

# Planning Committee Meeting

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

**Thursday, 03 November 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](http://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](http://www.colchester.gov.uk)

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## Material Planning Considerations

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

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

## **Planning Obligations**

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

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

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

## **Human Rights, Community Safety and Equality and Diversity Implications**

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

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

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

## Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

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

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

### **Parking Standards**

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

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

For residential schemes:

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

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



## **Colchester Borough Council Environmental Control**

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

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

#### **Best Practice for Construction Sites**

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

## **Class A2. Financial and professional services**

Use for the provision of —

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

## **Class A3. Restaurants and cafes**

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

## **Class A4. Drinking establishments**

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

## **Class A5. Hot food takeaways**

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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

**Sui Generis Uses**

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

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

***Interpretation of Class C3***

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

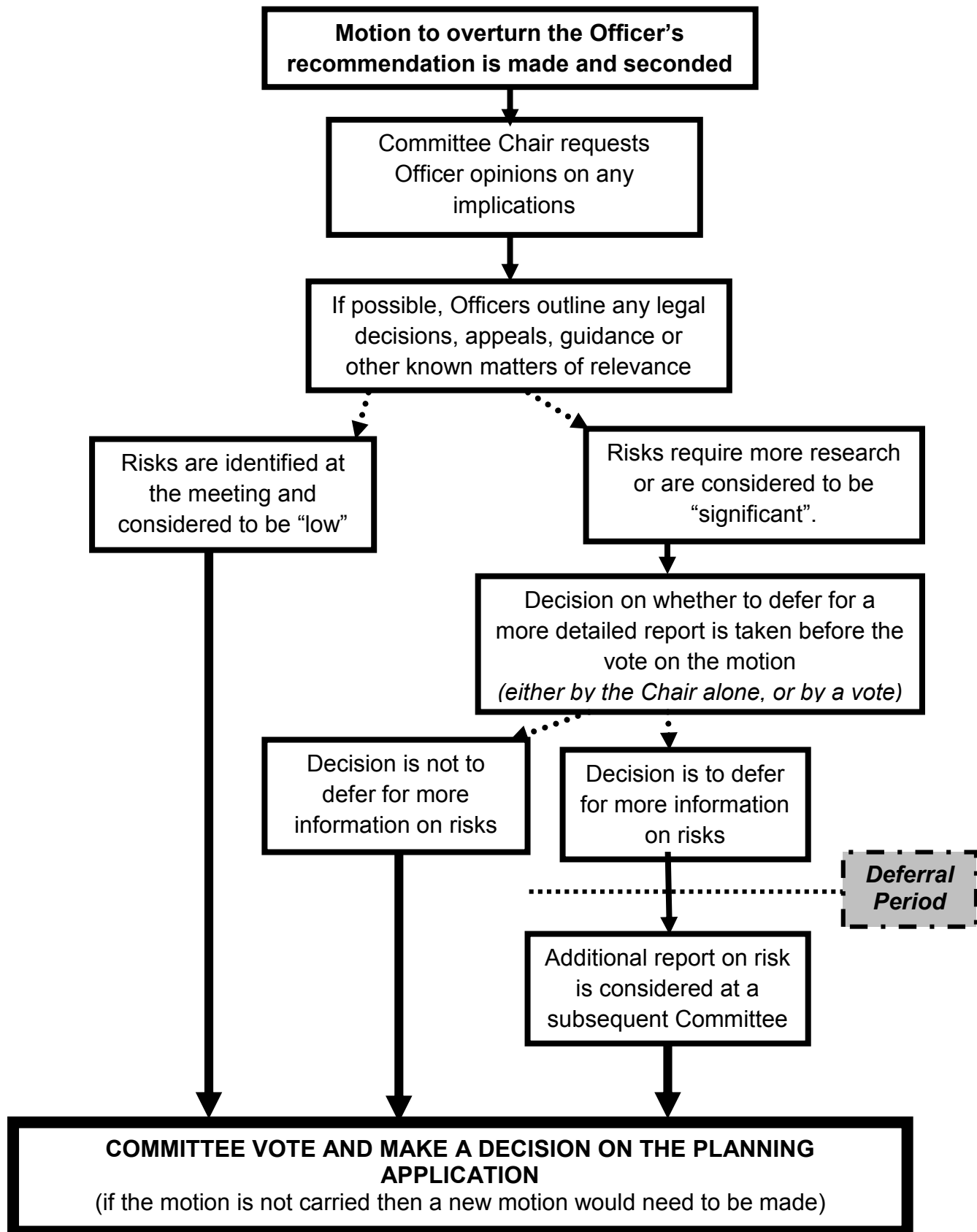
***Interpretation of Class C4***

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

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 03 November 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 Minutes**

There are no minutes for confirmation at this meeting.

## **7 Planning Applications**

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

### **7.1 162308 Magdalen Hall, Wimpole Road, Colchester 17 - 26**

Change of use for the rear part of the existing hall from B1 (Business) to D1 (Non-residential Institutions).

### **7.2 162242 11 Tumulus Way, Colchester 27 - 34**

Movement of existing fence line to site boundary line and laying of an extended block paved driveway on existing driveway and part of side garden.

### **7.3 162360 32 Dyers Road, Stanway, Colchester 35 - 40**

Two storey front extension and part single storey, part two storey rear extension.

### **7.4 162372 64 Kingsland Road, West Mersea, Colchester 41 - 46**

Variation of Condition 2 of planning permission 151820 to permit amended elevations.

