

Planning Committee Meeting

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

Thursday, 07 September 2017 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

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Access

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

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

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www.colchester.gov.uk

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

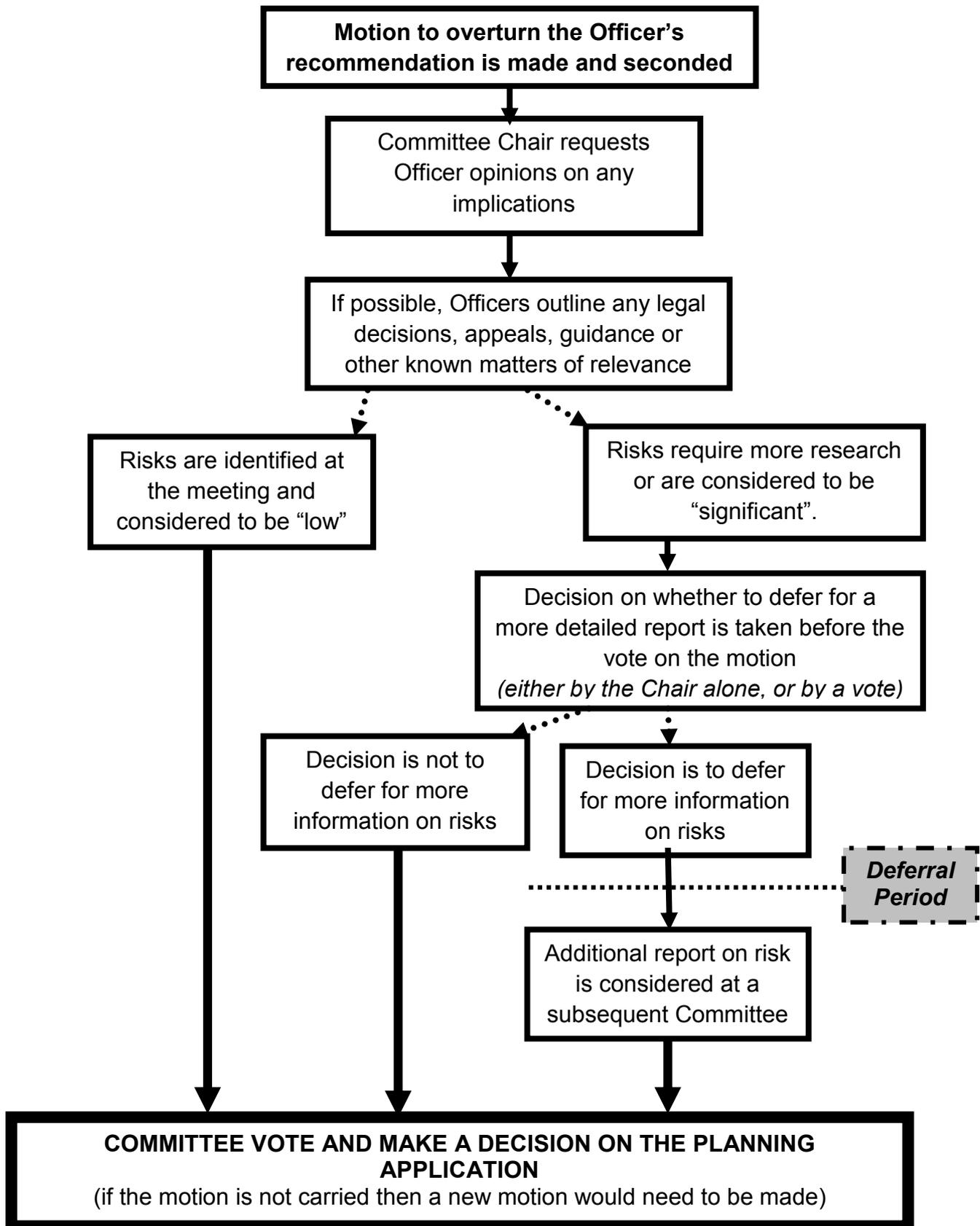
Interpretation of Class C4

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 07 September 2017 at 18:00

Members:

Councillor Theresa Higgins	Chairman
Councillor Cyril Liddy	Deputy Chairman
Councillor Lyn Barton	
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

Substitutes:

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

Councillors Christopher Arnold, Roger Buston, Nigel Chapman, Peter Chillingworth, Phil Coleman, Nick Cope, Robert Davidson, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dominic Graham, Dave Harris, Darius Laws, Mike Lilley, Sue Lissimore, Fiona Maclean, Patricia Moore, Beverley Oxford, Gerard Oxford, Lee Scordis, Rosalind Scott, Jessica Scott-Boutell, Lesley Scott-Boutell, Paul Smith, Martyn Warnes, Dennis Willetts, Julie Young and Tim Young.

AGENDA - Part A
(open to the public including the press)

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

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Members of the public please note that any further information which they wish the Committee to consider must be received by 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

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

- location of toilets;
- introduction of members of the meeting.

