

Planning Committee Meeting

**Online Meeting, Virtual Meeting Platform
Thursday, 01 April 2021 at 18:00**

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to observe all meetings of the Council, its Committees and Cabinet including those which may be conducted online such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

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

Have Your Say!

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

In addition a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

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

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

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 01 April 2021 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

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

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 6 are normally dealt with briefly.

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

Live Broadcast

Please follow this link to watch the meeting live on YouTube:

[\(107\) ColchesterCBC - YouTube](#)

1 Welcome and Announcements (Virtual Meetings)

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

2 Substitutions

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

3 Urgent Items

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

4 Declarations of Interest

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

5 Have Your Say! (Virtual Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make representations in support of each planning application. Each representation will be for no longer than three minutes (500 words). Members of the public may register their wish to address the Committee members by registering by 12 noon on the working day before the meeting date. In addition, a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself. The Chairman will invite members of the public to make their representations at the start of the meeting. These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each.

6 Minutes of Previous Meetings

7 - 16

The Councillors will be asked to confirm that the minutes of the meetings held on 4 March and 18 March 2021 are a correct record.

7 Planning Applications

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same

time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

7.1 **202835 133 Straight Road, Colchester** 17 - 38

Proposed single storey dwelling to the rear of existing. Access off President Road between No. 37 and 41 together with access drive and turning facility, parking for 2 cars.

Exclusion of the Public (not Scrutiny or Executive)

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

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

Planning Committee

Thursday, 04 March 2021

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

826 Minutes of the Previous Meeting

RESOLVED that the minutes of the meeting held on 4 February 2021 be confirmed as a correct record.

827 201048 Mersea Caravan Centre, Waldegraves Holiday Park, West Mersea

The Committee considered an application for the use of the site for the stationing of 57 static caravans in lieu of 117 caravan pitches and associated landscaping and access works.

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

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

Mr David Cooper addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application.

Mr Cooper stated that approval of the proposal for the replacement of touring vans with 57 large static mobile homes would bring the total number of static vans to approximately 1962 units on Mersea Island.

The removal of 117 touring caravan /camper van units with this planning application on this site would create a loss of nearly 23% of the total number of 513 touring van sites on the Island leaving only 396 genuine touring pitches available.

There was a national requirement for more touring sites to cater for the increase in touring vans being sold and the Covid 19 effect of more UK based holidays. Official

places to stay when touring in areas such as Mersea Island would be under extreme pressure.

The knock-on effect of removing genuine touring van pitches would be more illegally overnight parked vans in car parks and the streets around West Mersea and Mersea Island. The Island was Colchester's much promoted tourist attraction but this consent would appear to go against the tourism policy by reducing the number of touring pitches available.

The dismissal of the principles laid out in the West Mersea Neighbourhood Plan document draft was difficult to justify as this plan recommended that the number of static vans should remain about the same, but encouraged touring vans rather than static holiday homes. The Neighbourhood Plan had been consulted upon with people of West Mersea and was sponsored by West Mersea Town Council and supported by East Mersea Parish Council.

On environmental terms was it right to cover over some 25%, nearly 0.6 of a hectare, of the site with concrete or paved area instead of grass field? This whole area was a grass site at present being totally unused from 1st December to 1st March.

Replacing 117 touring pitches with 57 static mobile homes made little sense in that it promoted the loss of 60 van sites for tourism. Also this was contrary to Colchester Borough Council's policy DM5 in the Emerging Local Plan and the Development Policies Adopted October 2010 Policy DP10 and explanation in paragraphs 4.28 and 4.29 which encouraged new and extended holiday touring vans: not a reduction, as the recommendation proposed.

Mr Cooper urged the Committee to reject this application and support the local community in its wishes to retain touring pitches rather than more static mobile homes which would result in a reduction in genuine visitors with their own touring units.

Fiona Bradley, Atwells, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application, explaining that she acted on behalf of the applicant, Waldegraves Holiday Park.

The site had been used as a holiday park by the current owner, Mr Lord, and his family since 1948. The Holiday Park, as a whole, had capacity for approximately 300 pitches for touring caravans. Permission was being sought to use one of the touring fields, which has 117 pitches, for the stationing of 57 static caravans. Approximately 180 touring pitches would be retained on the adjacent Touring Field whilst other fields on the site provide additional pitches for camping and as an overspill area for tourers.

There had been no objections from any of the statutory consultees. In addition, the Council's Landscape Advisor, Arboricultural Officer and Environmental Protection team had raised no objections to the application. Crucially, the consultees had advised that the existing infrastructure was adequate to meet the needs of the proposed development. In many cases, consultees had requested conditions be attached to any

permission to ensure impacts generated by the proposal are mitigated.