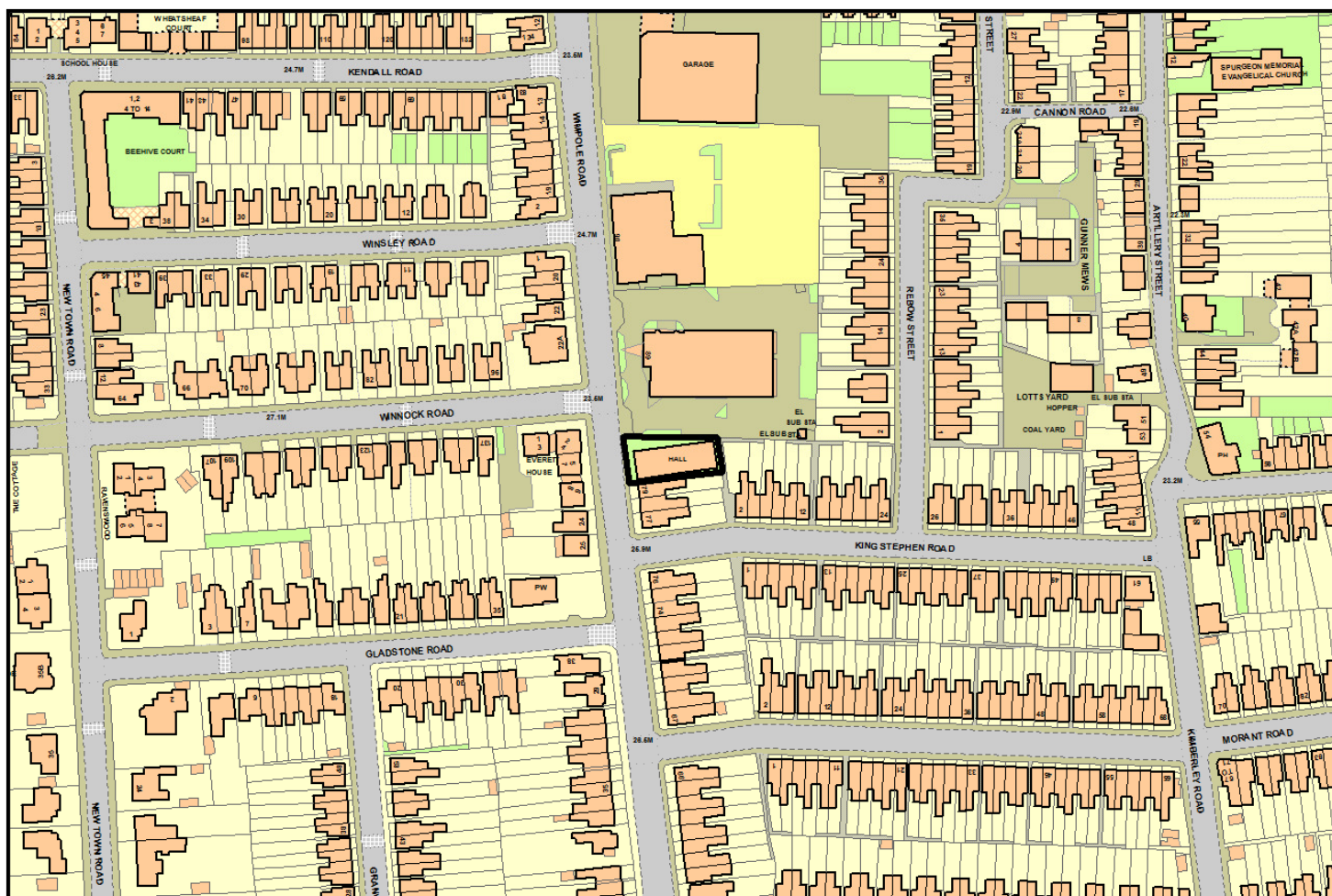
## **8 Exclusion of the Public (not Scrutiny or Executive)**

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

## **Part B**

(not open to the public including the press)





**Application No:** 162308

**Location:** Magdalen Hall, Wimpole Road, Colchester, CO1 2DE

**Scale (approx):** 1:1250

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## Committee Report

Agenda item

7

To the meeting of **Planning Committee**  
on: **3<sup>rd</sup> November 2016**  
Report of: **Head of Professional/Commercial Services**  
Title: **Planning Applications**

**7.1 Case Officer: Eleanor Moss Due Date: 28/11/2016**

### **CHANGE OF USE**

**Site:** Magdalen Hall, Wimpole Road, Colchester, CO1 2DE

**Application No:** 162308

**Date Received:** 3 October 2016

**Agent:** Mr Matthew Rollings

**Applicant:** Ms C Allen

**Development:** Change of use for the rear part of the existing hall from B1 (Business) to D1 (Non-residential Institutions).

**Ward:** New Town & Christ Church

**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 the application site is the local headquarters for the Liberal Democrats.

#### **2.0 Synopsis**

- 2.1 The key issues explored below are impact of the proposed D1 (educational institution) on the surrounding area and residential amenity. These are considered to be acceptable and therefore your Officer recommends approval.

