of housing in compliance with adopted standard (20%) with cascade letting policy giving preference to local residents or those with a demonstrable link to the local area.

15.0 Report

- 15.1 The report considers the following issues:
- Planning Status of the Site: Greenfield/Brownfield
 - Conformity with national and local plan policy
 - Impact on AONB
 - Impact on setting of listed buildings in site
 - Design and Layout
 - Scale, Height and Massing
 - Impact on the Surrounding Area and Neighbouring Properties
 - Highway Issues
 - Package of public benefits
 - Prevention of speculative development on remainder of holding in the future

15.2 Planning Status of the Site

Many representations raised this issue and it underpins the case for the proposal. The recent recovered appeal ref: 120965 that was dismissed by the Secretary of State in 2014 (following a public inquiry), addressed this issue by acknowledging that as former horticultural land it was not technically brownfield but commented further that this was not to say that the site should be treated as greenfield as the built form rendered this classification too simplistic:

Paragraph 284. “As land occupied by agricultural buildings, the nursery does not fall within the definition of previously developed land. It is agricultural land but, since it has been built on, I do not accept the Council’s argument that it should be treated as greenfield land. “

15.3 The council sought a legal opinion on this matter to clarify the position from senior counsel. The advice received is that there is indeed a simple dichotomy in terms of the NPPF and agricultural buildings/uses are explicitly excluded in the glossary to the NPPF from the category of brownfield land (or previously developed land – PDL). However, conversely whilst technically objectors are correct to assert that the site is not PDL this in itself does not prevent development that meets other national and local plan objectives. In officers opinion, it is this fact that the Inspector is alluding to in his statement namely that this simplistic test does not ‘trump’ all other material planning considerations and that the national and local policy framework must be read as a whole and individual policy objectives weighed up against the merits of the proposals.

15.4 **Conformity of the proposals with national and local planning policy**

A statutory duty exists to determine applications in accordance with the provisions of the development plan unless material considerations indicate otherwise (s.38 (6) of the Planning and Compulsory Purchase Act / s.70 (1) of the Town & Country Planning Act 2010). The policy framework must be considered as a whole and not in isolation as there will always be policies that support/conflict with any proposal. These policies must be weighed in accordance with the relative importance of the relevant issues.

In this case, the site is located in a countryside location that is poorly served by amenities and sustainable modes of transport. Nevertheless, the site adjoins the AONB and its condition detracts from its intrinsic qualities and from the setting of the adjacent grade I listed church. These are both statutory considerations that warrant particular consideration. The present state of the site and its visual impact on the character of the countryside is addressed by the Inspector in the 2014 appeal decision:

Paragraph 283 “...the existing industrial scale agricultural buildings are something of an eyesore.....In closer views from the public footpaths in the AONB, and in wider views outside it, the full extent of the somewhat utilitarian structures is evident. I consider that, notwithstanding their agricultural use, the group of existing buildings on the nursery site currently has a harmful visual impact on the character of the rural surroundings.”

15.5 Many of the representations received also acknowledge that the existing built form associated with the glass houses and associated boiler house and flue together with the areas of tipped material to the north (that together extend to approximately three hectares) constitute an eyesore that materially detracts from the rural landscape (and by association from the setting of the adjacent grade I church and grade II house known as The Chantry). Whilst the site is not itself within the AONB designation, it is immediately adjacent to it and materially impacts upon it and this view is shared by many objectors and the Dedham Vale and Stour Valley Project Officers (DVSVP) in their response. This harm and the potential for enhancement forms the basis of the case in support of the proposals. Some objectors have suggested that if refused, the site will return to agricultural use but in the opinion of officers, this would not deliver enhancement as it is unlikely that any owner would unilaterally agree to remove built form without incentives.

15.6 The application site is within a rural location where new homes would not normally be permitted otherwise than as an exception to adopted local plan policy. The NPPF (Para 55 at 7.6 above) seeks to direct new housing to sustainable locations in existing settlements except where material enhancements can be delivered:

“Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should: – be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; – reflect the highest standards in architecture; – significantly enhance its immediate setting; and – be sensitive to the defining characteristics of the local area.”

15.7 This is an approach also reflected in relevant local plan policies that seek to restrict development in the open countryside and outside development boundaries (Local Plan Core Strategy policies SD1, H1). However whilst there is a policy presumption against development in such rural locations there are exceptions where a significant enhancement can be delivered (policies ENV1 and DP22). Policy DP22: Dedham Vale Area of Outstanding Natural Beauty sets out three criterion against which proposals should be assessed:

“Development will only be supported in or near to the Dedham Vale Area of Outstanding Natural Beauty (AONB) that:

- (i) Makes a positive contribution to the special landscape character and qualities of the AONB;
- (ii) Does not adversely affect the character, quality, views and distinctiveness of the AONB or threaten public enjoyment of these areas, including by increased vehicular movement; and;
- (iii) Supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan....”

15.8 Enhancement of environmental quality lies at the heart of sustainable development. Paragraph 9 of the NPPF states:

“Paragraph 9. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to): • making it easier for jobs to be created in cities, towns and villages; • moving from a net loss of bio-diversity to achieving net gains for nature;⁶ • replacing poor design with better design; • improving the conditions in which people live, work, travel and take leisure; and • widening the choice of high quality homes.”

15.9 The site immediately adjoins the AONB and is clearly contextual to it and both the existing and proposed development has the potential to impact materially upon its intrinsic qualities. This point is made by many objectors and the DVSVP in their representations. The NPPF and allied NPPG confirms the statutory position with regard to AONB's namely that:

"Planning permission should be refused for major development in a National Park, the Broads or an Area of Outstanding Natural Beauty except in exceptional circumstances and where it can be demonstrated to be in the public interest. Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable." NPPG Paragraph: 005 Reference ID: 8-005-20140306.

15.10 It is a moot point whether the proposed development constitutes major development. It is outside the AONB designation but clearly has potential impacts upon it. These are considered to be potentially significantly positive. The application site is at present almost entirely developed and the proposal would replace the existing blanket of alien and incongruous built form by a more diffuse pattern of development of vernacular scale interspersed with significant landscaped areas in between. The proposals represent a significant enhancement in the opinion of officers and this is acknowledged by the parish council responses. The DVSVP also acknowledge the potential for enhancement associated with removal of the existing structures:

"The potential landscape enhancement as a result of the removal of the glasshouses, hybrid poplar shelter belts etc. at the site is not disputed. However, the introduction of a residential development of this scale does represent a significant development which will have a visual impact on the AONB which cannot be fully mitigated – i.e. a permanent change in landscape character and pattern of settlement will result from the development."

15.11 They also do acknowledge that the associated package of enhancements associated with the remainder of the holding (land edged in blue) accord with the aims of the AONB designation.

"The principle of enhancing the land surrounding the proposed development site is something we see as extremely important in the context of the proposed development and fundamental to achieving the primary purpose of conserving and enhancing the natural beauty and special qualities of the AONB." DVSVP response.

Impact on the AONB

15.12 In the opinion of officers, there would be a significant and enduring public benefit to the qualities of the AONB gained from the removal of the existing unsightly buildings and their replacement by a considered and well-designed small group of houses of vernacular design. In addition a further package of public benefits has been proposed by the applicants that would enhance the remainder of the holding. These benefits include the undergrounding of overhead wirescape on London Road and are explained in greater depth at paragraphs 15.20-23 below) It is considered that such enhancement

is in conformity with national policies (especially paragraphs 115-116 of the NPPF) and local planning policies (ENV1, DP22) together with the DVSV AONB Management Plan. These public benefits are considered to outweigh the unsustainability of the location and inevitable dependence on the private car. The DVSV Management Plan is a material planning consideration and acknowledges that the enhancement of the area and its setting is a key policy objective whilst the vernacular heritage of the area is intrinsic to its special qualities. (Set out at Paragraph 7.7 above). The key management plan objectives are considered to be met by the scheme, namely:

“3.1.5 Management Plan Policies:

- Support development that contributes to the appropriate economic development and contributes to the conservation and enhancement of the AONB and Stour Valley.
- Protect the area, including its setting, from developments that detract from its natural beauty and special qualities, including its relative tranquillity.”

15.13 A statutory duty exists (s.85(1) of the CROW Act 2000) to “have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”. In this case the proposed development is considered to meet this strategic aim and is supported by relevant provisions of the Framework and adopted Local plan. The quantum of development necessary to deliver this enhancement has been questioned by SVAG, possibly based around the methodology proposed by English Heritage in relation to enabling development and heritage assets. In this case, the public benefits being primarily visual are difficult to ascribe a monetary value that can be reflected in a viability appraisal and have therefore been assessed on a qualitative as opposed to a quantitative basis. The quantum of development was increased through pre-application discussions with Historic England who sought to promote a convincing surrogate village of an appropriate scale to reflect the form of existing small historic settlements in the Stour Valley and based on submitted evidence of settlement characterisation. This issue is considered further below

Impact on the setting of listed buildings within the site

15.14 The existing buildings within the site adversely impact on the setting of the Grade I listed Church of All Saints and to a lesser extent on the setting of The Chantry (grade II). The grade I listed Church is by definition of national importance and its setting is afforded special regard in the planning process. (S.66(1) of the PI (Listed Buildings & Conservation Areas) Act 1990.) Both the Framework (paragraphs 129-140) and local plan (policies ENV1, DP14) lend support to proposals that deliver enhancement of heritage assets. In this case, Historic England have concluded that the proposals accord with the objectives of the Framework:

“The nursery site is derelict, and the applicants seek to use it to build twenty-two dwellings. Their proposals would create a modest settlement evoking through its planning and design the historic settlements characteristic of the area. The informal layout of the proposed development, the variety of sizes of house and of designs, and the relationship between the settlement and its surroundings are the product of close consideration of local precedents.

Historic England consider the proposed development to have been conceived in a manner consistent with the policies of the National Planning Policy Framework. The proposals hold out the promise of meeting the Framework’s objective of providing social, economic and environmental benefits simultaneously (NPPF, 8). Although the

development of a small settlement on this site would change the historic setting of the church we believe the sympathetic character of the proposals would ensure that they would not harm its setting or its significance (NPPF, 132).”

- 15.15 In conclusion, the proposals are considered to accord with the statutory tests and would result in a material enhancement to the wider setting of these listed buildings by removing discordant features and replacing them with a markedly more sympathetic form of development that Historic England confirms to be in accordance with the NPPF’s objectives.

Design and Layout

- 15.16 The detailed design of the proposed units has been based on historic precedents of existing buildings in the Stour Valley and Dedham area. The proposals seek to create an authentic albeit synthetic, hamlet of authentic character and form. The development comprises three distinctive character areas, comprising: street farmstead, village street and church green. Each area employs the use of bespoke house types and varying densities and compositions to create attractive streetscenes redolent of the AONB. All of the proposals meet the relevant adopted policy standards for parking, amenity space and overlooking. The design proposals are considered to be of an exceptionally high standard of vernacular design that is based on local architectural traditions. The proposals are in conformity with adopted Development Plan policies DP1, DP12, DP16 and DP22.

Scale, Height and Massing

- 15.17 The proposals comprise a diverse mixture of building types including barnsteads and houses of varying scale from modest cottages to higher status ‘polite’ houses. These would together create an attractive composition and lively roofscape enlivened by prominent chimneys. The traditional forms have received commendation from the Dedham Vale Society and Stour Valley Action Group (despite their other detailed objections). It is considered that the proposed massing is considered and appropriate to this elevated rural location abutting the AONB and that the detailed scheme accords with the design aspirations of the DVS Management Plan.

Impact on the Surrounding Area and Neighbouring Properties

- 15.18 The landscape and visual impact of the scheme has been subject to a Landscape and Visual Impact Assessment (WollertonDodwell) and this has been reviewed by the Council’s Landscape Architect and the DVSVP Officer. Whilst the proposals will result in an intentional change in character as the agri-industrial character of the existing buildings is replaced by a hamlet; these changes are considered to be positive and whilst the replacement built forms will be visible to varying degrees, their vernacular character is considered to be consistent with the special qualities of the AONB namely “historic villages with timber framed housing and prominent churches”. The new development is considered to relate positively to the existing houses that adjoin the application site in terms of scale, separation, privacy and overlooking. The removal of the existing commercial structures should deliver an enhancement for the amenities enjoyed by these existing homes. Concerns have been raised around impact on residents arising from the use of London Road for construction traffic and the general noise/disturbance associated with the demolition and construction phases. It is considered that these are issues that can be appropriately addressed through a

construction method statement condition and this condition is included in the suggested draft decision. In conclusion, the impact on both the surrounding area and neighbouring properties is considered to be positive.

Highway Issues

- 15.19 The site is located adjoining the A134 and London Roads. Many objections were received to the development on the basis that the A134 is a busy road and London Road has substandard width in places. Objectors have suggested that these roads are unsuited to serving the proposed development and that significant improvements should be sought; including widening of London Road and speed cameras/speed restrictions imposed on the A134. These issues were considered by the Highway Authority who concluded that improvements to London Road would be counterproductive, potentially resulting in increased speeds and dangers to road users. A footpath is proposed on the south side of London Road providing pedestrian access to the bus stop on the A134 with developer contributions sought to upgrade this bus shelter by ECC Highways. A condition is proposed relating to visibility at the site access (inter-alia) to improve safety. In terms of the A134, it is not considered that the vehicular movements generated by 22 homes could alone justify the imposition of a speed limit nor traffic calming measures as this would be disproportionate and inconsistent with the CIL Regulations governing s.106 contributions.
- 15.20 Paragraph 32 of the Framework confirms that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.” Whilst the development is poorly served by sustainable modes of transport and will inevitably generate trips dominated by use of the private car, this is often the case where development is proposed in rural village locations and ECC have requested that the developers provide travel packs for residents and upgrading of the bus shelter on the A134 to encourage modal shift. In addition, a financial contribution of £16,872 has been sought through Development Team by ECC Education towards Secondary education transport costs. The submitted traffic assessment and accessibility report has received criticism from third parties who have suggested that it is unrealistic. Whilst this may be the case, the levels of traffic generation are relatively modest from a development of this scale and the modal split predictably car dominated in a rural location with limited public transport. Whilst the site is now disused, the former use for tomato production would have generated potentially significant levels of vehicular movements.

Package of public benefits: Affordable Homes, Landscape and Biodiversity Enhancement

- 15.21 The developer has agreed to provide 4 units of affordable housing in the form of two bedroomed, single storey units in a courtyard ‘model farm’ courtyard arrangement. This reflects the advice of the Affordable Housing Officer and accords with adopted Core Strategy policy H4 equating to 20% of the units. The provision of affordable homes in this rural part of the Borough is considered a significant public benefit in an area of extremely low affordability. A local letting policy is considered appropriate to prioritise families with local link to the village, or surrounding parishes cascading to the wider Borough housing waiting list.
- 15.22 The application is supported by illustrative landscaping proposals (WollertonDodwell) relating to the application site and is supported by an Ecological Assessment. The report

demonstrates that whilst the application site is improvised generally, there is evidence for the use of some buildings as bat overnight roosts and for the use of bat corridors along the edges of the site (mainly hedgerows). With the exception of intensive arable fields, the remainder of the site is much more diverse; particularly the deciduous woodland, grassland and wetland/aquatic habitats. Whilst there was no evidence of active badger setts within or adjacent to any part of the development site. A biodiversity mitigation strategy is required to be agreed and implemented prior to the commencement of development. It is considered that this mitigation strategy can reasonably form part of the wider enhancement scheme that is currently under negotiation (see below).

15.23 The applicants have indicated their willingness to deliver a package of wider enhancement including landscape, biodiversity and public access improvements relating to the wider holding (land outlined in blue). An initial scheme has been submitted and discussions have taken place with the DVS Project Officer who has been extremely supportive in actively negotiating a package of enhancements. The formulation of this detailed package has yet to be fully resolved and the following comments have been received from the DVS Project Officer:

“The draft Heads of Terms for the ecology, landscape and access enhancements is broadly in line with our recommendations, however it fails to go far enough to define and quantify the actual benefits to be delivered and how this will be achieved over a defined period of time. The submitted plan refers to broad themes such as ‘identified area for landscape enhancement’ or ‘protect and enhance ecology’ to which we are supportive, however, for the purposes of the Management Plan, much more detail is needed so that all parties are clear on what activity is proposed.”

15.24 A draft cost plan has been received for these works but officers are unsure as to how these costs have been arrived at given that some elements have yet to be quantified. The broad issues are illustrated on a plan reproduced as Appendix A to this report and the suggested enhancement scheme includes:

- Undergrounding of suggested wirescape on London Road and along driveway to Church from the A134;
- Increased field edge planting to create copse to SW boundary of application site;
- View point enhancements to view from west of church;
- Removal of Leylandii conifers and Poplar belt to west of Broad Acres (house sited SW of Church);
- Various landscape enhancements together with measures for the protection and enhancement of biodiversity;
- Improvements to footpaths and new public rights of way to improve connectivity.

- 15.25 Whilst there is agreement regarding the broad heads of terms of these wider enhancements to the landscape, biodiversity and footpath connectivity and the DVSV Project Officer is supportive in principle, there remains further detail to be provided and resolution of the quantum of these elements that will be delivered together with a delivery strategy (timescales and responsibilities). In addition, a biodiversity mitigation strategy is required to address the potential impacts identified in the Ecology report submitted with the application e.g. direct and indirect impact on bats using the site. Members will note that the recommendation is to seek resolution of the outstanding issues identified and delegate approval of the application to the Head of Commercial Services subject to completion of a s.106 agreement. This approach will allow officers supported by the Council's biodiversity advisors and the DVSV Project Officers to agree the detailed form of this agreement that would form part of the s.106 agreement once agreement has been received from the Committee with regard to the principle of the proposed residential development. This approach would avoid potential abortive and costly work by the applicants in the event that members do not support the recommendation to approve subject to resolution of outstanding issues and completion of a s.106 agreement as set out in the recommendation.