The existing site was already a developed piece of land and not an open green field. In accordance with the lawful use it could be used for 11 months of the year with touring caravans, motorhomes, tents, cars and associated paraphernalia occupying the site. The exception was this past year where lockdowns had seen the Holiday Park closed for months at a time.

In response to the concerns of the Parish Council and to other representations, Ms Bradley clarified that the proposed static caravans would not be used as permanent residential homes. The caravans would be occupied in accordance with the existing planning conditions and proposed condition 13 (which allows for occupation for 11 months of the year), and also in compliance with the Caravan Site Licence.

The Holiday Park would continue to be a popular destination for holiday makers and support tourism and other local ventures.

Members were urged to take the points made into consideration and support the Officer's recommendation and grant permission.

Councillor Jowers attended and with the consent of the Chair addressed the Committee speaking on behalf of the residents.

Councillor Jowers reminded the Committee of the number of visitors Mersea Island had attracted since the 1960s. Touring caravans would only visit for a week at a time on average and the touring site was not used January to March. Should the use be for static units that were often residential, then the site would only be unoccupied for one month. The impact of year round occupation on the local community would give rise to major problems such as use of doctors' and dental surgeries. He pointed out that static caravan owners did not pay Council Tax but were charged National Non-Domestic Rates. The emerging Neighbourhood Plan had not been taken into consideration.

There was concern over parking and that post COVID more tourists would be attracted to holiday in the UK and that touring vans would use car parks if there were not touring pitches available and there were more residential caravans. Visitors to the occupants of residential/static caravans would increase the volume of traffic and gridlock would be an issue.

The quality of tourism and number of visitors impacted residents. Mersea islanders felt overwhelmed. The proposed use would not be the best use for the island which was a small island dependant on fishing and farming businesses.

John Miles, Planning Officer, presented the report and assisted the Committee in its

deliberations.

The Planning Officer shared a presentation with members including plans, aerial views and photographs of the site with the inclusion of some taken pre COVID to illustrate occupancy.

He explained that access to the site was via Waldegraves Lane where it joins East Road and Chapmans Lane. There were some residential properties on the lane as well as a business park.

The site currently had 264 static units and 297 touring pitches, totalling to 560 caravans. The proposal would alter the numbers to 321 static units and 180 touring pitches, giving a total of 501 caravans.

Caravan sites do not have statutory parking requirements but it was proposed that each unit would have a parking space allocated and electric vehicle charging points would be agreed by condition. There were additional parking spaces on the wider site.

Essex Highways were satisfied with the proposal in regards to traffic.

There would be a hard and soft landscaping including a linear feature of trees. The application was accompanied by assessments:

The sustainable drainage systems assessment (SuDS) had been undertaken and details of the system would be outlined in a condition. Whilst the static caravans would be on a concrete base that would not be permeable, a porous car parking surface and porous paving would be used on the ancillary areas with hard and soft landscaping conditioned by the Council's Landscape Planning Officer.

The Ecology assessment recommended a contribution to the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). Natural England had been consulted on wildlife habitats and were satisfied that was no adverse ecological impact on the integrity of sites.

The Planning Officer clarified that whilst the site had a Lawful Development certificate it related to the situation in 2018 and a planning application was required for change of use.

There would be a requirement that the static caravans were not used for one month of the year. Occupation of the static caravans would be regulated under the site licence which requires record keeping and logs, and is reviewed. Enforcement action could be taken if there were breaches and planning officers worked closely with colleagues in Licensing and Enforcement. The proposed static holiday caravans provided fewer units of accommodation and would mean fewer holidaymakers.

The Planning Officer stressed that the site was established for visitor accommodation. This use was allocated in the Local Plan and supported in the emerging Local Plan. The Neighbourhood Plan does not carry as much weight as the Local Plan and the emerging Local Plan and must accord with the strategic priorities in the Local Plan. Simon Cairns, Development Manager further explained that if the draft West Mersea Neighbourhood Plan were in conflict with a strategy in the Local Plan then the Neighbourhood Plan would fail to be adopted.

The Committee raised the issues of on road parking. Touring caravans would have nowhere to park and this would have a harmful effect. However, in response it was also pointed out that touring caravans would probably call and reserve a pitch before travelling.

Other issues of concern were drainage and aesthetics, the known increased demand for touring pitches and that touring visitors should have choice. Concerns around wildlife, the environment and the well-being of residents were also highlighted, including the impact of static caravan dwellers on local infrastructure.

The issue of the cumulative effect of applications was raised and it was suggested that Mersea had reached capacity in terms of static caravans. The Committee were advised that their remit was to consider just the application before them on its merits, and the wider point raised around overall caravan numbers was a wider issue of policy to be determined through the Local Plan process. Cumulative issues would also have been taken into consideration under the Licence.

The Committee acknowledged that residents had concerns and looked at policies DM5, DP10 and SS12c to examine how these would apply to this application.