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

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

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

3 **Substitutions**

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

4 **Urgent Items**

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

5 **Declarations of Interest**

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

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

interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

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

- 6 **Minutes of 17 August 2017** 17 - 22
- To confirm as a correct record the minutes of the meeting held on 27 July 2017.
- 7 **Planning Applications**
- In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.
- 7.1 **170424 Colchester and East England Co-op, Long Wyre Street, Colchester,** 23 - 48
- Change of use of the building with associated physical works to allow a mix of A1 retail units, A3 restaurant units, along with 24 residential apartments and ancillary storage and service/access areas.
- 7.2 **171779 The Former Garrison Gym, Circular Road South, Colchester** 49 - 66
- Change of use to theatre rehearsal space and for community based lettings. Including associated internal fit-out works, and minor exterior alterations.
- 7.3 **171944 Castle Park, High Street, Colchester** 67 - 80
- To provide Colchester with a Halloween event to operate during the month of October 2017.
- 7.4 **171857 8 Roman Road, Colchester,** 81 - 90
- Demolish rear extensions and construction of two storey rear extension (resubmission of 170260).
- 7.5 **171820 8 Ball Alley and Ken Cooke Court, East Stockwell Street, Colchester** 91 - 98
- Dutch Quarter replacement of windows to flats in Ken Cooke Court and Ball Alley.
- 7.6 **171870 The Waldens, Lexden Road, West Bergholt, Colchester,** 99 - 108
- Proposed first floor rear extension, small side extension at ground floor to form boot room, internal alterations.
- 7.7 **171964 Colcheser Mercury Theatre, Balkerne Passage, Colchester** 109 - 134
- Demolition of Mercury House and Food @ the Mercury Restaurant; felling of selected trees; construction of 2-3 storey production block;

construction of two-storey extension on northeast corner; infill of porte-cochere to provide internal ground floor accommodation; archaeological investigation; landscaping works; installation of temporary site cabins and storage areas for duration of construction process.

- 8 **Summary of Recent Appeal Decisions** 135 -
See report by the Assistant Director Policy and Corporate. 138

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

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

Part B

(not open to the public including the press)

Planning Committee

Thursday, 17 August 2017

- Attendees:** Councillor Lyn Barton, Councillor Helen Chuah, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford
- Substitutes:** Councillor John Elliott (for Councillor Pauline Hazell), Councillor Paul Smith (for Councillor Theresa Higgins), Councillor Adam Fox (for Councillor Chris Pearson)
- Also Present:**

498 Site Visits

Councillors Barton, Chuah, Elliott, Jarvis, Liddy, Loveland and J. Maclean attended the site visits.

499 Minutes of 13 July 2017

The minutes of the meeting held on 13 July 2017 were confirmed as a correct record.

500 Minutes of 27 July 2017

The minutes of the meeting held on 27 July 2017 were confirmed as a correct record.

501 170621 Land off Butt Road, Colchester

Councillor Barton (on the grounds of pre-determination as she had publicly expressed a view on the application) declared an interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.

The Committee considered an application for a mixed use development comprising the erection of assisted living extra care (Use Class C2) accommodation for the frail elderly, including communal facilities and car parking and a retail unit (Use Class A1) at Land off Butt Road, Colchester. The application had been referred to the Committee because it was a major application, material objections have been received and a conditional planning permission was recommended subject to a legal agreement. The Committee had before it a report and amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

RESOLVED (UNANIMOUSLY) that the Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to provide for the following:

- NHS England contribution of £3,795;
- Cycleway contribution of £22,000;
- Open Space Sport and Recreation – enhancements to the local environment and seating and appropriate planting to the treed area on the corner of the site is recommended;
- Highway Authority request the following mitigation:
 - (a) Upgrading of the two bus stops in Butt Road adjacent to the proposal site to include, but may not be limited to, real time passenger information,
 - (b) A zebra crossing in Goojerat Road, east of the proposal site access roundabout,
 - (c) If 50 or more employees, a travel plan to include, but shall not be limited to, a £3,000 contribution to cover the Highway Authority's costs to approve, review and monitor the travel plan.

502 171137 Mersea Island Holiday Park, Fen Lane, East Mersea, Colchester

The Committee considered an application for the regularisation of three lighting columns and three bollard lights at Mersea Island Holiday Park, Fen Lane, East Mersea Colchester. The application had been referred to the Committee because it has been called in by Councillor Moore. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Chris Harden, Planning Officer, presented the report and assisted the Committee in its deliberations. Two additional letters of objection had been received and he gave details of their contents.

Jeff Mason, on behalf of East Mersea Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He acknowledged the need for lighting for security and safety reasons and was of the view that the bollard lights were entirely acceptable. He had concerns about the column lights and asked whether there was any scope for the Committee to seek replacement of the column lights with bollard lights. If this were not possible then he welcomed the shielding proposed in the condition suggested by Environmental Protection in order to reduce the level of glare. He also asked the Committee members to consider the imposition of time restrictions on the lights, suggesting they be off

between the hours of midnight and 6am.

James Wells addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He apologised for erection of the lighting without prior permission and for the submission of an application which was retrospective. The installation had been undertaken mistakenly due to a genuine misunderstanding. He explained that the lighting was to provide a safe and secure environment for the residents of the site. The column lighting, which cast light over a wider area, had been installed in three locations which were junction areas on the caravan site. The lights had been designed to ensure light would not spill above the horizontal and, as a consequence of residents' concerns, the bulbs used would be changed from 35 watts to 20 watts. In addition, the applicants were happy to comply with the recommendation from Environmental Protection for shielding to be installed to prevent light emissions on the landward side of the site.

Councillor Moore attended and with the consent of the Chairman addressed the Committee. She welcomed the Planning Officer's inclusion of a photograph at night time taken from a location in Broman's Lane although she was in possession of other photos which illustrated up to 11 lights, including the three lights the subject of the application. She refuted the information in the report stating that other existing lighting on the site, also installed without formal permission, had been in place for approximately 15 years and, as such, enforcement action was not considered to be reasonable. In her view the lighting had not been installed for anywhere near as many years as stated, did not have permission and so should be enforced against. She considered the impact of the lighting at night was similar to a football stadium and was not acceptable in a quiet rural location. She asked the Committee members to seek measures to reduce the impact of the light pollution caused by the lighting. She sought clarification about the reduction in wattage for the bulbs and questioned the actual practical difference this would make. She referred to the Parish Council's policy on Dark Skies and asked the Committee members to consider seeking further protection for the environment in accordance with the Parish Council's aspirations. She went on to seek the replacement of the column lights with bollard lights.