Prevention of speculative development on wider holding in the future

- 15.26 Many of the consultees highlight concerns that the current application could be a precursor to future development proposals on the remainder of the site. Officers acknowledge that these anxieties are understandable given the controversial site history and the exceptional nature of the current scheme as a departure from the local plan. A private covenant has been advanced by the developers to give the neighbouring properties an enforceable covenant restricting future use of the remainder of the land holding (the land outlined in blue in the applicants ownership) to agriculture only. The Councils' legal advisors have raised concerns that this would not provide enforceability by the Council and that such clauses may fail in the future. The applicants have cooperated on this issue and have agreed to grant the Council an Options agreement that would allow the Council to buy land at agricultural value and thereby preclude such potential for predatory development proposals. The detailed form of wording has yet to be agreed but Officers are advised that this is a straightforward matter. A s.106 agreement cannot be used for this purpose as landowners have a statutory right to pursue development and this right cannot be lawfully removed by a s.106 agreement and hence the Options agreement suggested is considered the only robust means of addressing the legitimate concerns of local residents around potential future development. The remainder of the site will however remain outside any area allocated for development and there are no material considerations apparent that would currently justify development.

16.0 Conclusion

- 16.1 The proposed development represents an equitable means of securing significant visual enhancement of this disused former commercial horticultural nursery and would deliver significant public benefits to justify a departure from restrictive national and local planning policies relating to development in the open countryside and AONB in particular. There remain matters of detail that have yet to be resolved concerning the detailed wording of the suggested Options Agreement, package of landscape, biodiversity and public rights of way improvements and biodiversity mitigation strategy. Approval subject to prior resolution of these outstanding details and delegation to officers (supported by the advice of the Dedham Vale and Stour Valley Project Officer

and the Council's legal and biodiversity advisors) is recommended subject thereafter to completion of a s.106 agreement to secure the developer contributions (set out at 14.1 above) and agreed enhancement and biodiversity mitigation strategy for the wider site.

17.0 Recommendation

17.1 Approve subject to agreement being reached regarding :

- i) detailed enhancement and biodiversity mitigation strategy for wider site (15.23 above) and
- ii) Options Agreement (15.24 above) and once detailed wording has been agreed; thereafter:

17.2 APPROVE subject to the signing of:

- i) Options Agreement
- ii) 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:
 - £150k to address the outstanding repair issues identified in the quinquennial condition report for the Church of All Saints, Great Horkesley together with the provision of electricity/drainage to the church boundary;
 - Transfer of parking area to immediate south of The Chantry to provide church of All Saints with parking to facilitate viable use of the church;
 - ECC Highways request transport packs be provided for all new residents together with improvements to the bus shelter on the A134 to the south of the site;
 - Archaeology a contribution of £2200 towards maintenance of the HBSMR;
 - Education: ECC seek a contribution of £16,872 towards Secondary education transport costs;
 - Affordable housing: Four units of housing in compliance with adopted standard (20%) with cascade letting policy giving preference to local residents or those with a demonstrable link to the local area;
 - Detailed enhancement strategy for the wider site (paragraphs 15.22-23 refers) and Biodiversity mitigation strategy.

17.3 On completion of the legal agreement, the Head of Commercial Services be authorised to grant planning permission 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 Drawing Numbers); Architectural detail reference sheets 1119.D.0-17 (ADP); ADP Drawings: 1119.L.01 Site Location Plan; 1119.L.002 Existing Site Plan; 1119.L.003 Proposed Site Plan; Plot 1- Plans & Elevations 1119.L.010; Plot 2 Plans & Elevations 1119.L.011; Plot 3 Plans & Elevations 1119.L.012; Plots 4-7 Plans & Elevations 1119.L.013; Plot 8 Plans & Elevations 1119.L.014; Plot 9 Plans & Elevations 1119.L.015; Plots 10 & 11 Plans & Elevations 1119.L.016; Plots 12 & 13 Plans & Elevations 1119.L.017; Plot 14 Plans & Elevations 1119.L.018; Plots 15 & 16 Plans & Elevations 1119.L.019; Plot 17 Plans & Elevations 1119.L.020; Plot 18 Plans & Elevations 1119.L.021; Plot 19 Plans & Elevations 1119.L.022; Plot 20 Plans & Elevations 1119.L.023; Plot 21 Plans & Elevations 1119.L.024; Plot 22 Plans & Elevations 1119.L.025. Wollerton Dodwell Illustrative Landscape Proposals drawings ref: 781.201 & 781.202 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Site Levels Plan

Prior to the commencement of development, 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, shall have been submitted to and approved, 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.

4 - Non-Standard Condition/Reason

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:

- Run-off from the site restricted to a maximum of 24.5l/s for all events up to the 1 in 100 inclusive of climate change (40%) storm event.
- Infiltration testing across the site area, in accordance with BRE 365, to support the SuDS hierarchy.
- Control of all surface water run-off generated within the development for all events up to and including the 1 in 100 year event inclusive climate change (40%).
- An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
- Final detailed modelling of the whole drainage network on site.
- A drainage plan highlighting final conveyance and exceedance routes, location and sizing of storage features, discharge/infiltration rates and outfall/s from the site

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.

5 - Non-Standard Condition/Reason

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.

6 - Non-Standard Condition/Reason

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.

7 -Non-Standard Condition/Reason

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.

8 - 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

9 - 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

10 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

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

11 - *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 8.

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.

12 - Non-Standard Condition/Reason

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 Colchester Borough Council's Core Strategy (2008).

13 - *Full Landscape Proposals TBA

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.

14 - 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.

15 - Non-Standard Condition/Reason

Prior to occupation of the development, the new access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 33 metres to the north east and 2.4 metres by 33 metres to the south west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Note: The acceptability of interruption to vehicular visibility splays by trees, lamp-columns, telegraph poles etc. will be considered on a case by a case basis.

16 - Non-Standard Condition/Reason

Prior to occupation of the development the vehicular parking and turning facility, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

17 - Non-Standard Condition/Reason

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

18 - Non-Standard Condition/Reason

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 in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- All single garages should have a minimum internal measurement of 7m x 3m.
- All double garages should have a minimum internal measurement of 7m x 6m.
- All tandem garages should have minimum internal measurements of 12m x 3m

19 - Non-Standard Condition/Reason

All garages shall be retained for the purposes of vehicle parking in perpetuity.

Reason: To encourage the use of garages for their intended purpose and to discourage onstreet parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

20 - Non-Standard Condition/Reason

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

21 - Non-Standard Condition/Reason

Prior to occupation the new section of footway, and the works to upgrade the bus stop on Nayland Road has been provided entirely at the Developer's expense. The works to the bus stop shall, if appropriate, include raised kerbs, shelter, and real time information boards.

Reason: To make adequate provision within the highway for the additional pedestrian or public transport traffic generated within the highway as a result of the proposed development

22 - Materials to be Agreed

Prior to the commencement of development, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

23 - Surfacing Material to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

24 - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times. Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

25 - 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:

- access arrangements for construction phase;
- 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.

26 - Sample Panel

Prior to the commencement of any works a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: In order to ensure that the brickwork can be satisfactorily considered on site with regard to preserving the character of the listed building.

27 - *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.

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

28 - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

29 - 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.

30 - Non-Standard Condition/Reason

No services, pipes or cables shall be routed within the root protection areas as identified in the Tree Constraints Plan unless otherwise agreed in writing by the Local Planning Authority. Reason: To protect trees on the site in the interests of visual amenity adjacent to the AONB.

31 - Non-Standard Condition/Reason

Additional drawings of all architectural details including hips, verges, ridges, parapets, doors, door cases, windows (including the depth of the reveals and method of opening), roof lights, sills and lintels, plinths, eaves, barge boards, string and dentil courses, copings, console brackets, chimney stacks, recessed or projecting brickwork, parapets, porches, render detailing on corners/plinths/window/door heads or other architectural features to be used, by section and elevation, at a scale between 1:50 and 1:1 as appropriate, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works (excluding underground enabling works). The development shall thereafter be carried out in accordance with such details.

Reason: Insufficient detail has been submitted to ensure the character and appearance of the area and wider AONB is not compromised by poor quality detailing having regard to the exceptional case advanced in justification of the development.

32 - *General Removal of Residential PD Under Schedule 2 Part 1

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A,B,C,D,E,F,G,H and Part 2 Classes A,B,C,F of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other external alteration to the dwellings shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: The site is heavily constrained adjacent to the Dedham Vale & Stour Valley AONB and forming part of the setting of the Grade I Church of All Saints and having regard to the exceptional case advanced in support of the scheme as a departure from the adopted local plan based on significant enhancement any further development on the site would need to be considered at such a time as it were to be proposed.

33 - Estate Development Service Roads

Prior to the first occupation of any dwelling within the development hereby permitted, all parts of the service road which provide access to that dwelling shall have been constructed in full accordance with the approved plans.

Reason: To ensure that there is a satisfactory means of access to each occupied unit regardless of the wider construction timetable for the development as a whole, in order to protect the interest of future residents.

34 - Estate Road Layout

No works shall take place until details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To ensure all roads and footways are constructed to an appropriate standard in the interests of highway safety.

35 - *Residential Parking Spaces Retained

Prior to the first occupation of the development, the GARAGE(S) / PARKING SPACE(S) shown on the approved plans shall be made available for use for the parking of motor vehicles to be used solely for the benefit of the occupants of the dwelling of which it forms part, or their visitors, and for no other purposes whatsoever. The GARAGE(S) / PARKING SPACE(S) shall then be maintained free from obstruction and for this purpose at all times thereafter.

Reason: In order to ensure that the development retains adequate parking provision.

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

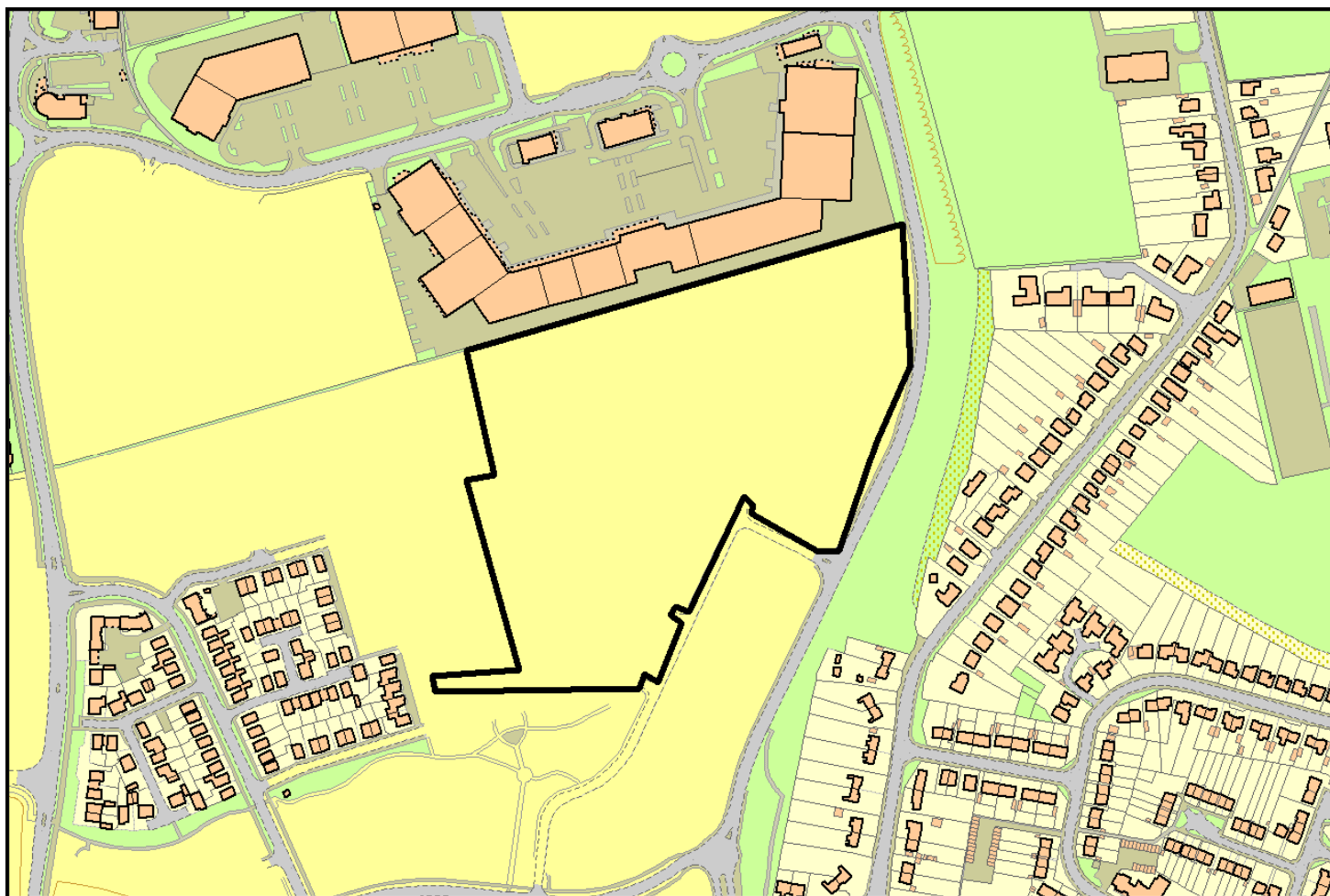
(4) Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ 'Guidance Notes LIS/C'

(5) PLEASE NOTE that it is understood that bat roosts exist within the application site. Bats are a statutorily protected species, and it is the developer;s responsibility to ensure the requirements of the Wildlife and Countryside Act 1981 which relate to the protection of bats and their roosts are fully complied with.

(6) 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.

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: 160661

Location: Lakelands Phase 2, Church Lane, Stanway, Colchester, CO3 8LP

Scale (approx): 1:2500

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7.2 Case Officer: Sue Jackson

MAJOR

Site: Lakelands, Phase 2, Church Lane, Stanway, Colchester, CO3 8LP

Application No: 160661

Date Received: 26 April 2016

Applicant: Mr William Vote, Persimmon Homes Essex Ltd

Development: Application for approval of reserved matters following outline approval 121040.

Ward: Marks Tey & Layer

Summary of Recommendation: Subject to the satisfactory resolution of the outstanding highway matters permission is recommended subject to the conditions set out below (plus any conditions recommended by the Highway Authority)

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because objections have been received suggesting the proposal does not satisfy the affordable housing, density and building height requirements of the Lakelands Masterplan.

2.0 Synopsis

- 2.1 The key issues explored below are the outline application and approved masterplan for Lakelands and the development proposal. The objections will be set out and responded to. It will be explained where the application differs from the masterplan and why the development is considered to be acceptable.

3.0 Site Description and Context

- 3.1 This application relates to parcels of land known as NR6-NR8 forming part of Phase 2 of Lakelands at Stanway. The north boundary of the site abuts the service yard of the Tollgate Centre, the site includes an embankment along this boundary. The east boundary abuts Tollgate Road where again there is an embankment; to the other side of this road is a grassed area then an embankment and then the rear of dwellings in Villa Road. The irregular shaped south boundary wraps around area NR10 which has reserved matters approval for 31 affordable dwellings; and an area of open space serving the wider Lakelands development. The west boundary abuts area NR5 (there is an outstanding reserved matters application for the erection of houses on this site submitted on behalf of Persimmon Homes) and the site for the proposed school.
- 3.2 The site contains no landscape features and has been re-contoured since the extraction of minerals ceased. Vehicular access to the site from Tollgate Road has been constructed. The site has a stated area of 5.3 hectares (13 acres).

4.0 Description of the Proposal

- 4.1 The application is for the approval of reserved matters and comprises a total of 201 dwellings comprising a mix of 2, 3 and 4-bed houses and 1 and 2-bed flats. The development provides two parcels of publicly accessible amenity space.

5.0 Land Use Allocation

- 5.1 Stanway Growth Area
Residential

6.0 Relevant Planning History

- 6.1 The Lakelands site formerly the ARC Stanway Pit has a long planning history, planning permission was first granted in 1995; phase 1 is constructed and occupied. Much of phase 2 has reserved matters consent but building works has not commenced on all the remaining parcels.
- 6.2 O/COL/90/1904 [the original outline] Outline application for mixed use development comprising business / employment 11.3 net acres, residential 49.3 net acres and leisure 49.2 net acres. Approved 21 March 1995.
- 6.3 RM/COL/97/1428 [initial phase of reserved matters for 200 residential units out of the approved 500 (in outline)] Phase one comprising 200 residential units (as part of an overall development of 500 residential units): Approved 27 March 1998
- 6.4 F/COL/01/0976 Application to amend condition 03(2) of COL/90/1904 to extend specified time period from five to six years regarding submission of all reserved matters for outline application for mixed use development comprising business/employment 11.3 net acres, residential 49.3 net acres and leisure 49.2 net acres approved on 21 March 1995.
- 6.5 O/COL/02/0980 [uplift in approved total number of residential units from 500 to 800] Outline application for residential development (300 dwellings) and associated road proposals (an additional 300 units to the 500 units approved under C/COL/90/1904) (new total 800 units) [amended masterplan deletion of proposed leisure use] Approved: 1 December 2006
- 6.6 121040 Application for a new planning permission to replace extant planning permission F/COL/01/0976 in order to extend the time limit for implementation. 4 September 2012
- 6.7 121041 Application for a new planning permission to replace extant planning permission O/COL/02/0980 in order to extend the time limit for implementation. Approved 4 September 2012
- 6.8 A Planning & Design Statement which included an approved 2002 Masterplan was superseded by the Lakelands 2 Design & Access Statement July 2010. The 2010 document and subsequent revisions indicate areas NR6-8 for residential 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:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- 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
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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 STA1 Appropriate Uses within the Stanway Growth Area
- SA STA2 Phasing of Greenfield sites in Stanway Growth Area
- SA STA3 Employment and Retail Uses in Stanway Growth Area
- SA STA4 Transportation in Stanway Growth Area
- SA STA5 Open Space in Stanway Growth Area

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

Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Stanway Parish Plan and Design Statement

8.0 Consultations

- 8.1 **Highway Authority** - Amendments to the layout are being discussed with the applicant and it is anticipated that these issues will be resolved prior to the Committee meeting.
- 8.2 **Urban Design Officer** has made various comments on the layout and detailed design of house types.

Officer comment: The Urban Design Officer has been involved in negotiations with the applicant on the layout and design of house types. Whilst the amendments do not include all the revisions suggested by the Urban Design Officer it is considered the proposed development is now acceptable subject to conditions in respect of external materials and landscaping.