DM5 was generic, supporting visitor accommodation and caravan sites unless there was significant harm to the amenity of people living nearby. It was noted that the nearest property was some 200 yards away.

The impact on Doctors' surgeries was not a material planning consideration and whilst residents felt overwhelmed there was no data on the number of visitors using surgeries that supported this. Investigation of the effect on schools and medical practices had taken place in conjunction with the Local Plan and no substantive evidence had been provided.

The Planning Officer confirmed that DP10 showed general support for visitor accommodation in appropriate locations including static and touring caravans in caravan parks. It showed no specifics around just touring caravans. The emerging Local Plan was largely in line with DP10. SS12c in the Emerging Plan looked at Mersea and was supportive of development/changes of use including static caravans.

A motion to refuse the application on the grounds of the environmental impact on the life and well-being of residents and wildlife in Mersea, and to support West Mersea Town Council's draft Neighbourhood Plan was proposed and seconded, but on being put to the vote, was not carried
(4 voted FOR, 5 voted AGAINST)

A motion to approve the application subject to the conditions outlined in the report was then proposed.

RESOLVED (5 voted FOR, 4 voted AGAINST)

that the application be approved subject to subject to a proportionate financial contribution to the Essex Coast RAMS being secured, and the imposition of the conditions contained in the report.

828 Applications determined in accordance with Officer Scheme of Delegation

Simon Cairns, Development Manager reminded the Committee that an additional approval had been made and that details of this had been provided in the amendment sheet.

RESOLVED (UNANIMOUS) that the applications that had been determined under the revised scheme of delegation that were listed in the Appendix to the report and in the amendment sheet be noted.

Planning Committee

Thursday, 18 March 2021

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

829 201753 7 Lexden Grove, Colchester

The Committee considered an application for the erection of two-storey front and rear extension, the increased width of the existing side box dormer, and the porch. The Committee had considered the application at its 21 January meeting but had deferred the application for further negotiation. A report setting out information about the application and the outcome of the negotiation was before the committee.

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

Mr Sedani, the applicant addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application.

Mr Sedani stated he had been a local resident for ten years and had applied for approval for an extension in January. He had listened to the Committee's feedback from then and had decided that rather than appealing the decision he would work with everyone including neighbours to ensure good relationships. Cost had been involved and the redesign had moved the proposed extension to the other side of the property. Criteria under planning guidance had been met; there were no privacy or light issues, and vegetation was unaffected. There was proper provision for car parking and plenty of garden space. He was not looking to overdevelop.

Councillor Lissimore attended and with the consent of the Chair addressed the Committee.

Councillor Lissimore said that since this had been considered at a previous Planning Committee the applicant had moved the extension from one side to the other. She thanked Mr Sedani for engaging with neighbours and changing the plans.

Residents still had some concerns over the development and in particular the front of

the building but it was understood that this did not constitute a planning reason for refusal.

Councillor Lissimore suggested that consideration be given to the removal of Permitted Rights for future developments and the addition of obscure glass up to 1.7 metres near the dormer on the upper floor.

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

The Senior Planning Officer shared a presentation with members including plans, aerial views and photographs of the site, as well as drawings to allow comparison of the current submission with the previous application. He highlighted those differences and pointed out the elevations proposed. He explained that the submission now was 4.4 metres larger overall.

Three further letters had been received from residents whose concerns were around over development, the increased size of the house and reduction in garden space, the increase in the size of the front extension, parking and the street scene. Also it was felt to be out of scale and not in keeping with the rest of Lexden Grove.

The Senior Planning Officer had assessed that the front extension was acceptable and did not project too far so was not out of keeping with the street scene, the rear extension was not dominating, did not have an overbearing effect on the neighbouring property and met the 45 degree rule. The overall design was satisfactory.

He clarified that the interior glass walkway was included to add light. A condition to add obscure glazing of 1.7 metres to the element of the walkway where it projects could be added as well as a condition for how parking would be laid out. It was noted that the parking space remaining met the higher of the recommended standards.

Garden space remaining would be 140 metres which was above the 100 metre standard.

He recommended approval with 3 additional conditions:

Obscure glazing up to 1.7 m in height across glazed walkway;

Details of car parking layout to be submitted and approved;

Removal of Permitted Development Rights for further additions/alterations to the house.

The Committee acknowledged that the applicant had taken on board neighbours' and the Committee's comments and thanked him. Overall the Committee agreed the application was reasonable and that permission should be granted.