### **3.0 Site Description and Context**

- 3.1 The application site is located at St Mary Magdalen, within the New Town ward of Colchester Borough. At present, the building is not listed, but is located within the conservation area. Currently the building is occupied by the Liberal Democrats as a headquarter for the region. The building contains the following accommodation: offices, store rooms, a kitchen area, large hall, a meeting room, male and female toilets and a disabled/baby changing room. In addition to this accommodation, there are two existing car parking spaces along the side elevation, with a small garden at the front of the building. The northern, western and southern boundaries are all boarded by residential properties and the west boundary abuts the Co-Op funeral building.

### **4.0 Description of the Proposal**

- 4.1 The proposal is to sub-divide the large hall from the offices to create a new space for a nurse to operate within. This proposal utilises the existing side access point into the hall.
- 4.2 A new fence will be constructed to allow the children into the new facilities and a free standing barrier will close off the rear area, making a secure area for the children to play in. The existing offices in the front part of the building will remain as existing apart from a new division being made and some small internal alterations however as the building is not listed these internal alterations do not require planning consent. The rear part of the building, off the hall, will be used by the Montessori to provide a kitchen area, toilets and an area for the small Little Sparrows group.

### **5.0 Land Use Allocation**

- 5.1 Mixed use

### **6.0 Relevant Planning History**

- 6.1 None relevant to the application

### **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
UR2 - Built Design and Character

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

DP1 Design and Amenity

- 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:

Community Facilities  
Vehicle Parking Standards

## **8.0 Consultations**

### **8.1 Environmental Protection:**

We note that the proposed use currently operates from the Methodist church nearby and has not caused any complaints, despite being close to residential properties. We also note that the number of children is limited to a maximum of 24 and the proposed play area is located to the north of the site, adjacent to the Co-op and the operating hours are during the day, mid-week.

In order to help reduce potential impact on the residential amenity we recommend the following advisory note:

The outdoor area is managed to avoid unnecessary noise impact on nearby residents. This may include limiting the number of children at any one time and restricting the hours of use.

### **8.2 Highways Authority:**

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

1. The total number of children being taken on roll shall be no greater than 24 for a period of time to be approved by the Local Planning Authority.  
Reason: To prevent the generation of unnecessary traffic and an unacceptable increase in the onstreet parking demand in the adjoining streets and to encourage walking and cycling in the interests of highway safety and in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.
2. Prior to the commencement of the proposed development, the applicant shall submit a scheme of off road parking and turning for motor cars in accord with current Parking Standards at the Wilson Marriage Centre allocated for the applicants business use which shall be approved in writing by the Local Planning Authority.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

3. Prior to commencement of the proposed development, details of the provision for parking of bicycles, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity. Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

Informative1: The Highway Authority has recommended Condition1 above to be able to monitor and assess the traffic conditions and impact in the immediacy of the proposed development site and adjoining streets, so that any future increase in children attending the site can be properly assessed and should not be understood to mean there can be no future increase in attendees. It is suggested that this maximum limit be for no less than 18 months from the Grant of any planning permission in order to gain sufficient data and understanding of traffic movements (motorised and pedestrian) generated by the development.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at

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

SMO1 – Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester.  
CO4 9YQ.

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 Eight letters of support have been submitted regarding this application. One letter of objection was submitted, which is as follows:

*Whilst I understand that there is a need for more childcare in New Town, I have concerns that this building is unsuitable for this purpose due to the almost total lack of outdoor space, I can see from the plans that the nursery would fence off a small area but given that they have several children at each session this surely isn't enough? My other concern is that there is absolutely no parking, indeed several residents are campaigning to have residents only parking in this area and the surrounding roads. I do understand that many parents walk to the setting, you may be interested to know that I am a registered childminder living directly behind the hall, several of my parents*

*have received parking tickets when collecting children and I am concerned that moving to this site would only make matters worse. I would like to point out that given my profession I am not opposing this application due to my fear of competition as I have none, I have been awarded an Outstanding Ofsted Grade for the last nine years and am full with a waiting list and as I have already stated it is true that we need more childcare places in the area I just don't think that this building has the external space or parking to make this a viable choice.*

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 proposal provides for two off road car parking spaces within the town centre location.

## **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**

### Policy:

- 15.1 It must be noted that the NPPF (2012) supports the creation, expansion and alterations of schools, to meet the requirement to ensure that sufficient choice of school places are available. The NPPF (2012) Paragraph 22 also states that, where there is no reasonable prospect of a site being used for its allocated employment use, applications for alternative uses should be treated on their merits. Notwithstanding the above, information has been submitted to justify that the use of the site is required in order for the nursery to fulfil its contractual obligations to Essex County Council to operate 5 days a week and to better manage the welfare of children having sole occupancy of the premises (currently shared with other users of the Methodist Church).
- 15.2 It is considered that the proposed nursery would provide a community based service, offering educational services to the residents of the area. In terms of the change of use to a D1 use class (Education), policy SD3 of the aforementioned Core Strategy supports the provision of community facilities including educational facilities subject to any other planning constraints. Further, policy requires the safeguarding of existing

facilities and to deliver new community facilities. Therefore, the creation of a nursery would be supported by the Local Planning Authority given an assessment of policy SD3.

Design:

- 15.3 There are to be no external changes to the building under this planning application for the change of use.

Impact on Surrounding Area:

- 15.4 In terms of impact upon the character of the area, there are to be no external changes to the building undertaken through this planning application. Rather, there are to be changes to the side in order to accommodate a very small play area. Given the scale of the existing buildings, these alterations to the side of the site are not considered to harm the character of the area.