- 8.3 **Landscape Officer** has commented that the detail landscape proposals needs to fully comply with the Council's landscape 'Guidance Notes A (LIS/A)' for masterplan proposals, and 'Guidance Notes LIS/C' for landscape detail proposals. In addition the avenue planting and frontage enclosure should match that approved for area NR10.

8.4 Natural England

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

Statutory nature conservation sites - No objection

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.

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 Environment 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.'

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.

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

9.0 Parish Council Response

- 9.1 After discussion it was RESOLVED that Stanway Parish Council OBJECTS to this proposal. The four storey buildings are too high, inappropriately positioned and out of keeping with the area, the development is too dense, there is insufficient parking, a heavy emphasis on 'shared space' for roadways and there is a lack of play areas for smaller children.

10.0 Representations

10.1 A resident has submitted the following objections:

"In my meeting with Vincent Pearce on 27/05/2016 he confirmed that the pages that were amended in the "2010 Masterplan" as submitted by the developer on 16/10/2012 and accepted by the council on 05/08/2013 were the most up to date pages and should be the figures and illustrations referred to in the current applications Design and Access Statement.

It appears the developer's comments regarding density are incorrect and the revised pages of the 2010 Masterplan suggest a lower level of density in this area.

The illustration regarding building heights also appears to be inaccurate and the revised pages of the 2010 masterplan show lower heights of buildings and allow a lot more flexibility in their guidance as to allowing for appropriate heights compared to the surrounding/existing settlement. Following my discussion with Vincent Pearce on 27/05/16, after considering some of his answers to my queries, I am a little concerned that application 152817 and also 160661 should be full planning applications rather than reserved matters applications.

My rationale for this is explained below:

Vincent advised the most recent S106 agreement (dated 18/02/16) regarding affordable housing was to confirm the financial contribution to be paid by the developer to the council if the required 19.2% allocation of affordable housing was not provided.

He also confirmed the S106 agreement did not deal with the allocation/distribution of where the affordable housing was to be located, just the financial contribution.

The 2010 Masterplan was updated in August 2013 when revised pages were accepted by CBC and the covering letter from the developer dated 16/10/2012 made specific reference to the new 19.2% agreement. The revised pages included indicative areas of affordable housing and included no affordable housing within the area now known as SR6 but did show areas of affordable housing within the area now known as NR6. Reserved matters have now come forward showing SR6 as all affordable housing and NR6 showing no affordable housing.

If the distribution, scale and location of the proposed affordable housing included on those reserved matters applications differs and is not that set by the most up to date Masterplan, surely the current reserved matters require a full planning application on the basis these proposals would require a variation of a condition to be valid?

This points are in addition to my previous objections on density and support the point made that the proposed development is too dense.

Further objections are the proposed building heights are not in line with the up to date 2010 masterplan and the current applications design and access statement needs to ensure it is referring to the correct and most up to date pages and information.

I also object to there being no allocation of affordable housing within such a large part of the Lakelands development. Affordable housing is much needed and the masterplan suggests the area is suitable to pepper pot some affordable housing in to it. The area is big enough and development sizeable enough that the affordable housing can be integrated in the new development without segregation.

In October 2012 the "2010 Masterplan" was amended via a non-material amendment and the density in the areas covered by this application were reduced to:

Medium Density Areas - 35 dwellings per hectare

Lower Density Areas - 30 dwellings per hectare

But the design and access statement for this part of the site shows 38 dwellings per hectare.

Therefore I object on the basis the proposal's density is too high".

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 development involves the erection of 201 dwellings this includes 8 no. 1-bed flats and 25 no. 2-bed flats, the 169 houses are a mix of 2, 3 and 4-bed.

11.2 The houses require 338 spaces (169 x 2) the flats 58 spaces (8x 1 + 25 x 2), plus 51 visitor spaces are required to meet the Council's adopted parking standards. This is a total of 447 spaces which the development provides and therefore complies with the Council's Adopted Parking Standards

11.3 However it should be noted that condition 8 on the outline planning permissions 121040 and 121041 states

"Condition 8: The residential development shall have a minimum average of 2.25 off-street car parking spaces per dwelling in accordance with details to be submitted to and agreed in writing by the local planning authority. The parking facilities, as agreed, shall be maintained at all times for parking

Reason: To ensure the provision of adequate car parking within the scheme in accordance with the Council's parking standards."

11.4 The Council's Adopted Parking Standards for residential development changed in 2009 from a parking requirement based on a maximum standard to one based on a minimum standard. As Members will note from the calculations provided above the proposed one-bedroom units have a parking ratio of 1.25 which meets the Council's Adopted Parking Standard. It should also be noted the condition 8 refers to an average of 2.25 in the context of all of Lakelands.

11.5 The parking provision complies with current standards and a refusal could not be substantiated simply on the grounds of the wording of this condition.

12.0 Open Space Provision

12.1 The development includes two areas publically available open space, in addition a landscaped buffer is proposed along part of the boundary with the Tollgate Centre, the embankment to Tollgate Road will form a tree lined landscaped boundary, a further linear planted strip is shown adjacent to the boundary with the proposed school. The 2010 Masterplan indicates small areas of amenity space within Areas NR6-8. The location of these spaces has changed from the Masterplan so that they respond to the

layout and provide spaces which allows permeability from one area to another. In addition to these on site areas the wider Lakelands provides open space and a country park which well exceeds the 10% open space requirement. The open space provision is considered acceptable.

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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was agreed by the Development Team that this is an application for the approval of reserved matters and all Planning Obligations were secured under the outline applications.

15.0 Report

- 15.1 This application is brought before Members due to concerns raised that the development does not satisfy the requirements of the approved 2010 Masterplan in respect of the provision of affordable housing, density and the height of the buildings.

Affordable Housing

- 15.2 Members will recall the provision of affordable housing on the Lakelands development was covered in some detail in the report on the application for the approval of reserved matters on area SR6 considered at a special meeting of the planning committee held on 6th September 2016. The Lakelands development is required to deliver 19.2% affordable housing and much has already been delivered around the wider site. There is reserved matters approval for 31 affordable units on area NR10 and 21 affordable units on area NR2. The application for SR6 proposed the final 28 units needed to meet the 19.2% requirement. Whilst Members resolved to approve this application the Secretary of State has indicated he may wish to “call in” the application for a decision. The Council has also agreed a variation to the legal agreement that secures a financial payment in lieu of any deficit in the number of affordable units. As the affordable housing requirement for Lakelands is met there is no requirement for affordable housing on this site.

Density

- 15.3 In 2010 Masterplan indicated an average lower density of 30 dwellings per hectare for a linear area of the application site adjacent to the Tollgate Centre and an average medium density of 40 dwellings per hectare for the remainder of the site. An amendment to the density plan revised the medium density to 35 dwellings per hectare.
- 15.4 The applicant has provided the following clarification in respect of density:

“I have calculated the development density based upon the “low” and “medium” density areas across NR5-8 detailed at figure 3.16 of the DAS (p43);

- *Within the “low” area the Reserved Matters proposes 54 dwellings across 1.68 ha parcel; an average density of 32.1 dph.*
- *Within the “medium” area the Reserved Matters incorporates 159 dwellings across 4.32 ha parcel; an average density of 36.8 dph.*
- *Figure 3.16 in the Masterplan quotes an average figure of 30 dph for “low” density areas and an average 35 dph for medium”.*

15.5 Members should note that this calculation includes the adjacent parcel NR5 which is not part of this application site. Excluding NR5 the densities for each parcel is calculated at 38 dwellings per hectare for the medium density area and 34 dwellings per hectare for the lower density area.

15.6 Whilst the densities for these specific areas are slightly higher than the averages stated in the Masterplan, the Council’s standards in respect of amenity space and parking provision are satisfied and the development also provided public open space and landscaped buffer areas. The layout satisfies the parameters of the masterplan with buildings fronting Tollgate Road and buildings addressing the areas of open space. Permeability through the development is provided via footpath/cycleways connecting the areas of open space, dwellings front onto these paths so they will be overlooked and safe to use. A footpath/cycle link is also proposed along the school site boundary and connecting to area NR5 with the potential to link to the Tollgate Centre should adjacent development be approved. The houses are predominantly detached and semidetached with on plot parking to the side of the property. The parking for terraced units is a mix of on plot, small parking courts or in two instances to the front of dwellings.

15.7 The layout and density of the development is considered to be acceptable.

Height of Buildings

15.8 The buildings are a mix of 1, 2, 2.5 and 3 storeys. There are no 4 storey buildings as suggested by the Parish Council. The distribution of building heights does vary from that shown on the Masterplan storey height plan. However there are contradictions in this document for example the plan suggests 1-2 storey buildings to the boundary with the Tollgate Centre whereas a cross section drawing indicates 3 storey buildings. The text also indicates buildings with lower storey heights are required at the edges of Lakelands where adjacent to countryside. Whilst the north boundary of this site forms the edge of Lakelands it is adjacent to the Tollgate Centre service yard not countryside.

15.9 The houses proposed along this boundary are 3 storey with 3 storey flats fronting Tollgate Road. The height of buildings fronting Tollgate Road are a mix of 3 and 2.5 storeys whereas the Masterplan indicates 2 storey. It is considered these higher buildings are appropriate in this location as the site is at a slightly lower ground level and their height will more appropriately address this wide distributor road. Whilst the location of storey heights differs to the Masterplan, the 3 storey units within the scheme are positioned at key focal points in the layout. The proposed development remains predominantly 2 and 2.5 storey as shown on the Masterplan.

Design

- 15.10 The adopted Masterplan indicates continuous built form to the road frontages and buildings fronting Tollgate Road, the Lakelands open space and the school site. The layout provides frontage development to all these areas. Amendments have been made to improve the continuous built form by the introduction of linked units with parking spaces underneath the first floor link. Some house types were unacceptable with wide spanning gables and generally lacking in architectural details. Different house types are now proposed which have acceptable proportions and detailing and other amendments include changes to the roof alignment so they span the longest not the shortest dimension and additional architectural details introduced. Whilst the amendments do not overcome all the comments made by the Urban Design Officer it is considered the package of revisions to layout and design is acceptable subject to conditions

Impact on the Surrounding Area

- 15.11 The site forms part of the northern and eastern edges to Lakelands and proposes residential development on an area identified for residential purposes on the Lakelands masterplan.

Impacts on Neighbouring Properties

- 15.12 The site backs onto the Tollgate Centre and these retail uses are the only neighbours. The adjacent parcels of land on Lakelands will be developed for residential purposes and will not be affected by this development. There is no adverse impact on neighbouring properties

Amenity Provisions

- 15.13 The dwellings all have acceptable private garden areas. In addition to the individual gardens, 2 areas of open space are provided within the site. The Lakelands site has significant areas of open space plus a country park; these areas are in excess of the 10% requirement and are secured for public use under a legal agreement.

Highway Issues

- 15.14 The Highway Authority has raised a number of minor points on the layout. The applicant is discussing revisions with the Highway Authority and it is anticipated that the outstanding issues will be resolved prior to the Planning Committee meeting.

Other Matters

- 15.15 Other matters including drainage and land contamination are dealt with under the outline applications and the development will be carried out in compliance with the conditions on these outline planning permissions.

16.0 Conclusion

- 16.1 This reserved matters application proposes residential development on an area identifies for such purposes on the approved Masterplan. Whilst the development does not precisely accord with the Masterplan in all respects it is considered acceptable and the changes reflect an acceptable urban design solution. The layout achieves a high degree of permeability with open space linked by pedestrian and cycle ways with the potential for these paths to connect to paths beyond the site. Dwellings provide a strong frontage to Tollgate Road and address the open space and roads in an attractive way with the judicious use of three storey buildings emphasising key points of the layout. The design of the dwellings is acceptable. The approval of this reserved matters application is recommended.

17.0 Recommendation

- 17.1 Subject to the satisfactory resolution of the outstanding highway matters permission is recommended subject to the conditions set out below (plus any conditions recommended by the Highway Authority).

18.0 Conditions

1 - Non-Standard Condition/Reason

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permissions references 121040 and 121041 relating to this site and the conditions attached thereto remain in force.

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

2 - *Development to Accord With Approved Plans

on the submitted Drawing Numbers PH-113-002D,003D, 005-D,006-1B,006- 2B,007-1B,007-2B, 008-1,008-2, 010A, 011B, 012B, 013B, 014C, 015B, 016A, 018C, 022B, 023A, ,024C, 025A,026B,027C,028C,029C,030B,031B,032B,033B,034C,035B,036B,037A, 038B, 041B, 042A, 043A, 044B, 045B, 046A, 047A, 048A, 049A, 050A, 051A, 052A, 053A, 054A, 055A, 056A, 057A, 058B, 059B,062C & 063C.


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

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the external materials. No works shall take place until details of alternative materials have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out using these approved materials. Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

4 - Non-Standard Condition/Reason

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 take account of the landscape proposals for the adjacent site NR10 in so far as they relate to Tollgate Road. The submitted landscape proposal shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- FOOTPATH/CYCLE LINKS
- 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, also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity and as the details submitted are not acceptable in all respects.

5 - Non-Standard Condition/Reason

Prior to the commencement of any works, additional drawings that show details of all architectural features (including but not limited to) proposed new windows, decorative brick details, doors, string courses, eaves, verges, cills, window reveals, “dummy” windows, pilasters, , exposed rafter feet, and arches 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 an integral part of the overall design.

6 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the GARAGE(S) / CAR PORT(S), PARKING SPACE(S) and VISITOR SPACE(S) shown on the approved plans shall be made available for use for the parking of motor vehicles to be used solely for the benefit of the occupants of the dwelling of which it forms part, or their visitors, and for no other purposes whatsoever. The GARAGE(S) / CAR PORT(S), PARKING SPACE(S) and VISITOR SPACE(S) shall then be maintained free from obstruction and for this purpose at all times thereafter.

Reason: In order to ensure that the development retains adequate parking provision.

7 -Non-Standard Condition/Reason

Prior to the commencement of any works a drawing showing the areas to be adopted, to be the responsibility of a management company or to be in private ownership shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure these matters are agreed and there are no areas of land where ownership/responsibility is unknown.

8 - Non-Standard Condition/Reason

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.

9 - Non-Standard Condition/Reason

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

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.

10 - Non-Standard Condition/Reason

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

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.

11 - Non-Standard Condition/Reason

Prior to the first occupation of the development, a management plan including management responsibilities and maintenance schedules for the footpaths/cycle links shall be submitted to and agreed, in writing, by the Local Planning Authority. The management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved footpath/cycle links in the interests of promoting permeability and sustainable means of transport.

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.

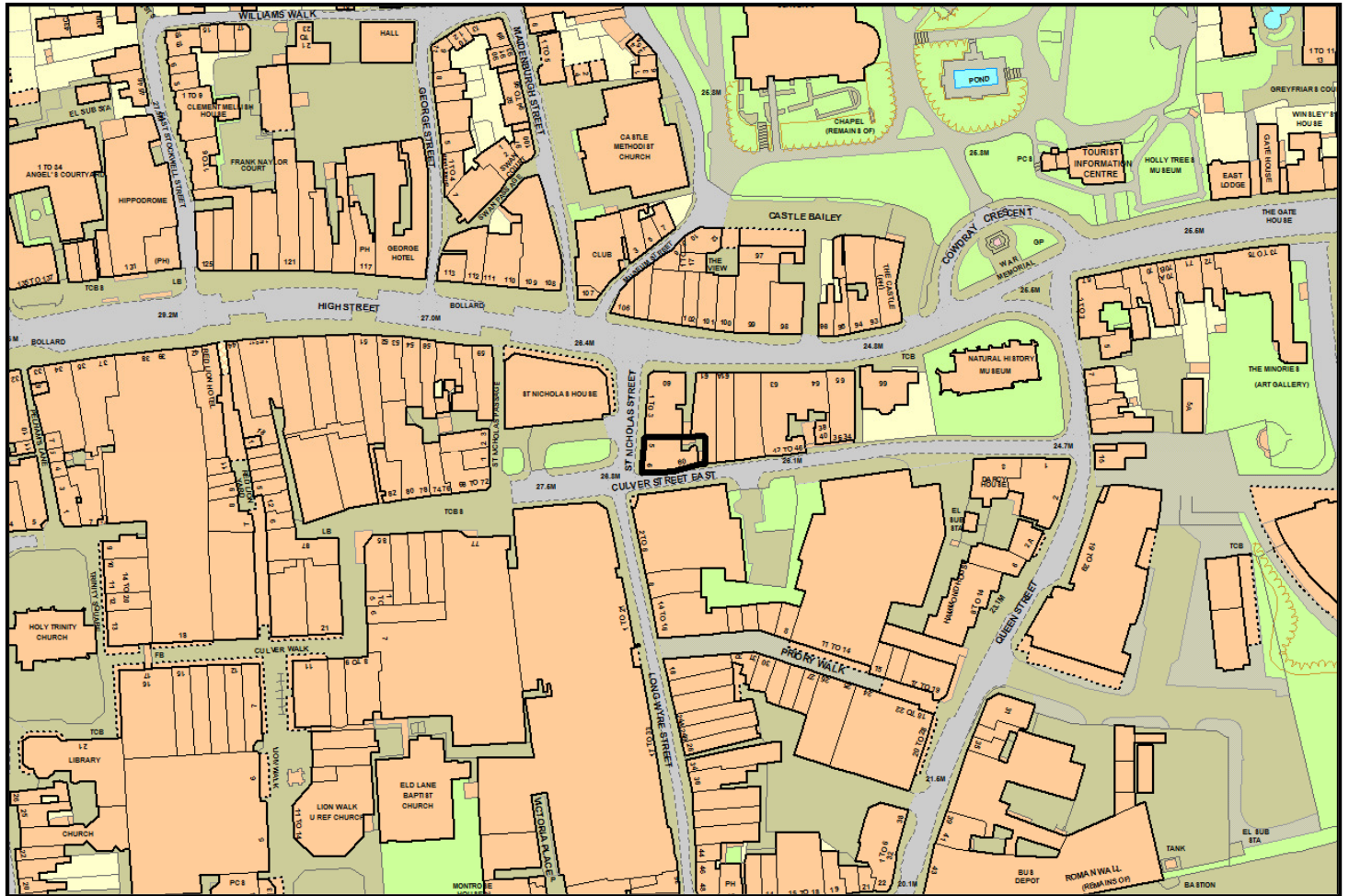
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

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

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

20.0 Positivity Statement

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: 161296

Location: Jacks, 5 St Nicholas Street, Colchester, CO1 1LB

Scale (approx): 1:1250

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7.3 Case Officer: Lucy Mondon**Due Date: 21/10/2016****Site:** Jacks, 5 St Nicholas Street, Colchester, CO1 1LB**Application No:** 161296**Date Received:** 9 June 2016**Agent:** Purcell**Applicant:** Colchester Borough Council**Development:** Change of use to 7 flats and a flexible A1/2 or A3 use, including first-floor extension, three-storey rear extension, and roof extensions.**Ward:** Castle

Summary of Recommendation: Subject to no objections being raised by the Council's Environmental Protection team and Council's Archaeological Adviser, the Head of Service be authorised under delegated powers to grant planning permission subject to the following conditions and any conditions subsequently recommended by the aforementioned consultees as necessary.