RESOLVED (UNANIMOUS) that planning permission be approved subject to the conditions in the officer's report and with the addition of the following conditions:

Obscure glazing be provided up to 1.7 m in height at the end of the glazed walkway where it projects beyond the existing gables of the rear of the dwelling;

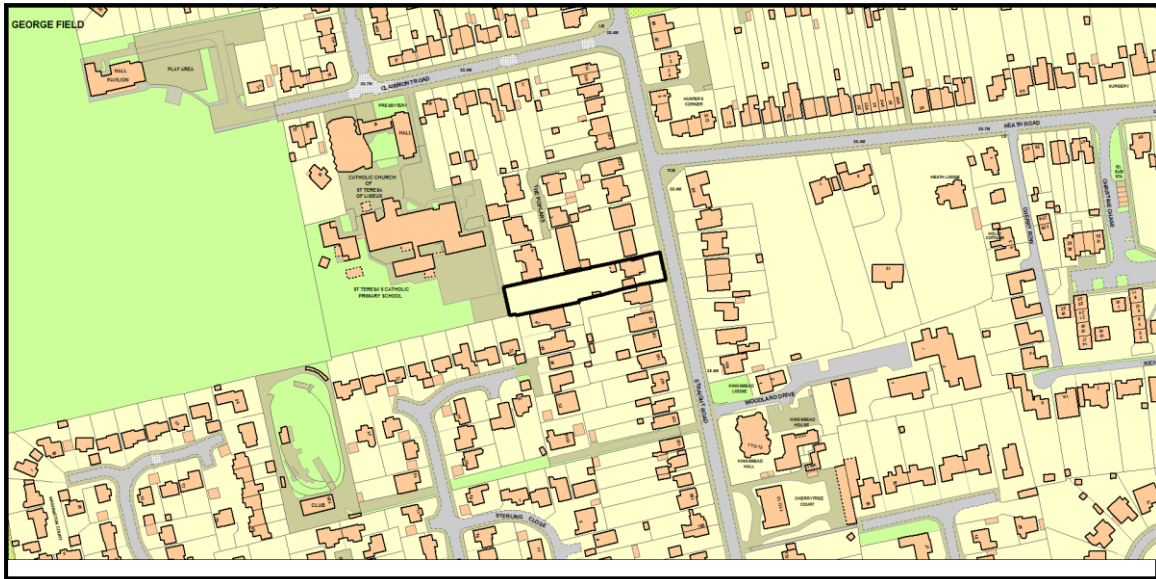
Details of car parking layout to be submitted and approved;

Removal of Permitted Development rights for further additions/alterations to the house

830 Applications Determined in Accordance with Officer Scheme of Delegation

Simon Cairns, Development Manager reported that one approval had been made in relation to Queen Street and that details of this had been provided in the report.

RESOLVED (UNANIMOUS) that the applications that had been determined under the revised scheme of delegation that were listed in the Appendix to the report be noted.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.1

Application: 202835

Applicant: Mr Robert Tebby

Agent: Mr David Webb

Proposal: Proposed single storey dwelling to the rear of existing.
Access off President Road between No. 37 and 41 together
with access drive and turning facility, parking for 2 cars.

Location: 133 Straight Road, Colchester, CO3 9DE

Ward: Prettygate

Officer: Chris Harden

Recommendation: Approval subject to completion of a Unilateral Undertaking
and receipt of RAMS wildlife payment.

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 Buston who has concerns about: the backland nature of the scheme, out of keeping with character of the area, loss of amenity and privacy for neighbours, noise and disturbance and contrary to Local Plan policies.

2.0 Synopsis

- 2.1 The key issues for consideration are the layout and design, and impact upon neighbouring residential amenity, highway safety and vegetation.
- 2.2 The application is subsequently recommended for approval. To summarise, the proposed dwelling is similar in terms of scale and location to the recently previously approved single storey dwelling (200854). The design and layout remains acceptable and there are no objections on the grounds of highway safety, including use of the private drive. There is adequate parking provision and amenity space for the new dwelling and host dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the dwelling itself or in respect of noise and disturbance. No vegetation of significance would be affected.

3.0 Site Description and Context

- 3.1 The site lies within the settlement limits and is part of the rear garden of 133 Straight Rd. It has grass, some trees and boundary vegetation and the site itself would be served by a private drive known as President Road. The existing dwelling utilises access from Straight Road. To the North of the site lies a two storey dwelling and to the South there is a single storey dwelling.

4.0 Description of the Proposal

- 4.1 The proposal is for a detached, single storey 4 bed dwelling to be erected in an existing rear garden, with an access taken via President Road which is a private drive and currently serves 5 dwellings. A revised plan has been received, omitting the car port to provide for adequate vehicular manoeuvring.

5.0 Land Use Allocation

- 5.1 Settlement limits.

6.0 Relevant Planning History

- 6.1 200854 - Detached 4 bedroom bungalow in the garden of 133 Straight road, to be accessed from President Road - resubmission of application no. 192571 – Approved 9/9/20.
- 6.2 192571 Proposed dwelling – Refused.

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP21 Nature Conservation and Protected Lanes

7.4 Some "allocated sites" also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:
N/A

7.5 The Neighbourhood Plan: N/A

7.6 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017) for examination.