The Planning Officer explained that Environmental Protection had recommended the installation of shielding to the lights to reduce the light emission on the landward side and he confirmed that the lights were fitted with sensors which provided for their activation when the ambient light fell below a certain level and, as such, this enabled the lights to be maintained overnight. He was of the opinion that the applicants were seeking overnight lighting for the benefit of their residents. He went on to explain that enforcement action for existing lighting was not appropriate given the length of time they had been in place. He acknowledged that the applicants may be willing to provide shielding for the other pre-existing lights but they were not part of the application under consideration and, as such, no assurance could be asked for. He was of the view that, as the applicant was willing to install shielding and lower wattage bulbs to the three

column lights, it would not be an option for the Committee to consider refusing the application on the grounds of impact on the environment. He further confirmed that the lower wattage bulbs were below the requirement recommended by Environmental Protection.

Members of the Committee sought clarification on the imposition of time restrictions to the lighting such that they did not remain on overnight which would accord with the current arrangement for Essex Highways Authority lighting which provided for lights generally to be switched off between the hours of 1:00am to 5:00am. Further advice was also sought in relation to the weight that could be attached to the Parish Council's Dark Skies Policy.

The Planning Officer further explained that the Dark Skies Policy had been addressed in the Committee report which explained that the view of Environmental Protection was that the Policy could not be applied in this location because, although it was countryside location, it was not within the nature conservation areas and there was already existing lighting. He also further explained that the applicant was unable to agree to the suggestion for overnight time restrictions due to the need for illumination for arriving residents to the caravan park who were unfamiliar with the environment. In the Planning Officer's view, this justification was considered reasonable, particularly, given the applicant's agreement to the installation of shielding and lower wattage bulbs.

RESOLVED (EIGHT vote FOR, ONE voted AGAINST and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report.

503 171768 Balkerne Hill, Colchester

The Committee considered an application for a non-illuminated information lectern at Balkerne Hill, Colchester. The application had been referred to the Committee because the applicant was an Alderman. The Committee had before it a report in which all information was set out.

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

504 171679 21 Glisson Square, Colchester

Councillor Liddy (by reason of his directorship of the Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for a proposed disabled bathroom at 21 Glisson Square, Colchester. The application had been referred to the Committee

because the applicant was Colchester Borough Homes. The Committee had before it a report in which all information was set out.

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

505 171125 Ferndown, Greyhound Hill, Langham, Colchester

The application was withdrawn from consideration by the Committee prior to the commencement of the meeting.

506 171482 3 Oak Tree Cottages, Brook Road, Aldham, Colchester

The Committee considered an application for a two storey side extension and single storey rear extension following demolition of existing workshop/store at 3 Oak Tree Cottages, Brook Road, Aldham, Colchester. The application had been referred to the Committee because the applicant was a council employee. The Committee had before it a report in which all information was set out.

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

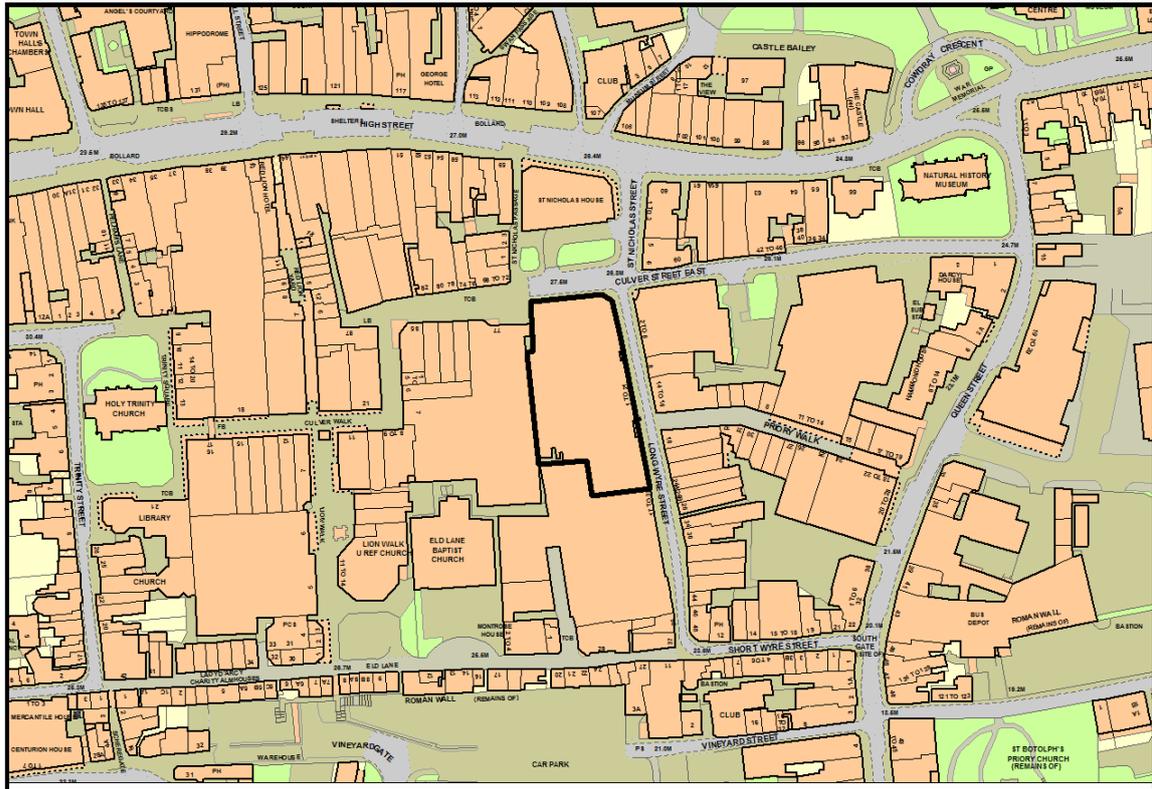
507 Affordable Housing on the Chesterwell development and use of Brook Street, Colchester allowance

The Committee considered a report by the Assistant Director Policy and Corporate giving details of a request from Mersea Homes Ltd to use the Brook Street affordable housing allowance in lieu of the rented affordable housing required on Phase 2 (parcels R9 and R10) of the Chesterwell Development (formerly know as North Growth Area Urban Extension).

Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

RESOLVED that –

- (i) The proposal from Mersea Homes Ltd that the affordable housing allowance agreed as a part of the Brook Street Development be used in-lieu of the rented affordable housing element scheduled for Phase 2 of the Chesterwell Development (Parcels R9 and R10) be endorsed and
- (ii) The Affordable Housing Scheme for Parcels R9 and R10 of the Chesterwell Development be approved.



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Item No: 7.1

Application: 170424

Applicant: East of England Co-operative Society

Agent: Miss Paige Harris

Proposal: Change of use of the building with associated physical works to allow a mix of A1 retail units, A3 restaurant units, along with 24 residential apartments and ancillary storage and service/access areas.

Location: Colchester & East Essex Co-Op, Long Wyre Street, Colchester, CO1 1LH

Ward: Castle

Officer: Lucy Mondon

Recommendation: Approval subject to a legal agreement under s.106 of the Act.

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee for the following reasons:

- it is contrary to adopted Development Plan Policies DP6 (Colchester Town Centre Uses) and DP16 (Private Amenity Space and Open Space Provision for new Residential Development);
- it constitutes a major application and a Section 106 Agreement is required; and
- it constitutes a major application on which a material planning objection has been received and the Officer recommendation is to approve.

2.0 Synopsis

2.1 The key issues for consideration are:

- The principle of the changes of use;
- Design and heritage impacts (taking into account the Conservation Area and Locally Listed Building status as a Heritage Asset);
- Amenity;
- Archaeology; and
- Highway Matters (including parking).

2.2 Planning obligations are also considered, as well as matters of flood risk and biodiversity.

2.3 The report describes the site and its setting, the proposed development, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.

2.4 The application is subsequently recommended for approval, subject to a legal agreement and planning conditions.

3.0 Site Description and Context

3.1 The Co-Op building has been vacant for several years and occupies a large corner plot on the junction of Culver Street East and Long Wyre Street. The building fronts onto St Nicholas Square to the north and Long Wyre Street to the east (running for approximately half the street frontage). The building is located within a Conservation Area and is locally listed, being described as:

Co-Operative department store, 1925-6, by Goodey & Cressall. Three storeys, with Classical detailing. Steel-frame construction faced in granite (ground floor) and Portland stone (upper floors).

Built as an extension to the building of c. 1914 in Culver Street East (q.v.) by the same architects. A good example of a department store building of the 1920s. The plans in Essex Record Office (D/B 6 Pb3/4493, dated 1925), allow for a further extension along Long Wyre Street to the south. This is in the same style and must have been built soon afterwards.

- 3.2 The character of the area is a mix of smaller retail units, as well as services (estate agents and funeral parlour), leisure (pool hall and casino), and some takeaway food and café units. There are several vacant units, however, which gives an overall impression of economic decline. At an initial site visit on 7th March 2017, five vacant units were noted on Culver Street East and Long Wyre Street. A second site visit was carried out on 10th August 2017, whereby an additional ten vacancies were recorded, albeit including nearby Priory Walk; the vacancies recorded at the earlier site visit remained vacant. Of the 55 units on Culver Street East, Long Wyre Street, and Priory Walk, 15 of them (30%) were vacant as of 10th August 2017. One vacant unit (the former Jacks store) is currently undergoing conversion works to a café with flats over, while one other vacant unit on Culver Street East appears to be undergoing works, although it is unknown whether this is general repairs or works required for reuse.
- 3.3 In terms of built form, the area is characterised by later 19th and early-mid 20th century properties of varying style and construction, with some modern purpose built shops. The properties range between two to three storeys in height, the most notable exception being the Edwardian Queen Anne Revival styled building occupied by Three Wise Monkeys on the corner of St Nicholas Street and the High Street, which has some four storey elements.

4.0 Description of the Proposal

- 4.1 The proposal is for the change of use of an A1 (retail) building to a mix of A1 (retail), A3 (restaurants) and residential apartments, with ancillary storage and service/access areas. The ground floor would be subdivided to form two retail units and five restaurant units, one of which would be a small unit to allow access to a larger first-floor area. The remainder of the building (first and second floors) would be converted to residential apartments.
- 4.2 The proposed uses are as follows:

A1 (retail)	Two units	322.7m ²
A3 (restaurants)	Five units	2097.8 m ²
C3 (residential)	Twenty-Four flats	8 studio flats; 12 one-bed flats; 4 two-bed flats

- 4.3 Information submitted with the application includes:
- Site Location Plan
 - Existing and Proposed Floor Plans
 - Existing and Proposed Elevations
 - Existing and Proposed Roof Plan
 - Details of Juliette Balcony
 - Illustration of Proposed Replacement Windows
 - Design and Access Statement
 - Planning Statement
 - Archaeology Report
 - SUDs Checklist
 - Fenn Wright Viability Appraisal (confidential due to commercially sensitive information)
 - Marketing Brochure
 - Marketing Campaign Details (confidential due to commercially sensitive information)
- 4.4 A number of meetings were undertaken with the Applicant and their Agent in order to negotiate appropriate external treatment in respect of heritage matters which resulted in amended plans being submitted. The design aspect of the proposals is discussed in full in Section 15.0 of this report. The applicants were encouraged to consider a greater retail (A1) element but provide marketing evidence to substantiate their case.