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issues explored below are: principle of development; design and impact on the character of the area (including impacts upon the Conservation Area and a Locally Listed Building); impact on residential amenity; impact on parking and highway safety; archaeology; and flood risk.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 No. 5 St Nicholas Street is a two-storey property, with third storey attic space and two-storey and single-storey additions, currently used as a shop at ground floor with storage areas above, run by the charity Bridge Way. Previously the property was better known as 'Jacks', a supplies store which ran from 1946 to 2013. The property is located within the Outer Core of Colchester Town Centre on the corner of Culver Street East and St Nicholas Street and is within a Conservation Area, which is

characterised by 19th and early 20th century properties of varying style and construction, with some modern built shops. The property is locally listed.

- 3.2 The property has a distinctive character when viewed from St Nicholas Square, with a jettied first and second floor and large first-floor window; its presence within Culver Street East is less pronounced, with little fenestration or architectural features. The front of the building adjoins No. 1-3 St Nicholas Street 'The Three Wise Monkeys', a large restaurant, bar, and music venue set out over three floors.
- 3.3 The site does not include any private outdoor space, other than an outdoor 'roof terrace' above an existing single-storey extension (built in the late 1930s) which looks over a large flat roofed extension of No's 61, 61a, and 62 High Street (an electrical store and two vacant restaurants respectively).

4.0 Description of the Proposal

- 4.1 The proposal is for a three storey rear extension (to replace an existing single-storey extension); first-floor rear extension (with rooms in the roof) along Culver Street East; and change of use of an existing A1 (retail) property to a flexible A1 (retail), A2 (professional services), or A3 (café) and seven residential flats. The uses would be arranged as follows:

Ground Floor

- A1/A2/A3
- One bedroom flat
- Residential cycle store
- Residential bin store

First Floor

- 2 No. one bedroom flats
- 1 No. two bedroom flat

Second Floor

- 2 No. one bedroom flat
- 1 No. two bedroom flat

- 4.2 As well as existing and proposed floor plans, elevations, and sections, the application is accompanied by the following:
- Design and Access Statement (May 2016)
 - Heritage Impact Assessment (May 2016)
 - Street Frontage Uses Plan (Drawing No. 003)
 - Archaeological Desk Based Assessment (August 2016)
 - Archaeological Monitoring and Recording Report (August 2016)
 - Environmental Noise Survey and Assessment (Report No. 17155-1, 25th August 2016)

5.0 Land Use Allocation

- 5.1 The premises are currently being used as a shop (A1) at ground floor with storage areas to the remaining floors.

6.0 Relevant Planning History

- 6.1 The property has undergone a great deal of internal alteration that would not have required planning permission, such as altered floor levels and removal of internal walls. Previous planning permissions include a new shopfront (refs: 13101 and 14866) and a neon box sign (ref: A/COL/26/58) in the 1950s.

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
CE1 - Centres and Employment Classification and Hierarchy
CE2a - Town Centre
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP6 Colchester Town Centre Uses
DP11 Flat Conversions
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

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

Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Cycling Delivery Strategy

8.0 Consultations

- 8.1 Highway Authority: The Highway Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the above application subject to conditions requiring details of cycle parking and a detailed sustainable transport mitigation package. The package will need to provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking (including the local Public Rights of Way network), taxi travel, car sharing and community transport in the vicinity of the site.

- 8.2 Planning Policy: No comments received.

- 8.3 Environmental Control (Following receipt of the noise report by noise.co.uk, Report No. 17155-1): The external noise levels are high, as would be expected in a town centre location, and therefore to achieve internal noise levels windows would need to be of a high acoustic specification. The recommended acoustic treatment to the party wall should provide satisfactory internal levels, although alternative ventilation would be required so windows could be kept closed. Details will be required via condition.

It has been noted that there is no information regarding vibration which is a cause for concern as the party wall is shared by a venue which has live and recorded music.

Sound insulation; self-closing doors; methods to control fumes and odours; and grease traps are required by condition. [Officer Note: Environmental Control has also recommended a condition to control the levels of luminance of any illuminated signage. As no signage is proposed, and would be subject to separate legislation (the Town and Country Planning (Control of Advertisements) Regulations 2007), the condition is considered to be unnecessary and therefore unreasonable to include.]

- 8.4 Archaeological Adviser:

An adequate archaeological desk-based assessment has been submitted. An indicative foundation proposal plan has also been submitted that shows piled foundations across the entire building/site. Historic England specify that new piling impact should be kept to a minimum 'and a loss of no more than 2% of the site should be the target'. The current piling design for 'Jacks' will result in a loss of 13% and is, therefore, unacceptable (40 30mm diameter piles spaced pretty uniformly across the entire site). The engineer needs to produce a foundation design scheme that dramatically reduces the impact.

I would suggest that less damaging raft foundations are considered. Alternatively, it may be possible to increase the diameter while reducing the overall number of piles, with full archaeological excavation of pile locations in advance (via condition). This will increase the local impact but reduce the overall/cumulative impact.

They should also be aware that there is high potential for encountering the remains of Roman wall foundations on this site that will cause an obstruction to piles – and so the locations may have to be altered depending on the results of archaeological excavations (any intact wall remains and intact mosaic (& similar) floors should be preserved in situ and not piled through).

- 8.5 Historic Buildings Officer: The low gabled and jettied frontage, which is the principle feature of the building, would be largely unaltered, although it is proposed to install new shop doors. I do not consider that these would make any substantial difference to the character of the building, although good detailing will be required. It would be preferable if the proposed roof light in the roof of this range could be omitted or relocated to a less prominent place. [Officer Note: the position of the rooflight has been amended accordingly]

It is proposed to add a steeper roof above the adjoining single-storey adjacent building. While this would be quite visible in the street scene, the impact would not be detrimental. At the pitch proposed, the roof should be clad with clay plain tiles, however, rather than slate.

The alterations to the three-storey adjacent range (c.1920) would not greatly affect its character, and would be acceptable, subject to joinery detailing.

The interior of the building has been considerably altered in the past and little of historic interest remains. The 'Heritage Impact Assessment' recommends that the recording of the interior would be appropriate.

- 8.6 Urban Designer:
- The proposed back of the pavement ground floor apartment would conflict with the narrow town centre street. The resulting lack of town centre frontage to Culver Street East would also be detrimental to the vitality and viability of the street, contrary to DP6 Colchester Town Centre Uses of Colchester's Development Policies, noting the site is in the Outer Core Town Centre and the opposite side Culver Street East is in the Inner Core. The use of the street will increase given it directly links to the emerging St Botolphs Quarter and there is potential for further redevelopment.
 - The central flat roof area appears unnecessary construction-wise, contradicts the historic roofscape in form, material and colour, and would form part of the visible roofscape from upper floors of other town centre buildings now or in the future.
 - Culver Street East appears too domestic and lacks proper shop front presence.
 - No private amenity space is provided and despite units 3 and 6 essentially being 2 bed apartments, though site constraints suggest it would be difficult to accommodate such space in a meaningful sense and without adverse impact. Its unclear whether the existing 'roof terrace' provides (/ potential) amenity or is simply a flat roof?
 - Units 2 and 5 have windows onto a lightwell, raising noise transfer concerns.

[Officer Note: these points are addressed in Section 15.0 of the report]

8.7 Colchester Civic Society: No comments received.

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 No comments have been received.

10.0 Representations

10.1 No comments have been received.

11.0 Parking Provision

11.1 Development Policies DP12 and DP19 require new residential development to provide vehicle parking (including secure cycle and motorcycle parking) to an appropriate standard in accordance with the Council's Adopted Supplementary Planning Document 'Vehicle Parking Standards'. The adopted Vehicle Parking Standards require the following:

For residential: A minimum of one car parking space and one cycle space per one-bedroom dwelling and two car parking spaces and one cycle space per two-bedroom dwelling. A minimum of 0.25 visitor car parking space is required per dwelling.

For commercial uses, the requirements differ depending upon the use class.

For A1 (shops): A maximum of one car parking space per 20 square metres floorspace and a minimum of one cycle space per 400 square metres for staff and one cycle space per 400 square metres for customers; one powered two-wheeler space, plus one space per 20 car parking spaces; and three disabled bays or 6% the total capacity of car parking spaces, whichever is greater.

For A2 (financial and professional services): A maximum of one car parking spaces per 20 square metres floorspace and a minimum of one cycle space per 100 square metres for staff and one cycle space per 200 square metres for customers; one powered two-wheeler space, plus one space per 20 car parking spaces; and two disabled bays or 5% of the total capacity of car parking spaces, whichever is greater.

For A3 (restaurants and cafes): A maximum of one car parking space per five square metres floorspace and a minimum of one cycle space per 100 square metres for staff and one cycle space per 100 square metres for customers; one powered two-wheeler space, plus one space per 20 car parking spaces; and three disabled spaces or 6% of the total capacity of car parking spaces, whichever is greater.

11.2 In following the parking standards the proposal would need to provide (as a minimum) eight car parking spaces, two visitor car parking spaces and seven cycle spaces for the residential element; and two cycle spaces, three disabled spaces (two disabled spaces for an A2 use), and one powered two-wheeler space for the commercial element.

- 11.3 The proposal does not include any car parking facilities, although seven cycle spaces would be provided for the residential element of the proposal. Development Policy DP19 allows for a lower standard to be acceptable where it can be clearly demonstrated that there is a high level of access to services, such as a town centre location, which is the case here. The provision of cycle spaces is supported. The absence of car parking facilities is not considered to be a reason for refusal in this case, given this is a highly accessible site in a town centre location with a great deal of services and amenity facilities in close proximity. The detailed 'sustainable transport mitigation package', that is recommended as a condition, would provide details of sustainable transport modes (e.g. bus and rail travel; cycling; walking; taxi travel; car sharing; and community transport) in the vicinity of the site to future occupiers in order to mitigate any increase in private vehicular use.

12.0 Open Space Provisions

- 12.1 The proposal does not incorporate any public or private open space.
- 12.2 There is no requirement for a contribution towards open space as Government policy states that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm as set out in the Written Ministerial Statement of 28th November 2014 (given legal effect by the Court of Appeal on 13th May 2016).

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. In addition, please refer to paragraph 12.2 above.

15.0 Report

Policy Considerations and Principle of Development:

- 15.1 The National Planning Policy Framework (NPPF) has a presumption in favour of sustainable development and this is reflected in the Local Plan. Within the Local Plan, Core Strategy Policy SD1 seeks to focus growth towards the most accessible and sustainable locations in the Borough. The Strategy establishes a Settlement Hierarchy to guide development towards the most sustainable locations and the town centre is at the top of this hierarchy. Further, Core Strategy Policy CE2a specifically encourages development and regeneration in the town centre. Therefore, the proposal, for development within an identified sustainable location, is considered to be acceptable in principle.

- 15.2 The proposal includes the potential for a change of use of the ground floor from retail to an A2 Professional Services or A3 Café/Restaurant. In considering the potential loss of retail premises, Development Policy DP6 deals specifically with Colchester town centre uses and states that a balance will be maintained between retail and non-retail uses in order to retain the town centre vitality and viability. With regards to the Outer Core, the policy states that a greater mix of retail and non-retail uses is appropriate, although the Council will seek to maintain at least 50% retail use on each street frontage. Alternative appropriate non-retail uses, particularly A2, A3, and D1 uses, will also be supported provided that they contribute to the vitality of the town centre and would result in: no more than 50% of the street frontage being used for non-retail purposes; no more than three consecutive non-retail uses in the street frontage; and no loss of active street frontage. A plan has been submitted with the application (Drawing No. 003) that demonstrates that, should the premises be used for an A2 or A3 use: 66.7% of the street frontage (in this case, the eastern side of St Nicholas Street and Long Wyre Street) would remain in retail; and the change in use would not result in more than three consecutive non-retail uses in the street frontage. The change of use would not result in the loss of active street frontage. The proposal is therefore considered to accord with Development Policy DP6 in terms of appropriate town centre uses.
- 15.3 Core Strategy Policy H1 expects housing delivery to contribute to the achievement of sustainable development that gives priority to new development in locations with good public transport accessibility and/or by means other than private car and previously developed land. Development Policy DP6 also states that, within the town centre, support will be given to bringing upper floors back into use, particularly for C3 residential purposes and B1 business uses. The proposal for residential flats on the upper floors of the building in a highly accessible site is therefore considered to be acceptable in principle, subject to other material planning considerations. A flat is proposed on the ground floor of the building, fronting onto Culver Street East, and it is considered that this is adequately justified in terms of the viability of the scheme, as well as its impacts upon the character of the street scene, discussed in more detail below.

Design and Impact on the Character of the Area

- 15.4 Core Strategy UR2 seeks to promote and secure high quality and inclusive design in all development to make better places for both residents and visitors, with Development Policy DP1 requiring all development to be designed to a high standard; respecting and enhancing the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape setting and detailed design features. In terms of wider impact, Core Strategy CE2a states that the town centre core contains important historic character which must be protected and enhanced by development, an objective echoed by Core Strategy policy UR2. Development policy DP14 states that development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural, or artistic interest. The policy goes on to state that, in all cases, there is an expectation that any new development will enhance the historic environment in the first instance, unless there are no identifiable opportunities available.

- 15.5 No. 5 St Nicholas Street is a characterful property, which is locally listed and therefore a heritage asset as defined by the NPPF. It is also located within a Conservation Area and therefore contributes to the overall historic significance and character of its surroundings. As described in paragraph 3.1 above, the principal feature of the property is its frontage to St Nicholas Square, with a jettied first and second floor and large first-floor window. This elevation would remain relatively unchanged as a result of the conversion; the jetty feature would remain, as would the large first-floor window, albeit repaired. The proposal includes a new front door and details of this would be required by condition to ensure that it is appropriate to the character of the building and thus the character of the surrounding Conservation Area is preserved, and indeed enhanced. Details of all new and replacement windows and doors are required by condition.
- 15.6 The main, publically visible, change to the building would be the proposed extension over the existing single-storey element of the building along Culver Street East, which would also involve changes to the existing fenestration at ground floor level as part of the residential element of the scheme. The fenestration along Culver Street East would have a somewhat domestic appearance and the Council's Urban Designer has expressed concern at the lack of any shop front presence. However, the proposed appearance is not considered to detract from an 'active frontage' as Culver Street East mainly consists of boarded up or rear accesses to shops on the High Street, and also provides access to the service yard to Sainsburys on Priory Walk. Further, the Heritage Impact Assessment submitted with the application shows details of when this part of the building was originally constructed (in 1897 and then extended in 1920) with a domestic appearance in terms of window and door design. The external appearance of the building has long since changed, but it is an indication that the street did, at one time, have a more domestic appearance.
- 15.7 The Council's Historic Buildings Officer has assessed the application and concluded that the alterations proposed would not greatly affect the character of the building, subject to detailing (which can be conditioned).

Residential Amenity

- 15.8 Development Policies DP1 and DP12 state that development proposals must protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. With regards to private amenity space and open space provision for new residential development, Development Policy DP16 requires all new residential development to provide private amenity space to a usable and high standard, designed to avoid overlooking. The policy goes on to set out garden size standards, with flats requiring a minimum of 25 square metres per flat provided communally.
- 15.9 The proposal does not include any private, or communal, outdoor space. This is considered to be typical in a town centre location. Given the close proximity to Castle Park and other leisure facilities within the town centre, future residents would have access to places for outdoor leisure time. Taking this into account, the lack of private garden space is not considered significant so as to recommend refusal of the application.

- 15.10 There are not considered to be any issues regarding lack of privacy or overlooking, as windows do not look into each other. There are also not considered to be any issues regarding lack of daylight or sunlight to living accommodation, as windows are provided to all habitable rooms.
- 15.11 The building is adjacent to an existing bar and restaurant (Three Wise Monkeys) and would potentially have a café/restaurant use at ground floor. Therefore, matters of noise and disturbance to future residents on the upper floors has been considered. A noise survey has been submitted as part of the application. The conclusions of the noise survey are considered to be acceptable as the survey demonstrates that acceptable noise levels can be achieved via mitigation (i.e. noise insulation and option of keeping windows closed whilst still having sufficient ventilation), which can be conditioned. In terms of fumes and odours, details of flues, vents and extraction equipment would be required by condition.
- 15.12 Environmental Protection have commented that no information has been submitted regarding vibration. This is currently being explored further and Environmental Protection will comment on this matter in due course.

Highway Matters

- 15.13 The Highway Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the application subject to conditions requiring details of cycle parking (number, location, and design) and the provision of a sustainable transport mitigation package. These conditions have been incorporated into the recommended conditions.

Archaeology

- 15.14 Core Strategy Policy UR2 and Development policy DP14 seek, inter alia, to protect archaeological sites from inappropriate development by requiring archaeological assessments on development sites that possess known archaeological deposits, or where it is considered that there is good reason for such remains to exist.
- 15.15 The Council's Archaeological Adviser has confirmed that the application site is located in an area of high archaeological importance as defined in the Colchester Historic Environment Record (HER). It is within the centre of an historic settlement, close to the site of the Roman Temple of Claudius (which later became the Medieval Castle) and adjacent to the site of St Nicholas's Church. There is high potential for encountering important Roman and medieval occupation remains at this location, which has not been the subject of previous intensive modern redevelopment and/or previous systematic archaeological investigation. There is a need to ensure that the impact of below-ground works on buried archaeological remains is minimised.