7.7 The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to be examined, with hearing sessions scheduled for two weeks between 20 and 30 April 2021. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

- 7.8 Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

7.9 Adopted Section 1 Local Plan

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website.

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

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

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

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

7.10 Emerging Section 2 Local Plan

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

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 progressing to examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to undergo examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole. (See Appendix 1 if required for further background).

- 7.11 The Adopted SPD titled 'Backland and Infill' contains relevant guidance concerning new housing development in this context. It states:

"Adverse impacts can include the following:

- Loss of amenity, overshadowing, overlooking
- Loss of sunlight/ daylight
- Noise
- Loss of green links/ trees /hedgerows/vegetation
- Visual intrusion
- Loss of space between buildings
- Loss of parking
- Multiple long driveways serving a single property
- Difficulties with recycling and waste collections/bin storage

Tandem development

3.6 A tandem development is where a new dwelling is placed immediately behind an existing dwelling. Such proposals frequently cause problems such as overlooking, overshadowing of neighbouring gardens, noise (including from car movements), loss of amenity and adverse impact on local character. The Council will normally resist such proposals."

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.

8.0 Consultations

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

8.2 Cllr Buston states the following:

1. Application bungalow represents unacceptable backland development within the rear of existing garden of 133 Straight Road both out of keeping with and detrimental to the character of the area as well as to the amenity and privacy currently enjoyed by existing properties.
2. Application further involves the siting of a separate large Car Port / Garage building resulting in further undesirable backland development poorly related to the existing pattern of development out of keeping with and detrimental to the character of the area.
3. The use of the proposed (private narrow and unadopted) accessway adjacent to the application property, essential in the Application to obtain any access to and egress from it - but nonetheless not forming part of the site on which the Application comprises, lies directly in front of existing neighbouring properties, including their front gardens, would be detrimental to neighbouring residential amenity owing to the noise, disturbance and pollution from the vehicular movements. With 2 garage / Car Port Spaces plus 2 additional parking spaces this could suggest 4 cars.
4. The use of the accessway above is essential in the Application to obtain access to all services to and from it would be further detrimental to neighbouring residential amenity owing to the noise, disturbance and pollution both from the construction of facilities and maintenance of those services.
5. There would also be the potential to overlook neighbouring private amenity space to the further detriment of neighbouring residential amenity.
6. The proposal would be contrary to the following policies of the Local Plan:
 - (i) **Policy UR2** : of the Local Plan Core Strategy adopted 2008 (with selected policies revised July 2014) which provides that the Borough Council will secure high quality and **inclusive** design in all developments to make better places for both residents and visitors.
 - (ii) **Policy DP1** : of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard, including layout, **avoid unacceptable impacts on amenity** and respect and enhance the character of the site, its context and surroundings. The policy provides that existing residential amenity should be protected, particularly with regard to noise, disturbance, overlooking and light pollution.
 - (iii) **Policy DP12** : which provides that residential development will be guided by high standards for design and **layout**.
 - (iv) **SPD Backland and Infill** : The proposal would also be contrary to the aim of the Borough Council's Supplementary Planning Document Backland and Infill (Adopted Sept 2009 and revised Dec 2010) which aims to ensure that any backland development **respects and reflects** the character of the area and confirms that such tandem development can frequently cause

problems such as noise (including from car movements), loss of amenity and adverse impact on local character and **indicates that the Council will normally resist such proposals.**

- 8.3 **Environmental Protection** does not object and suggests an informative and condition about:

NOTE: Demolition and Construction

ZPD - Limits to Hours of Work

- 8.4 **Highway Authority states:**

“The Highway Authority observes that this section of President Road is does not Publicly Maintainable Highway and does not object to the proposals as submitted” and suggests informatives as outlined in the informative section of this report.

- 8.5 **Tree Officer states:** “I am in agreement with the tree report provided.

2.0 Conclusion

2.1 In conclusion, I am satisfied with the arboricultural content of the proposal.”

- 8.6 **Landscape Officer** states there are No objections in principle.

9.0 Parish Council Response

- 9.1 No comments received.

10.0 Representations from Notified Parties

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

4 letters of objection have been received which raise concerns regarding the following issues:

- Request zoom meeting with case officer prior to committee meeting.
- Check all in President Road notified.
- Loss of light.
- Loss of privacy-privacy from our balcony eradicated.
- Loss of Amenity through light, noise, disturbance and pollution including from vehicles. More cars. Inadequate turning.
- Detrimental Impact to the character of the neighbouring properties, context and surroundings.