5.0 Land Use Allocation

- 5.1 The building is located within the Town Centre Inner Core where policies CE1, CE2a, and DP6(a) apply and are relevant to this proposal.

6.0 Relevant Planning History

- 6.1 There are a significant number of planning applications associated with the site, the majority of which relate to various forms of advertisements or cosmetic alterations. Applications of most relevance to the current proposal include:

- | | |
|--------|---|
| 1969 | Applications to clad over chamfered corner window approved. Refs: 69/0055; 69/0088; and 69/0524. |
| 1975-6 | Applications for complete redevelopment of the Co-Op store (involving demolition of existing store in its entirety). Refused and dismissed at appeal. Ref: COL/1151/75. |
| 1978 | Demolition of retail shops and rebuilding into single-store unit approved (this forms the current Long Wyre Street arrangement and appears to include the brick infill and shop windows on St Nicholas Square). Ref: 78/0026. |
| 1982 | Installation of new shop front (entrance on Long Wyre Street) approved. Ref: 82/0053. |
| 1997 | External alterations to shop front approved (minor in nature). Ref: 97/1091. |

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
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2a - Town Centre
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ER1 - Energy, Resources, Waste, Water and Recycling

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
- DP6 Colchester Town Centre Uses
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 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
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Shopfront Design Guide
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Planning Out Crime
Town Centre Public Realm Strategy

8.0 Consultations

- 8.1 The stakeholder consultation responses are summarised below. More information may be set out on our website.
- 8.2 Archaeology: Following confirmation from Colchester Archaeological Trust (CAT) that the entire footprint of the building was previously excavated (2-3 metres deep) and anything left over was destroyed, there is no requirement for pre-determination archaeological investigation and no need for any conditions, as there is no possibility of encountering any surviving archaeological deposits on this site.
- 8.3 Contaminated Land Officer: No objections.
- 8.4 Environmental Protection: Should planning permission be granted, recommend the following conditions:
- Construction Method Statement;
 - Limits to hours of demolition/construction;
 - Provision of refuse and recycling facilities;
 - Details of management company responsible for the maintenance of communal storage areas;
 - Hours of operation for A1 and A3 use (08:00-23:00);
 - Noise assessment prior to occupation to ensure noise emitted from site's plant, equipment, and machinery does not exceed 0dB(A) above background levels;
 - Sound insulation to be provided in accordance with scheme (note that this includes A1 and A3 use, as well as enhanced sound insulation for flats where bedrooms are adjacent a neighbouring property's living rooms);
 - Control measures for fumes and odours;

- Grease traps to be provided and maintained; and
- Noise survey required for the residential properties that are in the vicinity of the road.

8.5 Highway Authority: No objections, in terms of highway and transportation matters, subject to conditions for:

- Construction Method Statement; and
- Juliet balconies to be no lower than 2.7m at the lowest point above the footway, and projecting no more than 0.6m over the footway.

8.6 Historic Buildings and Areas Officer: Generally supportive of the revised scheme, although concerns regarding windows and shopfront proposals.

- Proposed window arrangement to replicate the originals is very welcome and will lift the quality of the building, although query ovolo glazing bar profile in comparison to the existing flat profile, as well as the wide meeting rail;
- Welcome reinstatement of openings similar to original, including stone pilasters;
- Reinstatement of original corner window welcomed;
- Individual units are welcomed as they will contribute the fine grained character of Colchester's historic centre;
- The balconies would have a neutral impact, although some concern regarding peeling and rusting;
- Dormer windows have neutral impact;
- Elevation adjacent Primark must match quality of St Nicholas Square elevation as it is the same building. A different treatment would undermine the quality of the locally listed building;
- Object to aluminium shopfronts;
 - Must be timber or high quality alternative.
 - The proposed aluminium shopfronts do not do justice to the locally listed building or the Conservation Area.
 - The new shopfronts are one of the two key elements (alongside windows) which impact on the character of the Conservation Area.
 - The submitted scheme is considered to be contrary to paragraph 64 of NPPF as it states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The existing shopfronts is classed as 'poor', and as such there is considerable room for improvement and the Local Planning Authority must take opportunities for enhancement. This site is identified as a key area and should as such meet the design and heritage aspirations of the Council given the historic character of the town centre is one of its principal attractions.
 - There are many shops of this era that now have traditional shopfronts or high quality innovatively designed shopfronts. These shopfronts have reinforced the character of the historic centre. The adjacent locally listed buildings have better designed shopfronts than those proposed. The proposed oversimplified

shopfronts with no character will have a severely detrimental impact on the street and I am strongly against any poor quality shop fronts being introduced. The opportunity should be taken to raise the quality from poor to good in line with p 64 of the NPPF, UR1, DP1, DP14 etc. The applicant should take guidance from the SPG especially with regard to visual support modelling and materials.