Impact on Neighbouring Properties:

- 15.5 In terms of amenity of neighbouring residents, the site is within an area where there are a number of commercial and office properties situated amongst residential properties. Environmental Protection has noted that noise complaints have not been registered against the existing use of offices and as such has recommended this outdoor area is managed to avoid unnecessary noise impact on nearby residents. This may include limiting the number of children at any one time or restricting the hours of use. As such, any planning permission will be conditioned in order to ensure current levels of amenity that are currently enjoyed by neighbouring properties are protected.

Highways Safety:

- 15.6 The submitted information states there will be a flexible drop off and collection arrangements prevent the surge of families arriving and departing at the same time. It is further stated that *'by applying for Personal Use Change of Use Planning Consent, Oaklea Montessori CIC is ensuring that local residents are protected from the school day 'surge' becoming a potential reality. Visitors would be able to use the 2 hour on-street parking opposite the property, use the Co-operative retail car park or on road parking in 3 neighbouring roads (King Stephen, Rebow & Morant Roads).'* The Highways Authority has been consulted on the proposal, who has not objected to the scheme. A detailed scheme of parking, turning and bike parking had not been submitted however, these can be secured by way of a condition, as recommended by the Highways Authority. All of the conditions recommended by the Highways Authority will be attached to any planning consent and as such it is considered that the proposal will not cause any adverse highways impacts. It is noted that the adopted parking standards do not have a minimum requirement for D1 uses.

**16.0 Conclusion**

- 16.1 The proposed change of use is considered to be acceptable, subject to conditions in order to protect residential amenity and highways safety.

## **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 16 / 004 / 102.

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

### **3 - Non-Standard Condition/Reason**

The total number of children being taken on roll shall be no greater than 24.

Reason: To prevent the generation of unnecessary noise, traffic and an unacceptable increase in the on street parking demand in the adjoining streets and to encourage walking and cycling in the interests of highway safety and neighbouring amenity.

### **4 - Non-Standard Condition/Reason**

Prior to the commencement of the proposed development, the applicant shall submit a scheme of off road parking and turning for motor cars in accord with current Parking Standards at the Wilson Marriage Centre allocated for the applicants business use which shall be approved in writing by the Local Planning Authority.

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

### **5 - Non-Standard Condition/Reason**

Prior to commencement of the proposed development, details of the provision for parking of bicycles, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Reason: To promote the use of sustainable means of transport in accordance with Highways Safety.

## 6 - Non-Standard Condition/Reason

The use hereby permitted shall not be open to customers outside of the following times:  
Weekdays: 08:00 - 18:00

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.

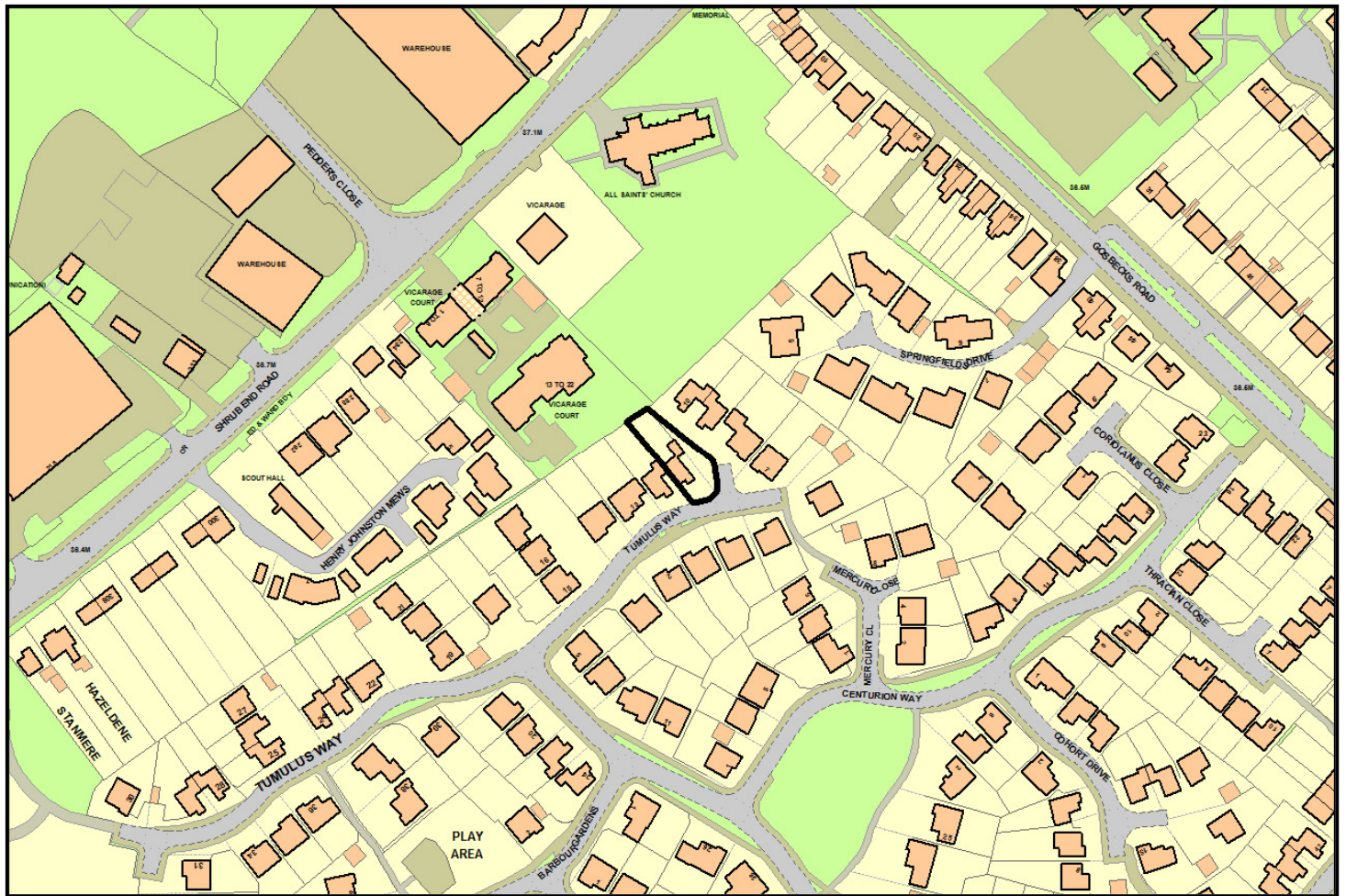
(3) The Highway Authority has recommended Condition1 above to be able to monitor and assess the traffic conditions and impact in the immediacy of the proposed development site and adjoining streets, so that any future increase in children attending the site can be properly assessed and should not be understood to mean there can be no future increase in attendees. It is suggested that this maximum limit be for no less than 18 months from the Grant of any planning permission in order to gain sufficient data and understanding of traffic movements (motorised and pedestrian) generated by the development.