- Loss of vegetation which provide demarcation between properties.
- Hemmed in.
- Profiteering.
- Should be tree survey.
- Height not shown. Larger than previous.
- Carport/garage will increase bulk and affect visual appearance.
- New or altered access onto public highway not shown on any drawings. Access off private drive is not wide enough to incorporate better vehicle or pedestrian access.
- Waste storage and collection point not shown. Impinge on neighbour access.
- Site visible from public road.
- Site notice not visible. Legally assess.
- Private drive not adequate for another dwelling. Maximum number of dwellings off a type H private drive already reached.
- Emergency vehicle access concerns.
- Construction work impact.
- Gas provision and water level impact.
- Plans do not show all 5 properties off private drive- misleading.
- Previous approval 202835 must be looked at collectively as an application de novo for all development works to be carried out at 133 Straight Road.
- Could be perceived as a clever attempt by the developers to get additional approval for Road which may well not have succeeded if both 200854 and 202835 had been submitted for consideration in one composite application.
- what bearing have previous contributions have in relation to any past or pending planning processes?
- Application should be reviewed in light of all new and past objections.
- Grounds of refusal of 192571 cannot be ignored- not followed on appln 200854. Refusal reasons should apply now.
- Some forms not correctly dated.
- Depression in entrance to Private Road area at end of President Road will be exacerbated. Drive now in bad condition.
- Why not access from Straight Rd?

11.0 Parking Provision

11.1 At least two spaces.

12.0 Accessibility

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DP17 (Accessibility and Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

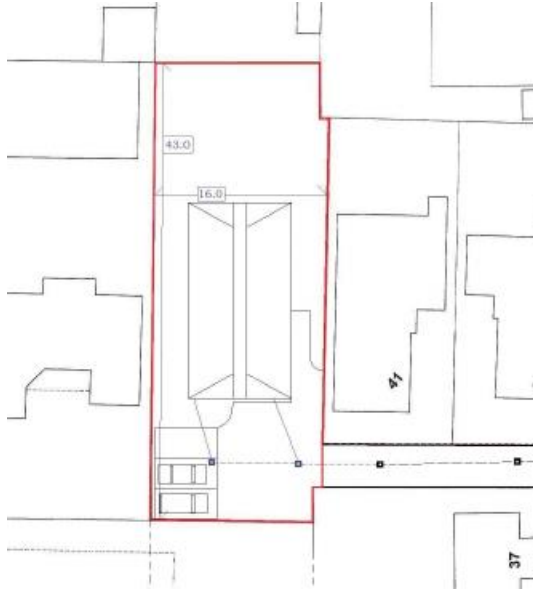
16.0 Report

Principle

- 16.1 As the site lies within the settlement limits the proposal should be judged on its planning merits in accordance with the retained hierarchical settlement elements of policies SD1 and H1 of the adopted Local Plan and Policy SP1 of the Emerging Local Plan which aim to direct such development to the most sustainable locations. The NPPF has similar provisions, with a presumption in favour of sustainable development.
- 16.2 It should also be noted that there is a recent approval for a dwelling on this site under application 200854 (approved 9/20) and this permission remains extant. Whilst the Emerging Local Plan has progressed since the time of that approval, the settlement policies still indicate a presumption in favour of sustainable development (which includes this site) and that such a proposal should be judged on its planning merits.
- 16.3 The Council is able to demonstrate a five year housing land supply and as such paragraph 11(d) of the NPPF is not engaged.

Layout, Design and Impact on the Surrounding Area

- 16.4 It is considered that this latest revised proposal represents an acceptable layout that is in keeping with the character of the area and does not represent an overdevelopment of the site. The plot is an infill rather than a backland development owing to the access position off President Road. It is of a similar layout to the previous approval as demonstrated by figures 1 and 2 below.



- 16.5 The plot remains of an appropriate size to accommodate a dwelling of this size and compares favourably to adjacent plots in this respect. There is adequate space between neighbouring properties to avoid the development appearing cramped. The car port/garage has been omitted from the scheme. As before, the comments of the neighbours have been carefully considered and the site has been visited by the case officer.
- 16.6 The design, form and scale of the dwelling is also considered acceptable. The building is relatively modest in scale, being single storey as before and would relate satisfactorily to the character of its surroundings. The design has omitted the previously approved open central roof and has been replaced with a more traditional pitched roof. The height of the dwelling has been kept relatively low, being approximately 5 metres compared to the previously approved height of 4.9 metres. The use of brick, cladding and a slate roof would also give the dwelling an attractive appearance in sympathy with its surroundings.
- 16.7 Overall, in terms of layout, design and impact on surroundings the proposal would therefore comply with Policy UR2 of the Local Plan Core Strategy which provides that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.
- 16.8 The proposal is considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout.
- 16.9 The proposal is considered to comply with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide. Access width is considered reasonable in this case.