- 8.7 Private Sector Housing: Request that the residential units have a satisfactory level of thermal efficiency. The insulation, ventilation, and heating should allow for the dwelling to maintain a healthy indoor temperature (21°C) when the outside temperature is -1°C. Officer comment: This is a matter covered by the Building Control process.
- 8.8 Spatial Policy: Comments with regards to Policy DP6 and related considerations only. As the site is situated within the area defined as the Inner Core of the Town Centre, DP6a is relevant. The proposed uses do not provide at least 85% A1 frontage or, together with A3 frontages, meet the 75% as described in the policy. The proposal therefore cannot be said to comply with this policy. However, it is considered that in the light of a number of factors, including the fact that the building has been vacant for some considerable time, the recent Retail Study-December 2016 (Evidence Base) and the principles of the pragmatic approach intended in the new emerging Local Plan, there are other material considerations which relate to the consideration of this proposal.
- The information submitted indicating the marketing undertaken over a number of years and the commentary in respect of interest and negotiations clearly illustrate that comprehensive efforts appear to have been undertaken to try to secure retail occupiers of the Co-Op property including offering the property in whole or in part. I would suggest that it must be a material consideration that the marketing undertaken has not led to successful take up for retail uses. With this in mind it brings us back to the pragmatic interpretation that active frontages incorporating a mix of town centre uses, albeit a significantly reduced amount of retail floor space, is better for the town centre than long term empty / vacant properties, with no clear / proven prospect of any market interest for take up. It is of course preferable to have this site occupied in town centre uses which provide active frontages, (albeit, providing a lesser proportion of A1 retail uses) than to continue to have a vacant store in this location.
 - The Retail Study reviews the policy context for the town centre and recommends that Long Wyre Street including the former Co-op, remains within the Primary shopping Area, but be defined as Secondary Shopping Frontages. It also recommends that the policy approach should be more flexible within the secondary frontages indicating: “we consider that the Council should afford greater flexibility for changes of use within Classes A1-A5, in order to maximise the number of occupied units and sustain a more diverse composition of uses. On this basis, we would support a policy seeking to maintain 50% A1 retail use within the secondary frontages.” Although it is recognised that the proposal does not achieve this 50%, the principle of the need to be more flexible is helpful. Unfortunately the Co-op building occupies more than 50% of the street,

so the impact in terms of applying the calculation is significant, unless the whole building were to continue to be retail frontage.

- The Local Plan, the Retail Study, and the Emerging Local Plan identify development opportunities including, Vineyard Gate, Priory Walk and St Botolph's Quarter, all of which are a focus for redevelopment with Town Centre (retail-led) uses. Active uses in this area in close proximity to such redevelopment areas is preferable to long term vacancy. It is acknowledged that the emerging Local Plan can be given very limited weight, the evidence which is informing the likely approach is relevant and can be considered as a material consideration.
- National Planning Policy Guidance underpins the over-riding principle to plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work. It is considered that the proposed uses would contribute to the achieving this principle.

Although the proposals for the former Co-op store at Long Wyre Street do not comply with the detailed requirements of Policy DP6a, nor do they meet the shop frontage proportions indicated in emerging policy, it is considered other material considerations are relevant given the long term vacancy of a significant town centre building, the benefits brought about by the proposals are considered to outweigh the harm of providing a reduced area of retail frontage. In addition, although the retail frontage is only a relatively small part of the proposal, it retains a contribution of A1 uses to the street frontage, and is supported by the preferred alternative of A3 uses. The proposed upper floor use as residential is supported by Policy and together the uses proposed by the composite proposal all constitute town centre uses. Overall Spatial Policy are minded to support the proposed conversion to 2 No. A1 units, 5 No. A3 units, and 24 residential flats.

- 8.9 Urban Designer: Supports a mixed use scheme which will increase the town centre's community presence, (arguably) making the best use of upper floor accommodation, and offering the potential for improving existing buildings. Further comments provided on detailed design (reinstate original features, traditional shopfronts, provide architectural interest etc), skyline and roofscape (introduce pitched roofs), private amenity space (provide roof garden), and residential layout (form larger residential units instead of bedsits).

9.0 Parish Council Response

- 9.1 N/A

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. A summary of the material considerations is given below.

10.2 One General Observation from nearby business premises:

Building work to convert the former BHS into Primark caused a huge amount of noise. The noise of building works associated with the change of use of the Co-Op building will impact on client work.

10.3 One Objection:

- If Colchester Borough Council seeks to promote the retail importance of the Town Centre, it should not allow the loss of prime retail space in the Town Centre;
- Supporter of the principle of living accommodation being created above shops, but this is not a small-scale residential conversion;
- Is there any evidence that the East of England Co-operative Society has sought alternative retail uses for the building?
- The proposal is contrary to Council Policy.

11.0 Parking Provision

11.1 The proposal is for a mixed use development of A1 shops, A3 restaurant and cafes, and C3 residential. The Council's adopted Vehicle Parking document sets out required parking provision for different types of development. The proposal incorporates the following:

A1 (retail)	322.7m ²
A3 (restaurants)	2097.8 m ²
C3 (residential)	8 studio flats; 12 one-bed flats; 4 two-bed flats

This level of development would require the following maximum provision for A1/A3 uses by virtue of the parking standards:

Use		Vehicle (max)	Cycle (min)	PTW (min)	Disabled (min)
A1 (shops)		16	2	2	3
A3 (restaurant and cafes)		420	42	17	21
C3 (residential)	Residents	28	24	N/A	3
	Visitor	6	27	2	3
TOTALS		470	95	21	30

Note: Reductions of the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment.

12.0 Open Space Provisions

12.1 No public open space is provided on site. Please see Section 14.0 of the report in respect of the planning obligations for open space.

13.0 Air Quality

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

14.0 Planning Obligations

14.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. The proposals were considered by Development Team, both at pre-application and application stage, with £38,616 being requested to contribute towards public realm improvements (i.e. improvements to the adjacent St Nicholas Square) given that no open space is being provided. There was no affordable housing requirement as the proposals fall to be considered under the Vacant Building Credit scheme.

14.2 A viability report was submitted by Fenn Wright on behalf of the Applicant that concluded that the proposed development is not viable (with or without the requested planning contribution). The viability report was independently assessed by the District Valuer Service (DVS) who concluded a £245,986 deficit, advising that the scheme is not able to provide the S106 contribution requested.