(4) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:  
SMO1 - Essex Highways Colchester Highways Depot, 653 The Crescent, Colchester.

## 20.0 Positivity Statement

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





**Application No:** 162242

**Location:** 11 Tumulus Way, Colchester, CO2 9SD

**Scale (approx):** 1:1250

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**7.2 Case Officer: Eleanor Moss    Due Date: 04/11/2016**

## **HOUSEHOLDER**

**Site:**                    **11 Tumulus Way, Colchester, CO2 9SD**

**Application No:**   **162242**

**Date Received:**   9 September 2016

**Applicant:**           Mr Matt Armstrong

**Development:**    Movement of existing fence line to site boundary line. Laying of an extended block paved driveway on existing driveway and part of side garden.

**Ward:**                 Shrub End

**Summary of Recommendation:** Conditional Approval

### **1.0    Reason for Referral to the Planning Committee**

- 1.1    This application is referred to the Planning Committee because Councilor Chaplin has requested Committee determination for the following reasons:

*Amenities protection of light / outlook (visual impact)*  
*Parking provisions with neighbouring plot*

It is also with noting the applicant is an employee of Colchester Borough Homes as Head of Asset Management.

### **2.0    Synopsis**

- 2.1    The key issues explored below are the impact of the boundary fence upon highways safety, the character of the area and neighbouring amenity. The application also seeks planning permission for the extension to the front driveway, however concerns have not been raised regarding this and thus the report will focus on the fence. The proposal is considered to be acceptable and therefore your Officer recommends approval.

### **3.0    Site Description and Context**

- 3.1    Tumulus Way has a very open feel, with low front boundary treatments and wide verges alongside corner plot properties. As a corner plot, 11 Tumulus Way does include a wide verge (with some planting) that accords with this overall character. However, the relationship of this particular plot with the remainder of the residential estate is slightly different to other corner plot properties in that part of the side boundary is not clearly visible from public vantage points, being alongside a private drive.

## **4.0 Description of the Proposal**

- 4.1 This application seeks planning permission for a new boundary fence of the site and the formation of an extended driveway.

## **5.0 Land Use Allocation**

- 5.1 Residential

## **6.0 Relevant Planning History**

- 6.1 The property is part of a larger residential development (approved under references 91/0537, 96/0072, and 96/1398). Planning permission was granted for a rear conservatory to the property in 2005 (F/COL/05/0931) and a single-storey extension with garage conversion in 2012 (121201).

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

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

SD1 - Sustainable Development Locations  
UR2 – Built Design and Character

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

DP1 Design and Amenity  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

- 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:

Vehicle Parking Standards  
Extending Your House?  
The Essex Design Guide

## **8.0 Consultations**

### **8.1 Highways Authority:**

The Highway Authority observes that the location of the proposed fence-line lies adjacent to a private drive where the Highway Authority has no jurisdiction or control and therefore 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 Not parished.

## **10.0 Representations**

10.1 Two letters of objection were submitted following the consultation exercise, these are summarised as follows:

- Loss of grass area will stop cars being able to enter and exit No.10 in first gear
- Concerns regarding loss of light
- Negative visual impact
- Concerns regarding highways safety
- Currently no visibility when accessing the private drive which the proposal would increase the danger of using the driveway
- Concerns regarding increase of accidents and a child being struck down
- Concerns regarding hedgerow removal

10.2 The full text of all of the representations received is available to view on the Council's website. It is worth noting the objections raise concerns regarding the boundary fence, rather than the proposed driveway and photographs submitted by a neighbouring resident are available to view on the website.