Impact on Neighbour Amenities:

- 16.10 As in the case of the previous application, the proposal, which is very similar to the previous approval in terms of scale and positioning, the current proposal is considered acceptable in terms of its impact upon neighbouring residential amenity. Owing to the scale of the proposed dwelling and its distance from neighbouring properties, the proposed development would not appear overbearing on the outlook of neighbours. 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 this proposal satisfies this policy requirement.
- 16.11 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide. The neighbour's comments have once again been carefully considered in this respect but are not considered to warrant a refusal of permission.
- 16.12 Additionally, as the dwelling is single storey, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. The neighbour's comment in respect of privacy in relation to their balcony has been considered but it is concluded that there cannot be a justified objection to the scheme.
- 16.13 As before, the access would pass in front of the neighbouring property but there is adequate intervening space in between the access and front elevations of neighbouring homes and the proposal is for a single dwelling. It is thus not considered that a refusal can be justified on noise and disturbance grounds from vehicle movements with this intensity of use plus the fact that the access is at the front of neighbouring property (not the private and tranquil rear gardens).
- 16.14 The objections received regarding construction works are noted and appropriate conditions can be applied to minimise disruption including a construction management plan and hours of working, as applied previously. Environmental Protection have made no objections.
- 16.15 The proposal would thus comply with Policy UR2 (better places for residents and visitors expected) and DP1 which provides that all development should avoid unacceptable impacts upon amenity, including the protection of residential amenity with regard to noise and disturbance and overlooking.

Highway Matters:

- 16.16 The Highway Authority have raised no objection to the scheme and note that access to the application site is once again from a private drive. Revised plans have been submitted showing adequate parking and manoeuvring space and the agent has confirmed the right to use the site access. The proposal complies with

Policy DP19, with space for at least 2 No. 5.5m x 2.9 m parking spaces plus turning. The host dwelling retains adequate parking spaces.

- 16.17 The width of the access serving the plot is wide enough for one extra domestic dwelling and whilst not ideal, it is not considered the proposal could be refused in this respect alone. The neighbour's concerns in respect of use of the private drive by an additional dwelling, making six in total, have been noted. However, given the lack of objection by the Highway Authority and that only a short section of private drive would be used it is not considered the proposal could be refused on the grounds of this minor intensification of use of part of the private drive.
- 16.18 The Essex Design Guide provides that "The overarching aim is to ensure that in new residential and mixed-use environments, the circulation and movement of people is pleasant, convenient, safe, responds to local context and combines with good place-making. Motorised vehicle movement must efficiently service development without predominating..." It is not considered the proposal contravenes these aims of the Essex Design Guide notwithstanding the fact that the drive would now serve 6 rather than 5 residences. The Guide was produced by the County Council and the County Council Highway Authority have raised no objections to the scheme.
- 16.19 A Construction Management Plan condition is very important given the nature of this access and proximity to neighbouring properties. This will help minimise impact upon neighbouring property and avoid highway safety issues. An informative can also be applied to advise the applicant of their responsibility to repair any damage that may be caused by construction work although essentially this is a private matter.

Trees and vegetation issues:

- 16.20 Further to the submission of the updated Arboricultural Impact Assessment and assessment by the Tree Officer, it is concluded that no trees or vegetation of importance, including any TPO trees would be lost or detrimentally affected in a significant way.

Wildlife issues:

- 16.21 As the site is not overgrown and no older or timber framed buildings would be demolished and it is not considered that a phase 1 Ecological survey is required as the site is already garden land. Accordingly it is not considered the scheme is contrary to policy DP21 which aims to protect and enhance biodiversity.
- 16.22 A RAMs wildlife payment will need to be made as a new dwelling would be created in a Zone of Influence for coastal sites subject to national designations as required by the Habitat Regulations to mitigate any adverse impacts.

Unilateral Undertaking:

- 16.23 A Unilateral Undertaking will be required to be completed in order to secure the required SPD contributions for community facilities and sport & recreation facilities.

Garden space:

- 16.24 Adequate amenity space for the new dwelling has been shown to be provided in accordance with Policy DP16. Indeed, garden space compares favourably with neighbouring properties. The host dwelling is also left with adequate retained amenity space.

Environmental and Carbon Implications

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

Other

- 16.26 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. There are no overriding archaeological issues (Policy DP14) – a Programme of Archaeological Work condition has been applied as per the archaeologists recommendation on the previous application.

17.0 Conclusion

- 17.1 To summarise, the proposed dwelling is similar in terms of scale and location to the recently previously approved single storey dwelling (200854). This is a material planning consideration. The design and layout remains acceptable and there are no objections on the grounds of highway safety, including use of the private drive by an additional dwelling. There is adequate parking provision and amenity space for both the new dwelling and host dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the dwelling itself or in respect of noise and disturbance. No vegetation of significance would be affected.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM – Development In accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: DD/20/160/01 RT/LSR/DWSM/02 REV A, RT/LSR/DWSM/04 Rec'd 18.12.20, RT/LSR/DWSM/03 REV C Rec'd 18.2.21, AIA TPSARB0851119 REV C Rec'd 25.2.21.