15.16 Currently, the indicative foundation proposal plan submitted shows piled foundations across the entire building/site. Historic England specify that new piling impact should be kept to a minimum 'and a loss of no more than 2% of the site should be the target'. The current piling design would result in a loss of 13% (a total of forty 30mm diameter piles spaced uniformly across the entire site) and is, therefore, unacceptable in terms of the protection of archaeology required by the aforementioned local plan policies. The Council's Archaeological Adviser has requested a revised foundation design scheme that dramatically reduces the impact. Discussions are ongoing with the Agent (Purcell) in order to establish an alternative foundation scheme.

Flood Risk

15.17 Development policy DP20 seeks to minimise the risk of increased flooding as a result of development.

15.18 The site is located within Flood Zone 1 and the application has been assessed in line with the NPPF and Environment Agency Standing Advice. As a site within a Flood Zone 1, it is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding. Consequently, no mitigation is considered to be required.

16.0 Conclusion

16.1 The proposal is considered to be acceptable in terms of the principle of the uses in a town centre location; the sustainability and accessibility of the site; its design; and highway implications, all subject to conditions. The only outstanding matters are the impacts to future residents from vibration from the adjacent bar/restaurant and potential impacts on archaeology. A recommendation of approval is proposed provided that there are no issues resulting from investigations into levels of vibration from the adjacent bar and a satisfactory foundation scheme can be put forward that limits ground disturbance and allows localised archaeological investigation to be undertaken as required by condition.

17.0 Recommendation

17.1 That, subject to no objections being raised by the Council's Environmental Protection team and Council's Archaeological Adviser, the Head of Service be authorised under delegated powers to grant planning permission subject to the following conditions and any conditions subsequently recommended by the aforementioned consultees as necessary.

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 Drawing Numbers 001, 200, 201, 221, and 223, received on 25th May 2016; Drawing Numbers 202 Revision A, 220 Revision A, and 300, received on 26th July 2016; and Drawing Numbers 203 Revision B and 222 Revision A, received on 5th August 2016.

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

3 - Materials

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials (including samples as necessary) to be used in the construction of those works shown on drawings 220 Revision A and 221 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. In all other respects, the external facing and roofing materials shall match in colour texture and form those used on the existing building as stipulated in the approved drawings.

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

4 – Window and Door Details

Notwithstanding the information submitted, no works shall take place (except for underground enabling works) until additional drawings (at a scale between 1:5 and 1:50 as appropriate) of the architectural features have been submitted to and approved in writing by the Local Planning Authority. These drawings shall include details (including materials to be used) of the new and/or replacement external doors, door cases, windows (including depth of recess and method of opening), sills, lintels, eaves, barge boards, chimney stacks or other roof features, recessed or projecting brick work, and projecting features to be used. The development shall be implemented in accordance with the approved additional drawings.

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

5 - Details of Chimneys, Flues, Extract Ducts, Vents, etc

Prior to the commencement of any works, details of all new or replacement external chimneys, flues, extract ducts, vents, mechanical ventilation, grilles and meter housings shall have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the area.

6 - Details of Cycle Parking Facilities

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

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

7 - Transport Mitigation Package

No works shall commence until a detailed sustainable transport mitigation package has been submitted to and agreed, in writing by, the Local Planning Authority. This package will provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking (including the local Public Rights of Way network), taxi travel, car sharing and community transport in the vicinity of the site. The package shall thereafter be implemented as agreed for each individual dwelling and/or premises within 14 days of the first beneficial use or occupation of that unit. Reason: In the interests of mitigating the impact of the approved development by seeking to reduce the need to travel by private car through the promotion of sustainable transport choices.

8 – Noise Mitigation

Prior to the residential (C3) units being first occupied, the noise mitigation measures, as set out in Section 9 of the Noise.co.uk Environmental Noise Survey and Assessment Report (Report No. 17155-1-R1) shall be carried out and completed.

Reason: In the interests of residential amenity in terms of noise reduction.

9 – Self Closing doors

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to a A3 premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

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

10 - Food Premises (Control of Fumes and Odours)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

11 - Grease Traps Required

Prior to the first use of the A3 development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

12 – Rooflights

Notwithstanding the submitted details, the 3 No. rooflights on the southern elevation, as shown on drawing 220 Revision A, shall be conservation rooflights installed with flush flashing kit.

Reason: In the interests of preserving the character and appearance of the area.

13 – Secondary glazing

Prior to any secondary glazing being installed, details showing how any glazing bars, sills, rails and frames relate to the corresponding existing windows shall be submitted to and approved, in writing, by the Local Planning Authority. The secondary glazing shall then be installed as approved prior to the occupation of the relevant residential (C3) unit.

Reason: In the interests of the character and appearance of the locally listed building and surrounding Conservation Area.

14 - Opening Hours (A3 Use Only)

The A3 use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Monday - Thursday: 0800-2300

Fridays and Saturdays: 0800-0000

Sundays and Public Holidays: 0800-2300

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

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 and be investigated by our enforcement team. ****Please pay particular attention to these requirements****. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website

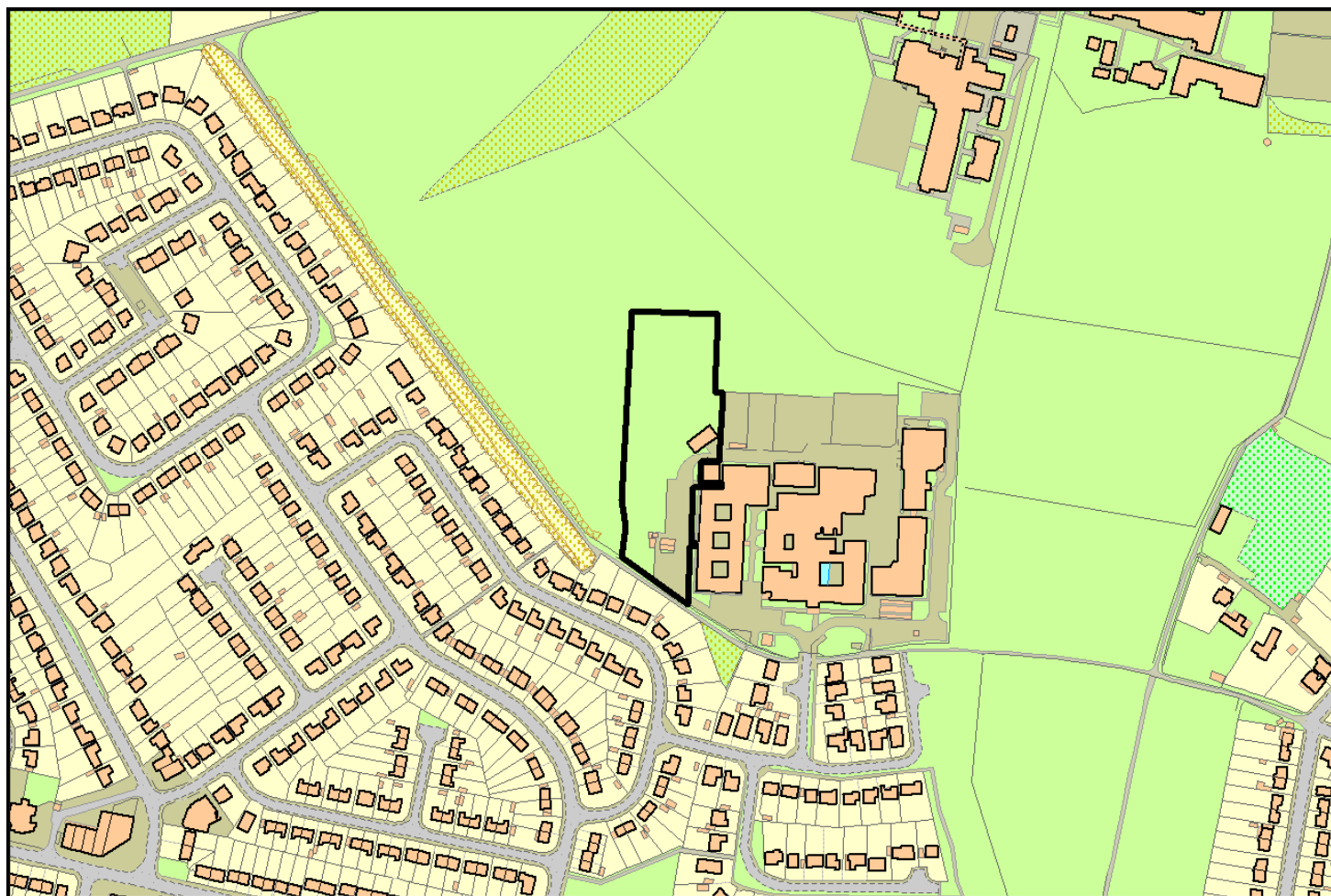
(4) Transport Mitigation Packs: Essex County Council as Highway Authority can assist in the production of appropriate material as packs of information are available for purchase by the developer. Contact the Sustainable Travel Planning team on 01245 436135 or email travelplanteam@essex.gov.uk for more information.

(5) Highway Works: All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

(6) Informative regarding reuse of materials: It is recommended that, where possible, existing materials are salvaged and reused as part of the development in the interests of the historic character of the locally listed building.

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: 161668

Location: The Philip Morant School, Rembrandt Way, Colchester, CO3 4QS

Scale (approx): 1:2500

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7.4 Case Officer: Daniel Cameron

Due Date: 21/10/2016

MAJOR

Site: The Philip Morant School, Rembrandt Way, Colchester, CO3 4QS

Application No: 161668

Date Received: 11 July 2016

Agent: Mr Ian Butter Bsc FRICS MRTPI

Applicant: Philip Morant School & College

Development: Erection of two-storey teaching block (D1) together with an all-weather sports pitch, amended internal vehicle access route, car parking, cycle racks and associated facilities

Ward: Prettygate

Summary of Recommendation: APPROVE subject to the agreement of Sports England, the Landscape Officer and the Arboriculture Officer to the application subject to any condition they require.

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 representations relating to material issues have been received.

2.0 Synopsis

- 2.1 The key issues explored below are the impacts of the development on the nearby Lexden Dyke (a scheduled ancient monument), the highways network surrounding the site, the impact on the surrounding residential area and impact upon the existing sports facilities at Philip Morant school.
- 2.2 As the following report makes clear there are still certain issues relating to arboriculture, landscaping and the layout of the sports pitches to be clarified with further detailed submissions from the applicant. This report recommends that committee agree to authorise the Head of Commercial Services to grant permission to the application on the conditional basis that the outstanding issues are first resolved with the relevant stakeholders and that the conditions they deem necessary are attached to any decision notice.

3.0 Site Description and Context

- 3.1 Philip Morant School is a large school complex surrounded by its playing fields within Prettygate ward. To the immediate south of the site is large housing estate; while to its immediate north is the Colchester School for Girls. Lexden Dyke, a scheduled ancient monument, runs along part of the south-western boundary of the school and was part of a series of earthworks surrounding Iron-Age Colchester.

4.0 Description of the Proposal

4.1 The application covers five items:

- The erection of a new Performing Arts Block;
- Installation of a new 3G football pitch with floodlights;
- The erection of a new garage to house site maintenance vehicles and equipment;
- Relocation of an existing habitat area within the school grounds; and
- Additional car and cycle parking within the school grounds.

5.0 Land Use Allocation

5.1 Within the current Local Plan the surrounding area is zoned as predominantly residential while the site of the school itself is private open space. To the immediate west of the school site is an area of public open space.

6.0 Relevant Planning History

6.1 A number of small scale planning applications have been received relating to this site in the past few years. These have related to changes to the access to the school which were not implemented, and to the installation of a new heating system.

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

UR2 - Built Design and Character

PR1 - Open Space

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic

TA5 - Parking

ENV1 - Environment

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

DP1 Design and Amenity
DP4 Community Facilities
DP14 Historic Environment Assets
DP15 Retention of Open Space and Indoor Sports Facilities
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

8.0 Consultations

8.1 External consultation was sought from:

- Historic England;
- Natural England;
- Sports England;
- Anglian Water;
- Essex Highways; and
- Essex SUDS.

Their responses are summarised below.

8.2 *Historic England* commented that the erection of the teaching block and all weather pitch was likely to have some impact upon the setting of the Lexden Dyke. It was however, considered unlikely that the development would amount to a level of harm which would negatively impact upon the scheduled monument. They recommend conditions to secure a programme of archaeological works, and on light pollution from the football pitch.

8.3 *Natural England* made no comment upon the application.

8.4 *Sports England* initially submitted a holding objection as they required further detail from the applicant regarding the size of the football pitch and its impact upon the existing sport pitches at Philip Morant School. This information has been partially provided through a revised layout plan submitted by the applicant. At the time of writing, Sports England have yet to confirm their agreement to the altered scheme layout, however, this is expected imminently.

8.5 *Essex Highways* initially objected to the application, as while highway infrastructure improvements were offered in order to mitigate the impact of the development, these all related to increased pedestrian traffic and did not address any impact created from additional vehicular traffic at peak drop off and pick up times. Following discussions with the applicants Essex Highways are content to work with the applicants in order to develop a scheme to alleviate highways impacts. Given that the transport assessment prepared by the applicant and confirmed by Essex Highways did not determine any adverse impacts until pupil numbers at the school exceeded an additional 120. As such it will be conditioned that the approved scheme of highways measures shall be implemented prior to this increase.

- 8.6 *Essex SUDS* initially placed a holding objection on the application as the originally submitted Flood Risk Assessment was insufficient on a number of topics. A revised assessment was then submitted by the applicants which is acceptable to Essex SUDS who have removed their object and now support the application subject to conditions.
- 8.7 Internal consultation was sought on the following topics:
- Urban design;
 - Archaeology;
 - Environmental Control;
 - Landscape; and
 - Arboriculture.
- Again, their responses are summarised below:
- 8.8 *Urban design* comments stated that the contemporary architecture would likely sit well with the rest of the school complex and that they supported the application subject to further detail on the materials and finishes to be employed.
- 8.9 *Archaeology* found the report submitted by the application to be adequate to ensure that there were no grounds to consider refusal. However, given the significance of the site, and bearing in mind the advice of Historic England a condition to secure a scheme of archaeological investigation will be attached.
- 8.10 *Environmental Control* raised no objection to the application provided conditions were attached to regarding its hours of construction in order to protect the amenity of neighbouring properties.
- 8.11 *Landscape* suggested alterations to the proposed layout to give greater recognition to Lexden Dyke within the scheme. A revised layout has been submitted, however, there has been insufficient time from the submission by the applicant to allow the Landscape Officer to comment.
- 8.12 *Arboriculture* a tree survey is required for the application which has been submitted by the applicant. Again, there has been insufficient time from the point of submission by the applicant to allow the Arboriculture Officer to comment.

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 application is within an unparished ward.

10.0 Representations

- 10.1 The application was put out to consultation and was advertised through site notice, press advert and on the Council's website. Three representations were received. One objected to the application, while the remaining two made general observations.

- 10.2 The material issues raised by the representations are summarised as follows:
- Issues with school traffic at drop off and pick up time;
 - Light and noise pollution from the use of the 3G football pitch outside of school hours and at the weekends; and
 - Anti-social behaviour from young people at weekends.
- 10.3 It should be noted that none of the representations objected to the expansion of the school.

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

11.0 Parking Provision

- 11.1 Existing parking provision on the site allows for 147 cars, 300 cycles and 3 disabled spaces. As part of the proposals an additional 37 parking spaces are proposed as well as a reordering of the cycle parking spaces throughout the school site. The additional parking would be achieved through a re-ordering of existing car parking on site and would be required to accommodate the additional staff employed on site, as well as for out of school hours use of the sports pitches.
- 11.2 The car parking provision on site exceeds the maximum standard required by adopted parking standards, although it should be noted that cycle parking of 300 spaces is below the minimum required. The Transport Assessment submitted as part of the application shows that currently only 137 pupils make use of a bicycle to travel to school and it is thought that this number will only rise to 162. As such the current level of cycle parking is considered adequate. Car parking on site is designed to cope with both day-to-day parking needs of school staff as well as with parking pressure caused by out of hours events at the school such as parents' evenings.

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 classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 As previously discussed the application covers five items:
- The erection of a new Performing Arts Block;
 - Installation of a new 3G football pitch with floodlights;
 - The erection of a new garage to house site maintenance vehicles and equipment;
 - Relocation of an existing habitat area within the school grounds; and
 - Additional car and cycle parking within the school grounds.
- 15.2 With regards to the school expansion support for the expansions is given within paragraph 72 of the NPPF. Local Planning Authorities are tasked with engaging in a 'proactive, positive and collaborative' way to ensure that 'sufficient choice in school places is available to meet the needs of existing and new communities'. The paragraph ends by stating that 'great weight' should be given 'to the need to create, expand or alter schools'.
- 15.3 Philip Morant School and College caters for pupils aged between 11 and 18 years old and was rated as 'Good' in its most recent Ofsted inspection. The purpose of this application is to expand the school to accommodate an additional 300 pupils while also providing additional sports facilities for the wider area. The increase in pupil numbers is required following Essex County Council's report on commissioning school places within Colchester, which after taking into account the level of housing planned for the area, will show a deficit of places by the 2019/20 academic year. Essex County Council is therefore supportive of the scheme and will provide the necessary funding.
- 15.4 The design of the building is in keeping with the rest of the school site and should be partially screened by new landscaping to be introduced with the scheme. With regards to the scale of the building, it will be taller than some existing school buildings, but will not be overbearing in relation to them and is well separated from any existing residential properties so any impact upon amenity should be minimal. This would accord with policies UR2 and DP1.
- 15.5 With regards to the proposed MUGA, specific details regarding size and community use will need to be agreed with Sports England and will be conditioned in any event. As the proposed MUGA will be positioned on existing school playing field paragraphs 73 and 74 of the NPPF are relevant. Paragraph 73 of the NPPF highlights the important contribution that 'access to high quality open spaces and opportunities for sport and recreation can make...' while paragraph 74 goes further protecting existing open space, sports and recreational land from development, unless it can be shown that 'the loss... would be replaced by equivalent or better provision in terms of quantity and quality...' or that 'the development is for alternative sports and recreational provision...'. Development Policy 15 echoes the NPPF in this regard.
- 15.6 Consultation with Sports England has confirmed that the MUGA would provide increased opportunity for sports and recreational activity within the area while maintaining the level of sports facilities available to the school.