## **11.0 Parking Provision**

11.1 Car parking is compliant with car parking standards

## **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**

### Impact on residential amenity:

- 15.1 The proposal seeks to erect a boundary fence measuring 1.8 metres high. There is already a side fence and thus this proposal seeks planning permission to relocate the fence along the applicant’s boundary, which is adjacent to a private road and driveway belonging to No. 10 Tumulus Way. The proposal will involve moving the fence approximately 2metres closer to No. 10 Tumulus Way. Concerns have been raised from the neighbouring property regarding views of the boundary fence. However it is worth noting that there is no right to a view and thus this is not a material planning consideration. In terms of loss of light, as the fence measures 1.8 metres high and is adjacent to a driveway, any overshadowing would be exclusive to the driveway rather than the dwellinghouse of No.10 Tumulus Way. It is also worth noting that there is already a side fence at the application site, which No.10 has views of from the front elevation as well as views of a front driveway. The concerns raised by the neighbouring resident are noted. However, it is considered that moving the fence two metres closer to the front elevation of No. 10 and the creation of a front driveway would have a marginal impact on residential amenity and would not warrant a refusal.

### Impact on Surrounding Area:

- 15.2 The application relates to the erection of a side boundary fence at No. 11 Tumulus Way. The fencing finish is to match the existing boundary fence. The positioning of the fencing at the side of the site means that it is not readily prominent within the street-scene, but there will be views of it from Nos. 10 – 7 Tumulus way, some more oblique than others. It is considered that the immediate locality is characterised by such boundary treatments and there are a number of properties within the locality which already contain some boundary works which match the proposal. The positioning of the side boundary adjacent to the private highway towards the northern end of the street ensures that the fencing is not viewed centrally within the street-scene but at a pre-existing visual terminus. As such, it is considered that any impact upon the street scene will be marginal.

### Highway Safety:

- 15.3 The application site is located with a cul-de-sac where car speeds are very low. The neighbouring residents of No.10 Tumulus Way have raised concerns that the proposed side boundary fence would result in loss of access to parking and turning and that the road is inherently dangerous. As such, the Highway Authority has been consulted and raises no objections to the scheme. Additionally, were this situation inherently dangerous in this location, it would be reflected in the accident figures for this road. However, the information on the Essex County Council accident website shows that the private road at Tumulus Way has no reported accidents. The proposed

boundary fence would be located on the applicant's property, therefore would be no infringement on the private driveway nor would it result in the loss of parking at No. 10 Tumulus Way. The objection notes that cars overhang the applicant's grass verge in order to turn their vehicles. Whilst it is recognised that the neighbour will no longer be able to overhang their car in order to turn around, as noted above the fence does not transgress or impede the existing driveway. The described difficulties entering and exiting the site of No.10 is an existing problem, however the construction of a boundary fence does not warrant a refusal on highway safety grounds.

## **16.0 Conclusion**

16.1 The design of the proposed fence and driveway is appropriate and would not result in a harmful impact upon visual or residential amenity. Highway safety has been fully assessed by the Highway Officer and he has not raised an objection. The proposed fence and driveway would not appear out of character in the street-scene or as an overly-prominent addition. Your Officer therefore recommends approval.

## **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 Site Plan.

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

### **3 - Non-Standard Condition/Reason**

Materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

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

## **19.0 Informatives**

### **(1) ZT0 – Advisory Note on Construction & Demolition**

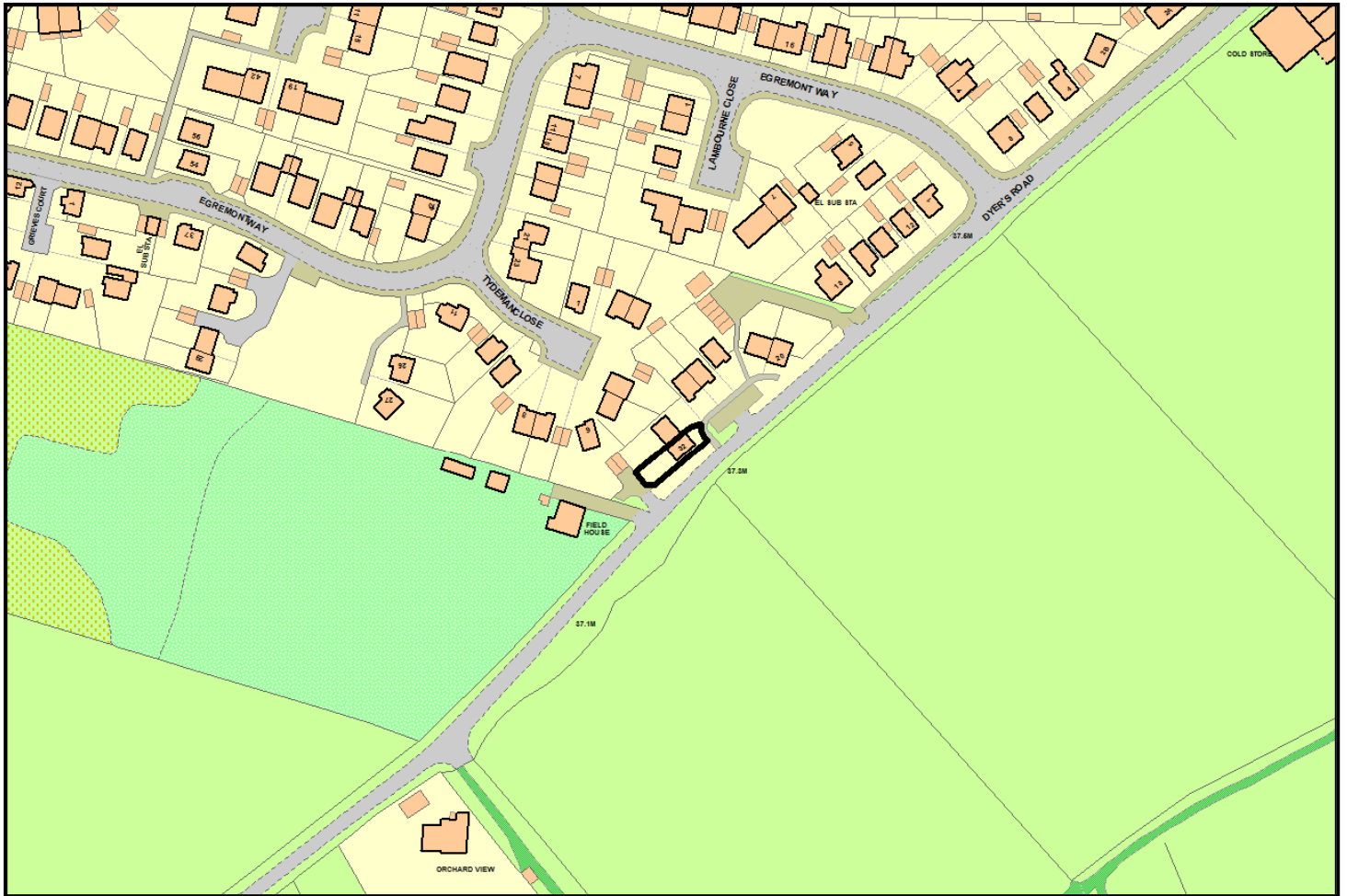
The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control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