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

3. ZBB- Materials As Stated in the 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 - Parking and manoeuvring Provision

Prior to the first occupation of the development hereby permitted, two parking spaces and the manoeuvring area shall have been laid out within the site in accordance with the approved plan RT/LSR/DWSM/03 REV C. The approved parking spaces and manoeuvring area shall thereafter be maintained free from obstruction and available for parking and manoeuvring use at all times.

Reason: To ensure that there is satisfactory parking provision at the site at the time when the development becomes occupied.

5. ZPA Construction Method Statement

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

details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative

displays and facilities for public viewing, where appropriate;
wheel washing facilities;
measures to control the emission of dust and dirt during construction;
and

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

Reason: In order to ensure that the construction takes place in a
suitable manner and to ensure that amenities of existing residents are
protected as far as reasonable and in the interest of highway safety.
(see informatives).

6. ZNL- Full Archaeological Condition

No works shall take place until the implementation of a programme of
archaeological work has been secured, in accordance with a Written
Scheme of Investigation that has been submitted to and approved, in
writing, by the Local Planning Authority. The Scheme shall include an
assessment of significance and research questions; and:

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

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

Reason: To safeguard archaeological assets within the approved
development boundary from impacts relating to any groundworks
associated with the development scheme and to ensure the proper
and

timely investigation, recording, reporting and presentation of
archaeological assets affected by this development, in accordance
with

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

7. Non Standard Condition - Construction and Demolition

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

8. Non Standard Condition - Refuse and Recycling

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times. (see informative 4).

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

9. ZDD- Removal of Permitted Development Rights

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

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

10. ZAN - Site Levels Plan

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

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any

difference in such interpretation could have an adverse impact of the surrounding area.

11. ZFK- Small Scale Residential Boundary Treatment

The dwelling(s) hereby approved shall not be occupied until details of the provision, siting, design and materials of screen walls and fences have been submitted to and agreed, in writing, by the Local Planning Authority. The approved screen walls and fences shall then be erected prior to the first occupation of the dwelling to which they relate and shall thereafter be retained in the approved form.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to amenities and the surrounding context.

12. ZFS – Tree and hedgerow protection

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.

19.0 Informatives

19.1 The following informatives are also recommended:

1. 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. The applicant should assure themselves that vehicular and pedestrian rights of access exist in perpetuity to the site
3. The applicant should note that owing to the nature of President Road, some construction vehicles (especially larger

ones) are likely to have difficulty in manoeuvring satisfactorily over the private drive section of President Road. Accordingly the Construction Management Plan should take account of this and provide appropriate mitigating details in this respect. The applicant is advised that any damage to the private drive should be made good after completion of the development and this is a private matter.

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.

5. 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

6. The applicant should note that with regard to the refuse storage/disposal condition there are carry/drag distance provisions for the operatives of the refuse collection vehicle.

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

8.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.

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

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in

taking the site notice down and disposing of it properly, in the interests of the environment.

APPENDIX 1 – Policies Superseded from the Core Strategy Focused Review 2014 by the Shared Strategic Section 1 Local Plan

General Local Plan Status

The Colchester emerging Local Plan (eLP) was submitted to the Planning Inspectorate in October 2017. The Plan is in two parts with Section 1 being a shared Strategic Plan for the North Essex Authorities (Colchester, Braintree, and Tendring). Following Examination in Public (EiP) the Section 1 Local Plan was found sound and Colchester Borough Council adopted the Section 1 Local Plan on 1 February 2021 in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004.

Policy SP2 should be referred to when applying the Habitats Regulations requirements to secure RAMs contributions where appropriate. This does not update the approach that the Council have been implementing but the Policy context has updated status with the adoption of Section 1 which includes a specific policy covering this issue.

A few policies in the Core Strategy are superseded in part by the adopted Section 1 Local Plan, and SD2 in full only. This is outlined below in detail and a summary table for all Section1 Policies.

Policy SD2 – Full

The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community.

New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. Development will also be expected to contribute, as appropriate, to strategic projects that support sustainable development and the wider community.

The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. This will either be through a planning obligation (usually contained within a Section 106 agreement) and/or, if applicable, through a Community Infrastructure Levy (CIL) payment, following adoption of a CIL charging schedule.

A CIL charging schedule would set a specified charge for each square metre of gross internal floorspace, related to the use class of the development. CIL payments will contribute to the provision of infrastructure to support development. Planning obligations and s278 agreements will continue to be used to make individual applications acceptable. The Council will publish a list of infrastructure to be funded through CIL to ensure developers do not pay twice for the same item of infrastructure. The viability of developments will be considered when determining the extent and priority of development contributions.

Is replaced by SP6.

Policy SD2 is no longer relevant.

Policy SD1 – In Part

Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.

Is replaced by SP1.

All other parts of SD1 remain relevant.

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a 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

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