- 15.7 It should be noted that the proposed MUGA is to be illuminated by floodlighting. Owing to the location of the MUGA, away from residential properties it is not anticipated to create unwanted impacts upon amenity. However, to ensure competent installation a report on light spillage from the floodlights will be conditioned as will that the floodlighting be installed by suitably qualified persons and maintained as such. Similarly conditions will be added to control the noise from the pitches outside of school hours.
- 15.8 Essex Highways is content to allow the application to go ahead on condition that a scheme to control additional vehicle movements to and from the school at pick up and drop off time is devised and installed. The scheme is intended to promote alternative methods of transport to and from the site as well as include specific measures designed to mitigate increased vehicle impacts on the surrounding streets. Given that the increase in pupil numbers will be phased year on year once the additional capacity is created, Essex Highways will require this scheme to be implemented prior to the point at which the highways impacts will begin their significance.

16.0 Conclusion

- 16.1 The additional school places proposed are supported by national planning policy and supported by the Local Education Authority. The design, layout, scale and massing of the new school building is considered acceptable.
- 16.2 Sports England are content over the principle of the MUGA and are now only concerned by detail, this can be conditioned, as will the potential light and noise pollution from the MUGA. They are further satisfied that the requirements of paragraphs 73 and 74 of the NPPF have been met.
- 16.3 Given the support for the principle of the main elements of the application, it is recommended that the application be approved by Planning Committee subject to details concerning landscaping, arboriculture and the detail regarding the proposed MUGA be agreed prior to the issue of the decision notice.

17.0 Recommendation

- 17.1 APPROVE subject to the agreement of Sports England, the Landscape Officer and the Arboriculture Officer to the application subject to any condition they require. This is to be determined within 6 months from the date of the Committee meeting, in the event that the agreement of the stakeholders is not forthcoming within that period, to delegate authority to the Head of Commercial Services to refuse the application.

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 Drawing Numbers 189-3_P_001.R1, 189-3_P_102.R0, 189-3_P_301.R0 and 189-3_WD_009.R1.

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

3 - 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.

4 - Non-Standard Condition/Reason

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 Colchester Borough Council's Core Strategy (2008).

5 - 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.

6 - Limits to Hours of Work

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

Weekdays: 08:00 - 18:00

Saturdays: 08:00 - 13:00

Sundays and Bank Holidays: not 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.

7 -Limits to Hours of Construction Deliveries/Worker Traffic

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;

Weekdays: 07:30 - 18:30

Saturdays: 07:30 - 13:30

Sundays and Bank Holidays: not 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.

8 - *Full Landscape Proposals TBA

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.

9 - 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.

10 - Non-Standard Condition/Reason

Prior to commencement of any works, in agreement with the Local Planning Authority the Developer shall be responsible for the provision of a raft of sustainable travel measures which may include but not be limited to:

- Update of School Travel Plan,
- Pruning of all trees/hedges along the Public Footpaths within the schools landownership to facilitate greater movement of footpath users to the school, o Refresh all road markings in the vicinity of the school,
- A scheme of regular parking enforcement visits between 07:45 and 08:45 and again between 15:00 and 15:45,
- All proposed informal pedestrian crossing points as detailed by the submitted information,
- Further investigation of opportunities to provide improved facilities for drop-off and pick-up point for students by private vehicle.

Reason: The Transport Assessment submitted as part of the application did not contain adequate information to detail how the increased traffic created as a direct result of this application would be adequately managed within the existing highways network surrounding the application site. In the interests of proper planning with full regard to paragraph 32 of the NPPF and in the interests of sustainable development. Further to provide adequate improvements in the highway interest and environment thus catering for the additional vehicular traffic associated with the increase in school intake in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

11 - Non-Standard Condition/Reason

There shall be no gross increase of pupil numbers over 120 until such time as the aforementioned agreed scheme of highways works have been fully implemented to the satisfaction of Local Planning Authority.

Reason: To ensure improvements in the highway infrastructure are fully provided in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

12 - Non-Standard Condition/Reason

Prior to occupation of the development the on-site vehicular parking and turning facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

13 - Non-Standard Condition/Reason

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

14 - Non-Standard Condition/Reason

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 in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

15 - Non-Standard Condition/Reason

Prior to the commencement of the development the 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 provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

16 - Details of Floodlighting

No works shall take place until details of any floodlighting have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to the surroundings area.

17 - *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 EZ3 small town centres or urban locations.

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

18 - Non-Standard Condition/Reason

No works relating to the proposed MUGA hereby approved shall be undertaken until such time as detailed plans showing detail regarding the size, layout, access and enclosure of the MUGA have been submitted to and approved by the Local Planning Authority in writing. Reason: There is a lack of detail regarding this item within the planning application.

19 - Non-Standard Condition/Reason

The artificial grass pitch hereby permitted shall not be constructed other than substantially in accordance with Sport England/National Governing Body Technical Design Guidance Notes including the FIFA Quality Concept for Football Turf - One Star accreditation/FIFA Quality or equivalent International Artificial Turf Standard (IATS) as a minimum. Subsequently the 3G pitch hereby permitted shall be maintained on the FA's 3G Football Turf Pitch Register for the lifetime of the facility.

Reason: To ensure the development is fit for purpose, sustainable and maintained correctly for use in the National League System.

20 - Non-Standard Condition/Reason

The MUGA hereby permitted shall not be brought into a beneficial use until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to the artificial grass pitch and associated infrastructure hereby approved and include details of pricing policy, hours of use, access by non-educational establishment users /non-members, management responsibilities, a mechanism for review, and anything else which the Local Planning Authority in consultation with Sport England considers necessary in order to secure the effective community use of the facilities. The development shall not be used at any time other than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport.

21 - Non-Standard Condition/Reason

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:

- Further groundwater testing and infiltration testing in line with BRE 365. Storage should be based on the rates found as part of the testing with surface water managed on site up to the 1 in 100 inclusive of climate change (40%) storm event. If infiltration is proposed in any areas of made ground, details should be submitted as to how such areas will be remediated.
- Run-off from the proposed Performing Arts Block restricted to a minimum of 50% betterment on the existing brownfield rate from the existing car park. Calculations should be submitted for the existing brownfield rates and permission from the relevant body to discharge surface water to the proposed surface water sewer should be demonstrated.
- Further information as to how the Astro pitches will be drained. It should be demonstrated how Surface water from the pitches will be managed on site up to the 1

in 100 inclusive of climate change (40%) storm event.

- An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan highlighting conveyance and exceedance routes, location and sizing of storage features, FFLs and ground levels, outfalls and discharge rates from the site.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure the effective operation of SuDS features over the lifetime of the development.

22 - Non-Standard Condition/Reason

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.

23 - Non-Standard Condition/Reason

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

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

24 - Non-Standard Condition/Reason

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.

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

(4) All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

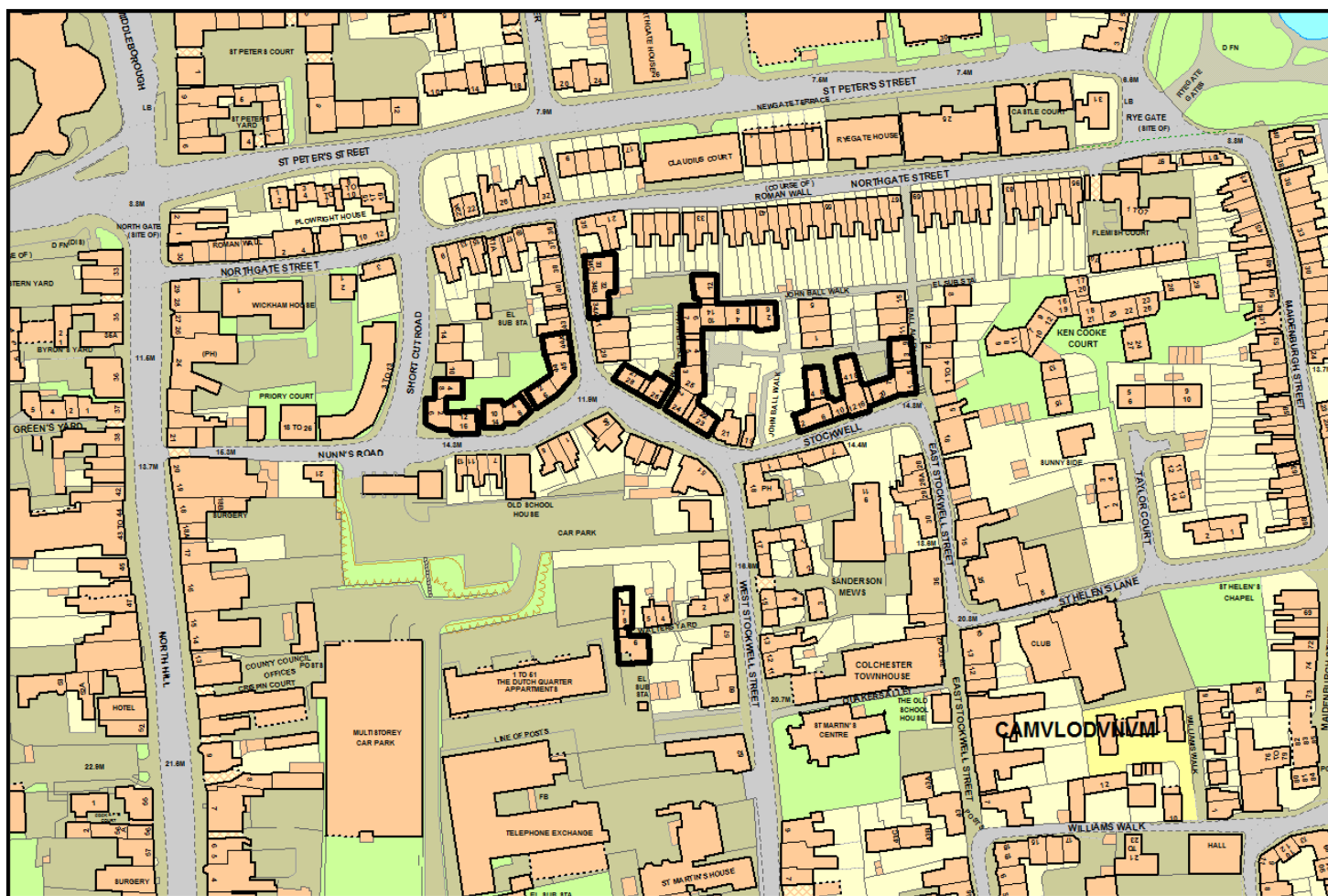
(5) The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway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

(6) Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

(7) 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.

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: 161912

Location: West Stockwell Street, Colchester

Scale (approx): 1:1250

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7.5 Case Officer: Daniel Cameron

Due Date: 21/10/2016

HOUSEHOLDER

Site: West Stockwell Street, Colchester

Application No: 161912

Date Received: 4 August 2016

Applicant: Mr Andy Shelmerdine, Colchester Borough Homes

Development: Replacement of windows and some external doors to flats in various locations. 1-9 (odds) Ball Alley, 2-14 (evens) John Ball Walk, 2-16 (evens) Nunns Road, 2- 8 (evens) Shortcut Road, 7-9 (cons) Walters Yard, 1-7 (cons) Wat Tyler Walk, 2-20 (evens) Stockwell and 22-28 (cons) 32, 33, 34a, 34b, 34c, 44, 44a and 45 West Stockwell Street.

Ward: Castle

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 has been submitted by Colchester Borough Homes (CBH).

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the proposed replacement windows and doors to the affected properties will have on the character of the Colchester Conservation Area 1.

3.0 Site Description and Context

- 3.1 This application affects several unlisted buildings within the Dutch Quarter. All are of modern construction dating from between the mid 1950's to the 1970's and formed part of a series of infill developments built in the vernacular style to mimic the historic buildings and streetscapes exhibited within the Dutch Quarter.

4.0 Description of the Proposal

- 4.1 The proposal seeks permission to replace the windows on the affected properties. Window details are common to all of the properties covered by the application with the exception of those few which have been replaced with double glazed timber framed windows or uPVC windows. It is proposed to replace the uPVC windows as part of this application. However the timber framed windows would not be affected and would remain in those properties which had installed them.

- 4.2 It is proposed to replace the windows on a broadly like-with-like basis. The majority of the existing windows are single glazed, aluminium framed, sash windows with the exception of the bathroom windows to the properties which are single glazed, square, bottom hung, inward opening, steel crittall windows. The replacement windows would be double glazed, aluminium framed windows using the same configuration as the original windows.
- 4.3 Both front and rear doors within the areas of the application are scheduled for replacement. These doors are showing signs of age and wear and residents are reporting them draughty and insecure. At present most doors are single glazed, timber doors dating from the construction of the properties although some are uPVC. All doors, including those which have been replaced have timber door frames.
- 4.4 The replacement doors are to be solid timber doors with rear doors containing more glass panels than any front doors. Any glass panels are to be double glazed. Colours are to be determined by the residents of the properties from a selection of approved heritage colours.

5.0 Land Use Allocation

- 5.1 The existing land use allocation within the current local plan is predominantly residential.

6.0 Relevant Planning History

- 6.1 A number of planning applications have been before Planning Committee relating to the replacement of windows on CBH properties within the Dutch Quarter with the most recent being a pair of retrospective applications in 2014 for the retention of a pair of timber framed sash windows. Both applications were approved by Planning Committee subject to conditions.

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:

UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP14 Historic Environment Assets

8.0 Consultations

- 8.1 Internal consultation was received from the Historic Buildings and Areas Officer. They concluded that the existing windows and doors appeared quite deteriorated and were of no value either to the appearance of the buildings or the character of the conservation area. While there would be some impact upon the conservation area by the replacement of the windows this impact would be minimal and would be the case whatever materials were used for the windows.

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. The application site lies within an unparished town centre ward.

10.0 Representations

- 10.1 This application was put out to public consultation until the 30th August 2016 and then again following changes to the door details until early October 2016. It was advertised by site notice, press advert and on the Council's website. One general comment was received which related to the special requirements of one resident due to physical disability. This has been forwarded to CBH for them to act on during any future installations.

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

11.0 Parking Provision

- 11.1 N/A.

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

- 15.1 As previously mentioned the replacement windows would be broadly like-with-like with the existing. Although the inclusion of double glazing would necessitate a deeper section profile to the replacement windows, it is considered that in appearance this would be a marginal alteration from the existing windows.
- 15.2 Existing issues with the current windows include their difficult and costly maintenance, their age and increasing state of wear, and their undesirable impact upon the amenity of the residents owing to issues around condensation and mould caused by the windows. Given that the majority of the properties are inhabited by social housing tenants of CBH, there is a clear benefit to their replacement to both the properties themselves and to the residents.
- 15.3 In terms of the doors to be replaced as part of this application, they are also showing increasing signs of wear. This is creating issues for the occupants both regarding the security of the doors and their amenity as the doors are no longer wind tight.
- 15.4 The replacement doors are of a traditional appearance and are to be constructed in solid timber. This should address both the amenity and security concerns of the residents. Where appropriate double glazed sections are to be included finished in either clear or obscured glass. All doors are to be painted in an appropriate colour as agreed with the Historic Buildings and Areas Officer.
- 15.5 In terms of their impact upon the conservation area it is considered that overall this would be minimal. The visual appearance of the windows would be similar regardless of the material they were constructed from. The broad, like-with-like design choice replicates the element of repetition created by the existing windows within the conservation area and would maintain this aspect of its character. With regards to the doors, it is considered that the appearance would sit well with the new windows and furthermore are of an appropriate design and finish to compliment the wider area.

16.0 Conclusion

- 16.1 There are clear benefits of the scheme both for the tenants of the properties and for the properties themselves. The design of the replacement windows is as close to the originals as possible, while providing the benefits of increased ventilation and the sound dampening of double glazing. The doors should increase the security of the properties. The impact upon the character of the conservation area is minimal and there are no conflicts between the proposed works and existing national and local planning policy.

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 Drawing Numbers A-1516-PL-01 Revision A, A-1516-PL-04, A-1516-PL-06, A-1516-PL-07 Revision A and A-1516-PL-09.

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.

4 - Non-Standard Condition/Reason

The replacement doors hereby approved shall each be finished in one of the colours shown on drawing number A-1516-PL-09 and retained as such hereafter.

Reason: To ensure the colour of the doors are appropriately reflect the traditional character of the conservation area.

5 - Non-Standard Condition/Reason

Prior to the installation of the windows hereby approved, the outer frames of the windows shall be repainted in a colour, to be submitted to and agreed in writing with the Local Planning Authority. Once agreed, the outer window frames shall be painted according to the submitted details and thereafter maintained in accordance with the agreed details.

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

20.0 Positivity Statement

- 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: 161543

Location: Town & Country Lighting Ltd, 61-65, North Station Road, Colchester, CO1 1RQ

Scale (approx): 1:1250

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7.6 Case Officer: James Ryan

Due Date: 28/10/2016

Site: Town & Country Lighting Ltd., 61-65, North Station Road, Colchester, CO1 1RQ

Application No: 161543

Date Received: 29 June 2016

Agent: Mr Alan Green, A9 Architecture

Applicant: Mr Ansar Ali

Development: Retention of existing ground floor retail and construction of 2 storey block containing 9 flats on existing roof.

Ward: Castle

Summary of Development: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

The application has insufficient provision of parking spaces in an area with an already oversubscribed residents' parking scheme. Residents of adjoining properties in Albert Street have raised concerns about overshadowing, overlooking and the effects of development on their property that need to be heard and considered by the Planning Committee.

2.0 Synopsis

- 2.1 The key issues explored below are the impact the scheme will have on the character of the area and on neighboring amenity. It is held that whilst this scheme provides two extra flats than the approved scheme, the amended proposal pulls the mass of the building away from the neighbours to the rear in Albert Street and therefore, on balance, it is acceptable.

3.0 Site Description and Context

- 3.1 61 – 65 North Station Road is a single-storey retail unit which is attached to another retail unit to the north. The site shares a strong design bond with several Locally Listed Buildings elsewhere in Colchester (that were previously Co-op buildings). Since the last application to extend this building was determined it has been added to the council's Local List in recognition of its architectural distinction and historic association with the town. It is one of a small number of buildings in the Borough built to provide Colchester Co-operative Society shops and designed by Goodey and Gressall. This example dates to around 1924 and the three shops originally were a grocer, confectioner and butcher.