14.3 The Applicant does not propose to comply with the open space contribution requested, but confirmed that the proposals would include two affordable units (two residential units of the Applicant’s choice to be let at no less than 60% of Market Rent on a head lease not exceeding 25 years via a Housing Provider) and that they would offer £20,000 towards public realm improvements.

14.4 The application was re-assessed at Development Team, taking into account the Applicant offer and the DVS conclusions, whereby it was resolved to accept the Applicant’s offer. A Section 106 is in the process of being drawn up with the agreed Heads of Terms as per the Applicant’s offer of two affordable housing units and £20,000 towards public realm improvements at St Nicholas Square.

15.0 Report

Principle of Development

15.1 Both the Colchester Borough Council adopted Local Plan (2001-2021) and the National Planning Policy Framework (NPPF) have a presumption in favour of sustainable development. Within the Local Plan, Core Strategy Policy SD1 seeks to focus growth towards the most accessible and sustainable locations in the Borough. The Strategy establishes a Settlement Hierarchy to guide development towards the most sustainable locations and the town centre is at the top of this hierarchy. Further, Core Strategy Policy CE2a specifically encourages development and regeneration in the town centre. Therefore, the

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proposal, for development within an identified sustainable location, is considered to be acceptable in principle.

15.2 Turning to the specifics of the proposal, the application seeks planning permission for a change of use of the ground floor of the building from A1 (retail) to a mix of A1 (retail) and A3 (restaurant), with C3 (residential) on the upper floors, along with an A3 (restaurant) unit at first-floor. In considering the potential loss of retail premises, Development Policy DP6 deals specifically with Colchester town centre uses and states that a balance will be maintained between retail and non-retail uses in order to retain the town centre vitality and viability. With regards to the Inner Core, the policy seeks to maintain a high level of retail use with at least 85% A1 retail use on each street frontage. Alternative appropriate non-retail uses, particularly A3 uses, will also be supported provided that they contribute to the vitality of the town centre and would result in: no more than 15% of the street frontage being used for non-retail purposes; no more than two consecutive non-retail uses in the street frontage; and no loss of active street frontage.

15.3 Although A3 (restaurant) uses are supported as an appropriate use within the Town Centre, and the proposal would not result in the loss of active street frontage, it would exceed the street frontage allowance of 15% and would result in more than two consecutive non-retail uses in the street frontage. The proposal is therefore in breach of Development Policy DP6. The following points are, however, considered to be important considerations:

- The proposal is only in breach of Development Plan Policy DP6 by virtue of one restaurant unit (corner unit 3C). The frontage of this unit results in the breach of 15% of the street frontage being non-retail and more than two consecutive non-retail uses in the street frontage. One A3 (restaurant) use, measuring 321m², is not considered to have such a significant impact on retail provision in the area to justify a refusal in this case, especially as it is located on the very edge of the Inner Core of the Town Centre, adjacent to the Outer Core which includes a much wider range of services and facilities other than retail.
- The Council's Spatial Policy team has also confirmed that, as part of the evidence base for the Emerging Local Plan, the recent Retail Study (December 2016) recommends that Long Wyre Street be defined as 'Secondary Shopping Frontages' and that 'the policy approach should be more flexible for changes of use within A1-A5 in order to maximise the number of occupied units and sustain a more diverse composition of uses'. Although the Emerging Plan can be afforded very limited weight, the Retail Study shows the direction that future planning policies relating to town centre uses will take.

- The proposals would not result in the loss of active frontage, in fact they would increase the level of active frontage by introducing entrances and separate units along both Culver Street East and Long Wyre Street.
- The property has been vacant for some time, with the submitted marketing information demonstrating very limited interest in the building as a single, or subdivided, retail unit. The property has been advertised via a number of online agents on a consistent basis over the last five years, as well as having advertising boards fixed to the property. Adverts have also been placed in the Estates Gazette Property Week. The proposals would provide an opportunity to bring the property back into use and revitalise an area where an increasing number of vacancies have been noted.

15.4 The Spatial Policy team have suggested a more pragmatic interpretation should be taken in respect of town centre uses in this location, concluding that it is preferable to have this site occupied in town centre uses which provide active frontages (albeit, providing a lesser proportion of A1 retail uses) than continue to have a vacant store in this location and it is agreed that this would be a sensible approach given the above considerations. It is also considered necessary to have regard to the recent Tollgate decision from the Secretary of State (Planning Reference 150239), which determined Core Strategy Policy CE2 to be out of date. Given that this policy is the 'parent' policy to DP6, it is considered that DP6 is also likely to be out of date and, therefore, less weight should be attributed to its content and attention directed to the provisions of the NPPF. The NPPF encourages Local Planning Authorities to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work. It is considered that the proposed uses would contribute to these aims.

15.5 It is ultimately concluded that the benefits of the proposal in bringing the building back into use, increasing active frontage, and increasing the vitality of the area accord with the aspirations of the NPPF and outweigh the harm of reducing the area of retail frontage.

15.6 In terms of the residential aspect of the proposal, Core Strategy Policy H1 expects housing delivery to contribute to the achievement of sustainable development that gives priority to new development in locations with good public transport accessibility and/or by means other than private car and previously developed land. Development Policy DP6 also states that, within the town centre, support will be given to bringing upper floors back into use, particularly for C3 residential purposes and B1 business uses. The proposal for residential flats on the upper floors of the building in a highly accessible site is therefore considered to be acceptable in principle, subject to other material planning considerations.

15.7 An objection has been received in respect of the loss of retail space contrary to planning policy, and querying whether alternative retail uses have been adequately explored; these matters have been discussed at length above. The objection also includes comment regarding the amount of residential proposed. There are no concerns regarding the principle of the residential development being proposed, given the sustainable and accessible nature of the site; any issues in terms of the scale of development would emerge in terms of consequential impacts which are discussed in the remainder of this report.