**Application No:** 162360

**Location:** 32 Dyers Road, Stanway, Colchester, CO3 0LG

**Scale (approx):** 1:1250

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**7.3 Case Officer: Benjy Firth**

**Due Date: 08/11/2016**

**HOUSEHOLDER**

**Site:** 32 Dyers Road, Stanway, Colchester, CO3 0LG

**Application No:** 162360

**Date Received:** 13 September 2016

**Agent:** Peter Tyler Surveying

**Applicant:** Mr & Mrs Souter

**Development:** Two storey front extension and part single storey, part two storey rear extension.

**Ward:** Stanway

**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 the agent works for the Council on a consultancy basis.

### **2.0 Synopsis**

- 2.1 The key issues explored below are the design of the proposal and its impact on the amenity of the neighbours. Both are considered to be acceptable and therefore an approval is warranted.

### **3.0 Site Description and Context**

- 3.1 The application property is two storey dwellinghouse located on the outskirts of the predominantly residential area of Stanway. The property fronts a cul-de-sac of residential properties and sits side on, and adjacent, to Dyers Road. The highway separates a residential area from open farm land.

### **4.0 Description of the Proposal**

- 4.1 The proposal seeks to add a two storey extension to the front of the property and a part single, part two storey extension to the rear of the property.

### **5.0 Land Use Allocation**

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

### **6.0 Relevant Planning History**

- 6.1 N/A

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must 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  
UR1 - Regeneration Areas

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

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:

Extending Your House?  
The Essex Design Guide  
External Materials in New Developments  
Stanway Parish Plan & Design Statement

## **8.0 Consultations**

8.1 None Received.

## **9.0 Parish Council Response**

9.1 The Parish Council have stated that they have no objections.

## **10.0 Representations**

10.1 None received.

## **11.0 Parking Provision**

- 11.1 This scheme will not impact upon the on-site parking provision.

## **12.0 Open Space Provisions**

- 12.1 This scheme raises no issues in terms of open space.

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

- 14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### Design and Layout:

- 15.1 The design of the proposal is entirely in keeping with the design of the existing dwelling. Both two-storey elements are proposed as extrapolated ranges with dual pitched roofs that complement the existing gable ends. The single-storey element to the rear is of a lean-to nature which is in keeping with the existing design. All elements are therefore considered acceptable in design terms.
- 15.2 There is no uniformity in the layout of built form within the vicinity of the application property. As such the staggered front and rear elevations proposed are not out of character with the area.

### Scale, Height and Massing:

- 15.3 The proposal is considerate of the existing built form and is not considered excessive. Both dual pitched roofs match the pitch of the existing roof. The proposal is therefore acceptable in this regard.

### Impact on the Surrounding Area:

- 15.4 The scheme will have a neutral impact on the street scene and is therefore acceptable in that regard.

### Impacts on Neighbouring Properties:

- 15.5 The single-storey element of the proposal would not appear overbearing on the outlook of neighbours and would not create any issues concerning overlooking that may harm neighbouring properties

- 15.6 The two-storey elements of the proposal are located on the far side of the property from the neighbour, thus reducing any impact on the amenity. As such it is considered that these elements would not appear overbearing on the outlook of neighbours and would not infringe on their privacy.
- 15.7 Similarly, there are no concerns regarding loss of light. 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 proposal satisfies this requirement. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House? SPD.

Amenity Provisions:

- 15.8 This scheme allows the retention of ample useable amenity space. The scheme is therefore acceptable in that regard.

Highway Issues:

- 15.9 This scheme raises no highway issues.

**16.0 Conclusion**

- 16.1 This modest scheme is only before Members as the applicant's agent works for the Council on an ad-hoc consultancy basis. The scheme is acceptable in design terms and raises no issues in terms of its impact on amenity. An approval is warranted.

**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 834-5, 834-6 and 834-7 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 - Materials to Match

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

## 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.

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## 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.