- 3.2 The front façade is clad in creamy coloured faience, mimicking stone. The pilasters have art-deco enrichment, matching the original shopfront which survives intact. The inset entrance doors with their canted flank walls give additional interest to the shopfront. Although it is unlikely that the original raised lettering or divisions across the fascia survive, the building is nevertheless well preserved and its quality is worthy of recognition.
- 3.3 To the east of the site is the rear elevation with a small car parking area, a boundary wall and an access path that runs along the rear gardens of the dwellings in Albert Street. To the south is the vehicle access to the rear and then another retail unit (with flats above) beyond. The west elevation fronts North Station Road. The site is not in a Conservation Area.

4.0 Description of the Proposal

- 4.1 Retention of existing ground floor retail is proposed along with the construction of a two storey block containing nine flats on the existing roof.

5.0 Land Use Allocation

- 5.1 Mixed use.

6.0 Relevant Planning History

- 6.1 The planning history most relevant to this scheme is the approved scheme 146287 for 7 flats over one and part two floors on the roof of the existing unit. Application for 9 flats with full depth first and second floors (152408) was withdrawn following this.

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
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE2a - Town Centre
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA2 - Walking and Cycling

TA5 - Parking

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

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP6 Colchester Town Centre Uses
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
DP19 Parking Standards

- 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
Cycling Delivery Strategy

8.0 Consultations

- 8.1 Locum Historic Buildings Officer: This is an unlisted building near, but not adjacent to, the Globe Hotel, listed Grade II. The proposal is to add upper storeys to the existing building. The proposed works would have some visual impact on the setting of the listed building, but I do not consider that this would be particularly detrimental. The new storeys would conceal some of the southern flank of the LB, as seen from the south, but this aspect of the LB is far from attractive, having a utilitarian, “service” character, with bare brick walls and prominent waste pipes. Its original character has long ago been compromised by the surrounding development of North Station Road. I have no objections to the proposal on conservation grounds.
- 8.2 Environmental Protection: No objection subject to conditions.
- 8.3 Highway Authority: 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.

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations

- 10.1 Seventeen objections have been received. Some are from duplicate addresses as there have been two sets of amended drawings consulted on. At the time of writing, five were received after the last re-consultation.

It is beyond the scope of this report to set out the issues in full and the complete representation can be read on the website, however the objections can be summarised as follows::

- The scheme causes harmful overlooking.
- The scheme will cause harmful oppressiveness
- Scheme will block light to garden and will cause overshadowing
- The scheme will put off house sales in the area.
- The scheme amounts to overdevelopment.
- There is nowhere near enough parking on site.
- The scheme will create pollution.
- The scheme may increase resident parking permits requests by 14 and will put more pressure on Albert St and North Station Rd.
- More residents will result in more noise and disturbance in the area.
- This scheme may require a tree in a neighbour's garden to be removed due to it being a nuisance to the developers.
- Some properties in Albert St are rented – have the owners been notified?
- Will wall at end of garden remain?
- The scheme should protect the Victorian area.
- A Construction Method Statement should be required.

- 10.2 Many of these issues will be dealt with in the main body of the report and many relate to the principle of development which has previously been secured. However, in response: The issue of the proposal making property harder to sell in Albert Street is not a planning consideration. All adjoining dwellings have been consulted – if they are rented then it is the tenants' responsibility to notify the owner of the consultation letter. The site may have some Victorian buildings but it is not in a Conservation Area or an Article 4 area and it is considered that the proposed design is very respectful of the host building and the area. With regards to customers' cars blocking accesses, there are very few private accesses in the area and drivers would have to comply with parking restrictions and so on. The proposal is held to be an improvement in impact on the amenity of the neighbours when compared to the approved scheme. The current scheme does not amount to overdevelopment. There are no plans to remove the wall. The possible removal of a tree off-site would not warrant a refusal of this scheme. A Construction Method Statement condition was not imposed on the last approval and Environmental Protection has not asked for one this time so it would be unreasonable to impose it now. Environmental Protection has requested a working times condition which will be imposed.

:

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

11.0 Parking Provision

- 11.1 As with the previous approval, this scheme provides limited parking, however in this sustainable location close to the town centre, bus routes and train station this is considered to be acceptable. Cycle parking is proposed and will be conditioned.

12.0 Open Space Provisions

- 12.1 This application does not generate any open space requirements. The site does not provide on-site amenity space. However, in this location that is a short walk to King's Meadow, Castle Park and the River Colne and surrounding open space, this is considered to be acceptable.

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, Scale, Height and Massing:

- 15.1 The unit is neither Listed nor in a Conservation Area, nonetheless the building's design is rather attractive and follows the form of several other Locally-Listed buildings in Colchester. Since the last approval the building has been added to the local list.
- 15.2 The proposal would replace the one retail unit on the ground floor with three units and would add a further two floors of residential accommodation.
- 15.3 The attached unit to the north is two-storey, whilst the next building to the north is the three-storey Globe Hotel (which is listed). The building to the south is three-storey. The proposed front elevation would appear as a two-storey building with the first floor recessed a little from the existing frontage. The proposed third-storey would be some distance behind the building's main edge (6 metres from the front and almost 7 metres from the back) and it would not make the proposal read as a cliff-like three-storey building in the street-scene.
- 15.4 The design as approved in application 146287 was subject to changes that were agreed with the in-house heritage team. This scheme proposes two additional flats at second floor level in a similar style, but with an internal re-jig to allow the removal of the previously approved rearmost second floor flat. The design has a strong connection to the host building and complements it very well from the front and rear. It is considered that this scheme is acceptable in terms of policy UR2, DP1 and DP14 and does not harm the locally listed building.

Level of Development:

- 15.5 This proposal forms a dense and urban type of development. Rooms are relatively small and the internal layout is somewhat contrived. On balance, however this is not considered to result in material harm to the future occupiers to the point that warrants a refusal.

Impact on the Surrounding Area:

- 15.6 It is held that, as amended, the scheme will have a neutral impact on the surrounding area and, as set out in the relevant consultation response, the in-house heritage team does not consider its impact on the setting of the listed building to the north to be harmful either.

Impacts on Neighbouring Properties

- 15.7 Officers have sought amendments to this scheme to improve the relationship to neighbour dwellings and particularly those that back on to the site from Albert Gardens.
- 15.8 Application 146287 approved a similar first floor and also second floor flat to the rear of the site. This created a block of built form almost hard up to the gardens of the dwellings in Albert Street. It did not provide much visual relief in terms of outlook from these small, but well used, gardens and would have loomed over them to a certain degree.
- 15.9 As part of the negotiation process, the second floor flat to the rear has been removed and as amended the two flats at second floor level have been pulled forward and hence away from the neighbours to the rear. The new second floor does sit at a slightly higher level than before.
- 15.10 It is held, therefore, that whilst this scheme provides an extra two flats on site, notwithstanding neighbours' representations (many of which predate this amendment), the amended scheme is actually held to be beneficial to the neighbours in terms of oppressiveness. This is because the massing of the building steps away from the neighbours, which will provide greater visual relief than the approved scheme.
- 15.11 The scheme is not held to cause materially harmful overlooking as the agent has confirmed that rear facing windows can be obscure glazed. As the site is located to the west of the dwellings in Albert Street, this scheme will have very limited impact in terms of overshadowing to these gardens for much of the day. If there is any impact it will relate to the winter evening sun when the sun's angle is acute and at this time the scheme will have little difference to that already approved.

Amenity Provisions:

- 15.12 As set out above, and as with the approved scheme, little outside private space is being provided, but the proposal is in an area where many flats do not have any outside amenity space. However, King's Meadow and the Castle Park are in very close proximity as well as Leisure World. So on balance the proposal is acceptable.

Highway Issues:

- 15.13 Many comments have been received regarding parking provision. Two car parking spaces would be provided – which is far short of the Parking Standards, however the site is in a highly sustainable location – being close to North Station, bus stops, shops and services on the doorstep and the town centre. This sustainable location is considered acceptable for the scheme to have reduced car parking spaces, especially given the cycle store provision and the fact that the flats would be small, one-bed flats (so may not attract those with more disposable income who can run a car). The Highway Authority has not raised an objection to the proposal.
- 15.14 With the approved application 146287 the Officer discussed the issue of parking permits with Parking Partnership and they have confirmed that capacity is considered before issuing any new permits to new dwellings. This is equally relevant with this re-submission. Albert Street is part of the wider F1 parking area and these residents can also park in F2 as well. Therefore any requests for parking permits would not result in pressure on Albert St alone. Given these considerations, the proposal would be in broad accordance with the aims of DP19. The Highway Authority's request for a condition for a sustainable transport plan is not considered reasonable given that the site is in a clearly sustainable location.

The Ground Floor Retail Use:

- 15.15 As with the approved plan, the retail units would continue to be provided at ground floor – making three units out of the one large unit. This is acceptable and is held to comply with DP7.

16.0 Conclusion

- 16.1 This resubmitted scheme proposes two more flats than the last approval and following negotiations is now of a design that will cause less material harm to neighbouring amenity than the approved scheme 146287. This is because the second floor, whilst wider, has been pulled away from the rear elevation and will appear as less 'cliff-like' to the neighbours in Albert Street. On balance it is held to be an improvement in neighbouring amenity terms.
- 16.2 The scheme is similar in design terms to that previously approved and is held to have a neutral impact on the street-scene. It is a rather dense form of development, but on balance does not amount to overdevelopment and provides two additional units to the Council's housing stock. The commercial element on the ground floor also remains. This scheme therefore complies with the strong steer for residential and economic development as set out in the NPPF and PPG. It is also held to comply with the Development Plan.

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 drawing numbers 30, 21, 32B and 34B.

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 commence on site until details of all new external WINDOW AND DOOR JOINERY AND/OR METAL FRAMED GLAZING have been submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.

5 - Non-Standard Condition/Reason

The windows at first and second floor level on the rear elevation shall be non-opening below 1.7m above finished floor level and glazed to a minimum of level 4 obscurity on the Pilkington scale 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.

6 - Non-Standard Condition/Reason

Prior to the first OCCUPATION 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.

7 -Non-Standard Condition/Reason

The first and second floor side (south) facing windows shall be fitted with an obscure screen to prevent views into the rear gardens of the properties in Albert Street. Details of the screen shall be submitted to and agreed in writing by the Local Planning Authority and only the approved details shall be installed and retained thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent lateral overlooking into the immediate gardens of the neighbours in Albert Street, in the interest of the local amenity.

8 - Non-Standard Condition/Reason

The units on the ground floor shall be used for retail purposes only as defined in the Use Class Order and for no other purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

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

9 - Non-Standard Condition/Reason

The ground floor use hereby permitted shall not OPERATE outside of the following times:

Weekdays: 8am to 6pm

Saturdays: 8am to 6pm

Sundays and Public Holidays: 10am to 4pm.

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

10 - Non-Standard Condition/Reason

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

Weekdays: 8am to 6pm

Saturdays: 8am to 6pm

Sundays and Public Holidays: 10am to 4pm

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

11 - Non-Standard Condition/Reason

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

12 - Non-Standard Condition/Reason

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:

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.

13 - Non-Standard Condition/Reason

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

Weekdays: 8am - 6pm

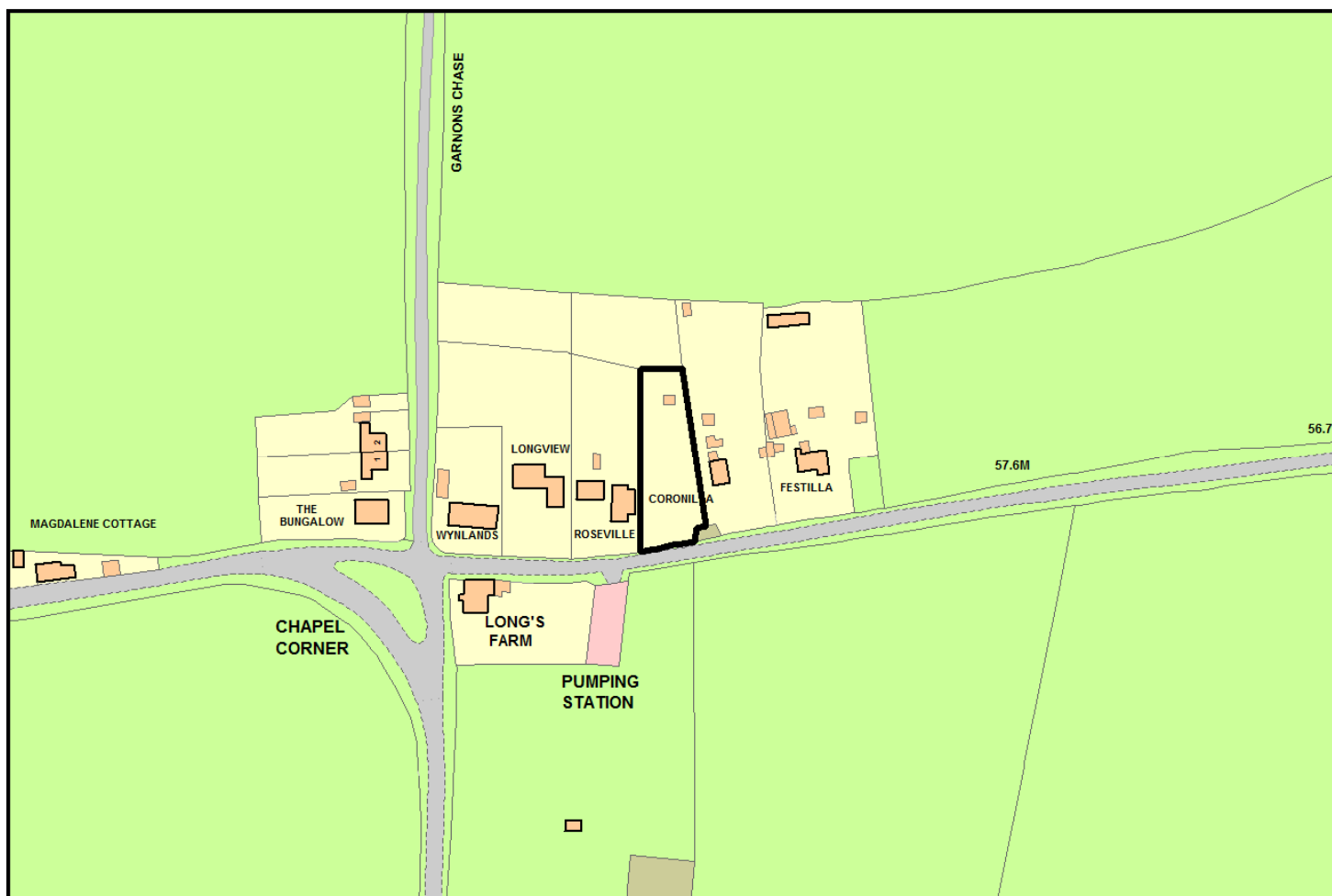
Saturdays: 8am - 6pm

Sundays and Bank Holidays: No working.

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

19.0 Positivity Statement

- 19.1 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: 161584

Location: Land Adj, Coronilla, Little Horkesley Road, Wormingford, Colchester, CO6 3AW

Scale (approx): 1:1250

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7.7 Case Officer: James Ryan**MINOR**

Site: Coronilla, Little Horkesley Road, Wormingford, Colchester, CO6 3AW

Application No: 161584

Date Received: 28 July 2016

Applicant: Mrs Sophie Harvey

Development: Application to remove/vary condition 2 of planning permission 152553.

Ward: Fordham & Stour

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 has been called in by Cllr Chapman for the following reason:

The original permission for this development was varied by a non-material amendment regarding the position of the dwelling in relation to the highway and also minor elevational changes. That has now been followed by this Application. The immediate neighbours, supported by local residents, have been concerned that the current position of the dwelling is detrimental to their privacy and outlook and the additional height also impacts on the landscape of the Dedham Vale Area of Outstanding Natural Beauty. Considerable correspondence has been entered into with the planning team by the residents and I would like this decision to be considered by the Committee so the residents can have confidence in the way the process has been dealt with.

2.0 Synopsis

- 2.1 The key issues explored below are the position and height of the building as built and the impact the scheme has on the character of the area and the impact on neighboring amenity. It is concluded that although the scheme was not built in complete accordance with the amended plans what has been built is acceptable and no further action need be taken.

3.0 Site Description and Context

- 3.1 The site is a plot of land that has planning permission (via appeal) for a dwelling. The site is in the countryside and has residential neighbours to the east (Coronilla) and to the west (Roseville). The garden of Roseville encloses the rear of the site to the north.

4.0 Description of the Proposal

- 4.1 In effect this application seeks approval for the dwelling that is built on site. This application is needed as the dwelling was not built in precise accordance with the approved plans as required by condition 2 of 152553.

5.0 Land Use Allocation

- 5.1 The site is in the defined countryside. It is also in the Dedham Vale Area of Outstanding Natural Beauty.

6.0 Relevant Planning History

- 6.1 140493 – New dwelling, refused but allowed on Appeal.
6.2 151346 – New dwelling (revised design) withdrawn.
6.3 152553 – New dwelling approved.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must 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
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities

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

DP1 Design and Amenity
DP19 Parking Standards
DP22 Dedham Vale Area of Outstanding Natural Beauty

- 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
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 ECC Highways: As this proposal appears to make little or no material changes to the vehicular access, parking and turning arrangements, intervisibility or surfacing at that vehicular access, the Highway Authority does not object to the proposals as submitted.

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:

Wormingford Parish Council resolved to object to the application to remove/vary condition 2 of planning permission 152553 at its September meeting on the following grounds:

The property is now nearing completion and has been built further back than the approved application which was reported to CBC in March 2016.

The properties roof is higher than the approved application and therefore has a more imposing look to the current street scene.

Alterations to the application should have been presented prior to the work taking place.

We would ask that you take these comments into account when looking at this application. We understand that Cllr Chapman has asked for this application to be called in to committee.

10.0 Representations

- 10.1 Ten representations from four addresses were received. In summary, these objected on the following grounds:

- The dwelling has not been built in accordance with the approved drawings.
- The house is bigger than approved.
- The ridge is higher than approved.
- The dwelling is harmful to the character of the area and obtrusive to the street scene.
- The dwelling projects further back than approved and that is materially harmful.
- The dwelling is harmful to neighbouring amenity.
- I hope there will be no balcony on the rear elevation.
- The dwelling sticks out like a sore thumb.
- The enforcement team took too long to act – enforcement notice should have been served as soon as the roof trusses went on at the wrong height.
- If the dwelling was in the right place I could not see it from my patio doors.
- This application does not appease the neighbours.
- There has been no neighbour consultation from the applicants.
- The applicants should be made to build the scheme in accordance with the approved drawings.
- The amended plans are wrong or are purposely misleading.

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 parking provision is unchanged since the previous approval. The scheme has off-street parking in excess of the adopted parking standards.

12.0 Open Space Provisions

- 12.1 This application generates no off-site open space requirements. The on-site amenity provision complies with adopted policy.

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

Background:

- 15.1 This application follows the approved scheme 152553. The scheme has been built out but was not built in accordance with the plans. In this case the Ordnance Survey base that the original agent was working from proved to be significantly inaccurate and this has resulted in the dwelling being positioned further back from the back edge of the highway than originally approved.
- 15.2 The changes from the approved scheme can be seen on the new plans that have been drafted to accompany this application. These have been taken from a new topographical survey of the site which has recently been carried out. A new block plan showing the approved scheme overlaid with the actual position of the dwelling and the actual position of the neighbours has been supplied.
- 15.3 The overlay plans show the revised siting of the dwelling within the site, approximately two metres north to that previously approved. In effect, the siting realigns the front of the dwelling with the front of the adjacent dwelling 'Coronilla'. The topographical survey shows that the adjacent properties 'Roseville' and 'Coronilla' were also not plotted accurately on the OS plan.

- 15.4 In design terms there have been minor alterations to the fenestration. These changes include the removal of a ground floor window on the western elevation of the dwelling and the installation of tri-fold doors in place of two windows. On the first floor a set of bi-fold doors serving “bedroom one” has been installed instead of a double door with windows either side.
- 15.5 The survey shows that, as constructed, the ridge is actually slightly lower than previously approved, measuring at 8500mm which is 185mm lower. Representations contest this, however the dwelling must be assessed as it stands.
- 15.6 Many of the representations note that the dwelling is not in the correct position. They state that as it has not been built in accordance with the approved plans this amendment application should be refused for that very reason. It is noted that the fact there has been a breach of planning control is not a reason for refusal in its own right. The question that must be asked is ‘have the changes that have resulted from the differences from the approved scheme caused material harm to the character of the area or to neighbouring amenity’?

For the sake of absolute clarity, this application is to retain the house, as it is built on site at present.

The Enforcement Process:

- 15.7 Objections have been received stating that the Council did not act quickly enough with regards to enforcing against the issues raised. In response: The Council thoroughly investigated the issues raised with a number of visits from the case officer at the time and the enforcement team. It was not considered expedient to serve an enforcement notice as the changes were held to be acceptable by the case officer. The applicants were told to make an application to rectify the issues. The Council has therefore dealt with this in an entirely reasonable manner.

Design and Character:

- 15.8 The site has been visited by the current case officer and, notwithstanding the fact the house has not be built as approved, the scheme is considered to be acceptable in terms of its impact on the street scene and on the character of the area. In fact as the dwelling sits back further from the road than as approved it could be argued that the changes reduce its impact from the public domain. It is not held that this scheme has any material difference on the AONB when compared to the approved scheme 152553.
- 15.9 It is important to note that domestic permitted development rights were removed via condition 4 of 152553 and this will be carried over along with the other conditions attached to that consent. This will enable the Council to control any further additions and outbuildings.

Impact on Neighbouring Amenity:

- 15.10 As built it is not held that this scheme has any material impact on neighbouring amenity beyond that which was approved before. The projecting rear element sits further down the garden by virtue of the dwelling sitting further back in the site. However, this is not held to create a flank that is materially oppressive to the neighbour to the west. The scheme is not held to be oppressive to the neighbour to the east. The scheme as built does not cause a materially harmful loss of light to the neighbours either due to the north facing nature of the gardens.
- 15.11 The dwelling does not result in overlooking that is materially harmful to the neighbours on either side. The first floor windows in the flanks serve bathrooms. The double doors on the rear at first floor level look out down the garden and to the fields to the north and do not give an angle of overlooking to the neighbours that is considered materially harmful. No balcony is proposed and one could not be installed without the need for a dedicated planning application.

16.0 Conclusion

- 16.1 The dwelling as built does not accord with the approved drawings hence the need for this application. The principle of residential development on the site was secured at appeal. With the principle of a dwelling on site agreed via the appeal process, regardless of the previous approval the scheme is held to be acceptable in its own right and therefore an approval is recommended.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 Conditions

1 - 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 PL/01 Rev A, PL/02 Rev C, PL/03 Rev A, PL/04 Rev A, PL/05 and PL/06 all as received on 19/09/2016.

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

2 - *Removal/Variation of Condition(s) Approval

With the exception of condition(s) 2 of Planning Permission 152553 which are hereby varied, the requirements of all other conditions imposed upon planning permission 152553 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

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.

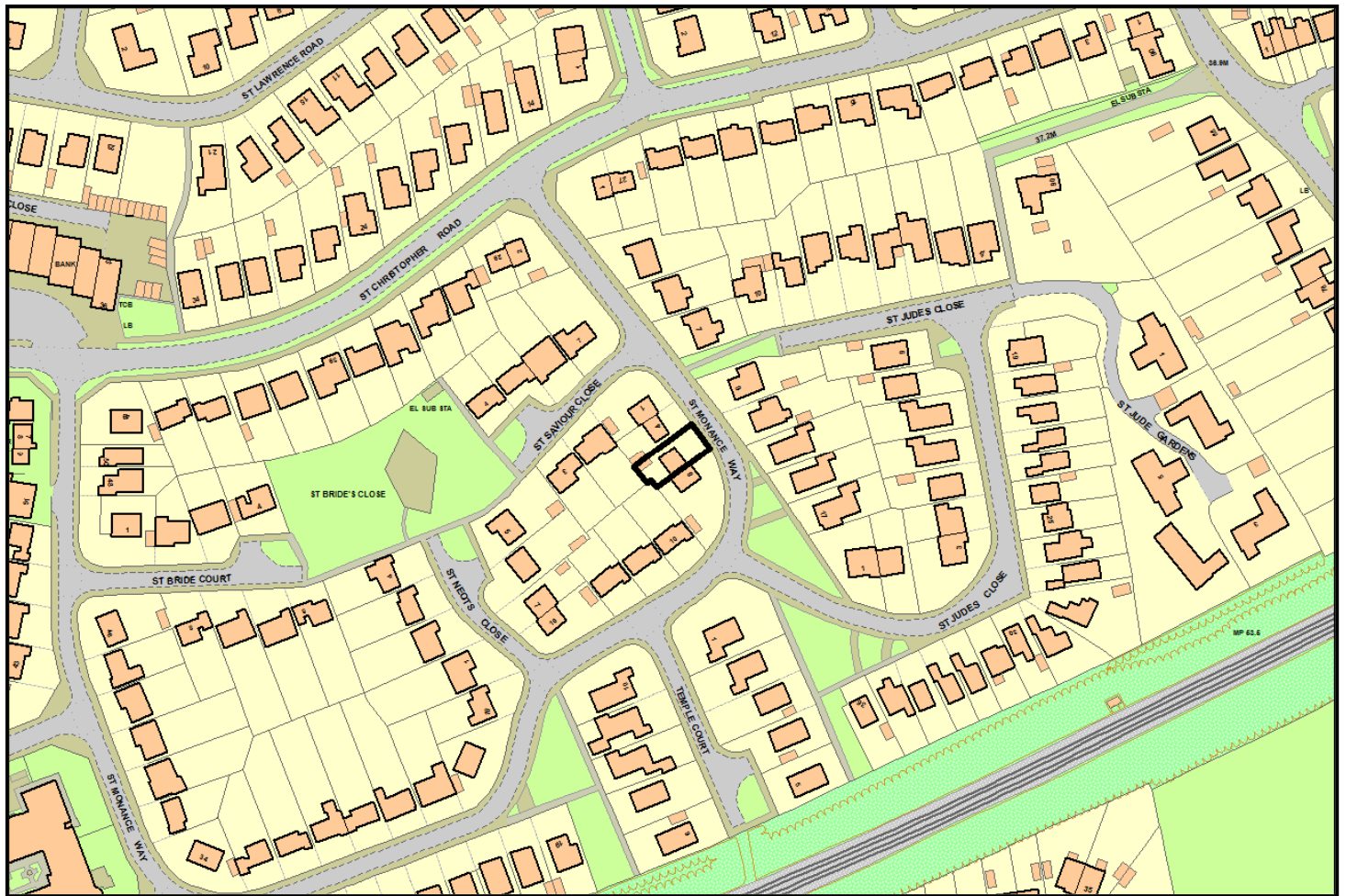
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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 and be investigated by our enforcement team. ****Please pay particular attention to these requirements****. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

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: 162182

Location: 6 St. Monance Way, Colchester, CO4 0PN

Scale (approx): 1:1250

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7.8 Case Officer: Chris Harden Due Date: 24/10/2016

HOUSEHOLDER

Site: 6 St. Monance Way, Colchester, CO4 0PN

Application No: 162182

Date Received: 23 August 2016

Agent: Mr Steve Norman

Applicant: Mr P Walsh

Development: Two storey front extension. (Revision to scheme granted permission under 152311)

Ward: St Johns

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 has been called in by Councillor Chuah who considers that an increase in height of 0.4 metres compared to the previous approval is not minimal, confirms that residents have complained about the height of the extension and that Councillors should see what the extension looks like in the street scene.

2.0 Synopsis

- 2.1 The key issues explored below are the design and appearance of the extension and its impact upon neighbouring residential amenity. The extension has already been constructed and when it was close to being finished it was noted that it differed from the previously approved plans. The proposal differs from the previously approved extension (152311) in that it is approximately 0.4 metres higher, and the windows are 0.5 metres wider in total and marginally deeper. The principle of a front extension has already been previously agreed and so it is the differences compared to the previous approval that need to be assessed.
- 2.2 It is concluded that the revised design and appearance of the extension would still relate satisfactorily to the character of the existing dwelling and street scene. It is also considered that the increase in height of the extension by approximately 0.4 metres does not have any significant impact upon neighbouring residential amenity in terms of loss of light or an overbearing impact. There is no impact from the revision on retained amenity space and parking provision and so these aspects are still considered satisfactory.

3.0 Site Description and Context

- 3.1 The site contains a two storey, semi-detached dwelling that lies within a housing estate that was built in the early 1960s. As outlined above, a front extension that forms this application has been constructed and is almost complete. There is a hard surfaced parking area to the front of the site and a driveway alongside the dwelling leading to a garage in the rear garden. The site lies a little way after a bend in the road to the south. The semi-detached properties to the north are very similar but are positioned a bit further forward and closer to the road.
- 3.2 Existing amenity space to the rear of the property is approximately 49 square metres. There is also around 18 square metres of space alongside the dwelling leading to the garage. This could be deemed as an access drive although it is a little narrow for current standards.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of a two storey front extension to provide an extended living room downstairs and a fourth bedroom upstairs. The extension would project three metres forwards from the front of the existing house, would be approximately four metres in width and with a height to ridge of approximately 6.4 metres. Two windows would be added into the front of the extension and these would be approximately 0.5 metres wider than the previously approved windows and marginally deeper. The bricks and tiles that have been used match the existing dwelling.
- 4.2 Three car parking spaces at the front of the property on the existing hard surfaced area would be retained.

5.0 Land Use Allocation

- 5.1 Within Colchester physical limits.

6.0 Relevant Planning History

- 6.1 An application for a front extension (152311) was approved on 8th December 2015 following presentation at the Planning Committee. The differences between that approval and the current proposal have been outlined above.
- 6.2 An application for a rear extension measuring 3 metres by 6 metres was refused earlier in the year (151031) on the following grounds: "...the proposed two storey rear extension would increase the number of bedrooms from three to four, but would reduce the private rear garden area to approximately 35 square metres." This was deemed insufficient.
- 6.3 A previous proposal for a slightly larger extension to the rear (150296) was refused in March 2015 on the grounds of insufficient amenity space (below 30 sqm) and also on overlooking from a rear bedroom.

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
H2- Housing Density
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
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

7.4 Regard should also be given to the following adopted Supplementary Planning Vehicle Parking Standards

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

8.0 Consultations

8.1 None received.

9.0 Parish Council Response

9.1 n/a

10.0 Representations

10.1 Councillor Chuah states

“Residents have complained about the height of the extension that was not in accordance with the planning permission granted for this extension. I would like the committee to review this revision to the scheme granted under permission 152311. It would be important to view the revised proposal from the street scene. I object to the revision of this planning permission of the ridges height that has increased by 400mm (16 inches). I would not consider 400mm as quite minimal!”

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

- Extension has not been built in accordance with the planning permission 152311. Having obtained planning permission it is our understanding that the extension should have been constructed in accordance with the plans submitted. This is clearly not the case as the ridge height is some 16 inches higher than that which was approved. We do not consider this to be minimal.
- Fail to understand that there is a genuine error by the builder who built the ridges the same height as the existing dwelling and neighbouring properties. Did he not consult the plans which clearly show that the roofline of the extension is lower than that of the existing dwelling and the planning notes also clearly state and we quote " The extension would also be marginally lower than the height of the main dwelling allowing it to appear appropriately recessive".
- Cannot understand how applicant overlooked this obvious issue as he was observed as being at home whilst work was being undertaken.
- If amendment is allowed it will follow that the structure will not be recessive and in any case the whole extension is completely out of character in the street scene.
- Non-compliance with planning permission will add to the disastrous and intrusive effect that the extension has on the whole street scene.
- We feel that if it is not rectified and allowed to stand as it is it makes a complete mockery of the planning laws.
- In fairness to local residents, a Government Inspector should be asked to give an independent opinion on the whole project. The whole cost should be borne by the applicant and builder.

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

11.0 Parking Provision

11.1 3-4 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

Design, scale and Layout

15.1 It is considered the design, scale and form of the extension remains acceptable in this context. The principle of a gable projecting forward was previously accepted and the projection and width of the extension remains as previously approved. The gable therefore remains of traditional proportions. It is not considered that the increase in height of approximately 0.4 metres results in an extension that is visually unacceptable in the street scene. Whilst the extension is not quite as visually recessive as it was before, it still relates well to the character of the street scene and would not detract from the character of the existing dwelling. When viewed in situ it is clear that the extension as built blends in very well with the character of the street scene and the materials used are also a very good match.

15.2 As explained previously, the attached property has a gable facing the road, as has the semi-detached property nearby. Those gables have a ridge height the same as the remainder of the dwelling. The building line in the street also varies so the fact that this extension would project forward and at a slightly higher level than before would not be out of keeping with the character of the street scene. It is not considered the ridge height of the extension has to be lower than the ridge of the main dwelling for it to be deemed acceptable.

15.3 The front windows are wider and slightly deeper than previously approved. However, these still relate well to the scale and design of the extension and existing dwelling and are similar proportions to other windows in the vicinity. It is therefore considered that the revised windows are visually acceptable and do not detract from the character of the existing dwelling or street scene.

Impacts on Neighbouring Residential Amenities

15.4 There are not concerns with regard to neighbouring loss of outlook or loss of light from the dwellings either side of the proposal or opposite from the increase in height of the extension. As outlined on the application, the Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be

preserved and it is considered that the revised proposal still satisfies this requirement. The extension would remain approximately five metres from the dwelling to the north (No.4) and this is an adequate distance to avoid any significant detrimental impact even with the increased height. Similarly, the extension would be far enough from the adjoining No.8 to avoid causing a detriment to residential amenity even with the increase in height. It is still not considered the proposal would be overbearing and it should be noted that there is no right to a view over the front garden of the applicant's site.

- 15.5 Once again, the combined plan and elevation tests are not breached in relation to the properties either side and the proposal therefore satisfies the Council's standards for assessing the light issue as set out in the Essex Design Guide and the Extending Your House? guidance.
- 15.6 At the time of the case officer's site visit, the extension had not been completed so, as before, a condition to ensure a building works management plan is submitted and agreed can also be helpful in this respect so this can be applied.

Amenity Space

- 15.7 The extent of amenity space retained for the dwelling has not changed from the previously approved application. It is therefore considered that there remains sufficient amenity space to serve the dwelling with its new extension. As before, a condition can be applied to remove Permitted Development Rights so that the size of the rear garden is retained as such for the future if the development goes ahead (unless a subsequent application is approved.) The applicant currently has permitted development rights so such a condition could actually help with future amenity space provision.

Highway Issues

- 15.8 The amount of retained parking space on the site remains the same as the previously approved application. At least three parking spaces would be retained and this would meet current parking standards, as before. As outlined above, the building works management plan condition can be re-applied to control parking of builder's vehicles.

16.0 Conclusion

- 16.1 In conclusion, the revised scheme is still considered to be acceptable in terms of its design and appearance despite the increase in height and revised fenestration. It would relate satisfactorily to the character of the existing dwelling and to the street scene. The extension would still not have a significant impact upon neighbouring residential amenity or upon highway safety and adequate amenity space and parking areas would be retained as agreed before.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Conditions

1 - *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: 1544/44/C received 10/10/16, 1544/5A and 1544/6A received 28/9/16.

Reason: For the avoidance of doubt as to the scope of this permission.

2 - Non-Standard Condition/Reason

Within 2 weeks of the date of this approval, a building works management plan shall be submitted to and agreed in writing by the Local Planning Authority. All works and associated activity shall accord with the approved building works management plan during the lifetime of the development works.

Reason: In the interests of highway safety and the amenity of the area.

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

4 - Non-Standard Condition/Reason

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.

5 - Non-Standard Condition/Reason

Within one month of the date of this permission, precise details of tree and/or shrub planting scheme and of frontage hard surfaces and an implementation timetable shall have been submitted to and approved, in writing, by the Local Planning Authority. The planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

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

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.

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.