**7.4 Case Officer: Bruce O'Brien      Due Date: 07/11/2016**

**HOUSEHOLDER**

**Site:**                      **64 Kingsland Road, West Mersea, Colchester, CO5 8AH**

**Application No:**   **162372**

**Date Received:**   12 September 2016

**Agent:**                 Mr Peter Tyler

**Applicant:**           Mr C Richardson

**Development:**      Variation of condition 2 of planning permission 151820, to permit amended elevations.

**Ward:**                  West Mersea

**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 the agent for the applicant is Peter Tyler. Mr Tyler works for Colchester Borough Council on a consultancy basis.

## **2.0      Synopsis**

- 2.1      The key issues explored below are concerned with the detailed design of the elevations of a new dwelling that was granted planning permission under application number 151820. The applicant has submitted amended drawings that will vary condition 2 of the approval, which specified that the dwelling should be constructed as per submitted plans.

## **3.0      Site Description and Context**

- 3.1      The application site relates to a rectangularly shaped plot on the western side of Kingsland Road. The character of the surrounding area is of mainly detached dwellings sitting within differently-sized plots. Directly adjacent to the northern boundary of the site runs a public footpath connecting Kingsland Road with Grove Avenue to the west of the application site. The application site is located within the defined development boundary for West Mersea, within a predominantly residential area.

## **4.0      Description of the Proposal**

- 4.1      The application is for amendments to all four elevations of the dwelling:

**Front Elevation-** Two number roof-lights to be installed. Changes to window details. The layout and frame sizes are relatively unchanged, though the casements within the frames are smaller in width.

**Rear Elevation-** Changes to French doors, one set with fixed side-lights. Amendments to casement windows, and one rooflight installed. Addition of five solar panels.

**North (side) Elevation-** Omission of ground floor window. Alteration to first floor windows.

**South (side) Elevation-** Additional solar panels to roof, from six to eight. Installation of a small window light to top of gable. Changes to window layout and casement sizes.

## **5.0 Land Use Allocation**

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

## **6.0 Relevant Planning History**

- 6.1 An application for the erection of a detached dwelling was submitted (reference 151297), however, following discussions with the case officer this application was withdrawn prior to a formal decision being made. Subsequently a revised application, the subject of this variation of condition application, was approved (reference 151820).

## **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  
SD3 - Community Facilities  
UR2 - Built Design and Character

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

DP1 Design and Amenity  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

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

## **8.0 Consultations**

- 8.1 There has been a comment from The Highways Authority. It has no objection to this proposal.

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 it cannot comment as the plans are incomplete.

## **10.0 Representations**

- 10.1 There has been a neighbour objection relating to the addition of windows to the loft and the proposed increase in height of the proposed dwelling.

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

## **11.0 Parking Provision**

- 11.1 Parking provision will remain unaltered.

## **12.0 Open Space Provisions**

- 12.1 This scheme raises no concerns regarding open space.

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### Design and Layout

- 15.1 The layout and design of the windows alters slightly as a result of the proposals. These minor changes make little difference to the overall concept of the scheme and are deemed acceptable. The addition of roof-lights could be carried out under permitted development and these are reasonable proposals. More solar panels are proposed. The original scheme was approved with solar panels to one elevation, and given that the newly proposed solar panels are to be hidden to the rear of the dwelling, this is not considered to be harmful to the scheme.
- The window to the pitched section of the gable on the South side elevation will be conditioned to be obscure glazed and non-opening below 1.7 metres above finished internal floor level.

### Scale, Height and Massing

- 15.2 The height of the proposed dwelling will be increased from 7.5 metres to 8 metres, in order to accommodate loft space, which, presumably, will be used for living space in the future. The creation of a three bedroom dwelling rather than two-bedroom will affect neither the parking nor the private amenity space requirements of the dwelling. Enough provision for both will be retained.

### Impact on the Surrounding Area

- 15.3 The design alterations are not significant enough to create any further impact on the surrounding area.

### Impacts on Neighbouring Properties

- 15.4 In terms of overbearing or overshadowing, the slight raise in roof height will not affect the neighbouring dwellings

### Amenity Provisions

- 15.5 A window in the roof space will be created towards the ridge of the southern gable end. In order to avoid any overlook possibilities, this window will be conditioned to be obscure glazed and non-opening below 1.7 metres above finished internal floor level.

### Highway Issues

- 15.6 The Highway Authority has not objected to the proposal. Parking provision remains adequate for a two or three bedroom dwelling.

## **16.0 Conclusion**

- 16.1 The concept of this dwelling has previously been approved. It is considered that the changes to the fenestration and the height of the dwelling are relatively minor and would not cause harm to the amenity of the neighbouring dwellings or the character of the surrounding area.

## **17.0 Recommendation**

17.1 **APPROVE** subject to the following conditions

## **18.0 Conditions**

### **1 - \*Removal/Variation of Condition(s) Approval**

With the exception of condition 2 of Planning Permission 151820 which is hereby varied to allow changes to fenestration, insertion of rooflights and solar panels, the requirements of all other conditions imposed upon planning permission 151820 remain in force and shall continue to apply to this permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition 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.

### **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 644-2 Rev F and 644-1 Rev G.

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

### **3 - \*Removal of PD - Obscure Glazed & Non-Opening (Check Building Regs)**

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the window within the pitched section of the South facing gable end shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity, below the height of 1.7m from internal finished floor level, 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.

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(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](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

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