Design and Heritage

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

15.9 The Co-op building is a classically styled property, which is locally listed and therefore an undesignated heritage asset as defined by the NPPF. It is also located within a Conservation Area, which is itself a Designated Heritage Asset, and contributes to the overall historic significance and character of its surroundings. The external alterations proposed are therefore important in determining how the Locally Listed Building and its surrounding Conservation Area are perceived and understood.

15.10 The upper floors of the older part of the building (incorporating the corner of Long Wyre Street and Culver Street East, and facing St Nicholas Square) retain, for the most part, the proportions and architectural detailing of the original building design. The original windows are evident on the St Nicholas Square elevation, with some being in evidence on the corner building. The ground floor elements of the building, however, have been greatly altered; the most notable element being the St Nicholas Square elevation which has been eradicated and infilled with inappropriate brick and large undivided shop windows. Other modern alterations include cladding on the chamfered corner of the building (facing the former Jacks store), covering what was a two-storey window, and a large canopy on the entrance below, presumably to contain the mechanism for security shutters. The modern alterations are considered to be visually detrimental, both in terms of the building itself and the character of the surrounding conservation area, as they detract from and jar with the traditional proportions and detailing of the host building.

- 15.11 The main body of the building along Long Wyre Street dates from the late 1970s and has also undergone alterations at ground-floor level in terms of simplified shop windows. This part of the building is not considered to positively enhance the setting of the original building, but it is respectful in terms of its height and more simplified detailing, as well as representing a phase in the store's history.
- 15.12 The proposal includes some notable improvements to the building, which in turn improves the overall character of the area. Such improvements include reinstating the two-storey window on the chamfered corner of the original building and removing unattractive later additions, such as the large canopies on the Culver Street East and St Nicholas Square entrances. The subdivision of the building into smaller units is also seen as a positive step as this will contribute to the fine grained character of the historic Town Centre. The reintroduction of stone pilasters on the ground floor of the St Nicholas Square elevation is also seen as a positive alteration, not only as stone is a predominant decorative feature of the building, but also as it would better reflect the proportions of this part of the building and reinstate some architectural integrity to the building by having it visually connecting to the ground.
- 15.13 The Council's Historic Buildings and Areas Officer has objected to the proposal with regards to two elements: the use of timber pilasters on the elevation adjacent Primark; and the design of the shopfronts.
- 15.14 In terms of the elevation adjacent Primark, the proposed shopfront is slightly alien, particularly because of the use of timber, as opposed to stone, pilasters, but this elevation is seen in isolation to the remainder of the building facing St Nicholas Square so the use of timber is not considered to be a material reason for refusal in this case, provided it is appropriately detailed which can be secured via condition.
- 15.15 The shopfronts proposed do not adhere to the Council's adopted Shopfront Design Guide, which seeks that the materials used have an affinity with the host building and traditional design (i.e. stall risers, pilasters, fanlights, and fascias). It is not considered possible, however, to fully assess the detailed design of the shopfronts at this stage, due to insufficient detail on the submitted drawings, but this could be submitted as part of a condition. It is recommended that the condition include a requirement for the traditional details required by the Council's Historic Buildings and Areas Officer. It is important to note that Development Policy DP1 requires all development to be designed to a high standard and that DP14 has an expectation for any new development to enhance the historic environment in the first instance. Paragraph 64 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The recommended condition is therefore considered to be necessary in order to secure a satisfactorily designed scheme. Attempts have been made to word the condition in such a way that does not preclude the remainder of the development to be carried out and this has been discussed with the Agent.

Amenity

- 15.16 Development Policies DP1 and DP12 state that development proposals must protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. With regards to private amenity space and open space provision for new residential development, Development Policy DP16 requires all new residential development to provide private amenity space to a usable and high standard, designed to avoid overlooking. The policy goes on to set out garden size standards, with flats requiring a minimum of 25 square metres per flat provided communally.
- 15.17 Balconies are provided to serve seven apartments. The proposal does not, however, include any private, or communal, outdoor space for the remaining 17 apartments. The lack of amenity space is considered to be typical in a town centre location. Given the close proximity to Castle Park and other leisure facilities within the town centre, future residents would have ready access to places for outdoor leisure time. Taking this into account, the lack of private garden space is not considered significant so as to recommend refusal of the application; especially as the application includes a contribution towards the improvement of St Nicholas Square which would allow for greater communal use of this area.
- 15.18 There are not considered to be any issues regarding lack of privacy or overlooking, as windows serving habitable rooms do not look into each other. There are also not considered to be any issues regarding lack of daylight or sunlight to living accommodation, as windows are provided to all main living areas. Only two apartments have single-aspect north facing living areas, but in these instances the living areas have floor-to-ceiling windows across the entirety of the exterior wall so would not feel oppressive. Due to the deep-plan of the building, the majority of bedrooms would have clerestory glazing, to allow for 'borrowed' daylight to enter these rooms from the main living areas. With fresh air provided by mechanical ventilation. The lack of exterior windows to serve bedrooms is not considered to be a sufficient reason for refusal as adequate ventilation would be provided and the main living areas are sufficiently served by exterior windows.
- 15.19 The Council's Environmental Protection team have recommended a number of conditions with regards to noise, fumes, and odours in order to mitigate potential impacts arising from the proposed restaurant uses and between residential apartments (potential for noise from living areas to bedrooms). A nearby business has commented that the works to the adjacent Primark store were particularly noisy and caused disruption. It is not considered reasonable to refuse the application on the basis that the development may cause some disruption during the construction period as the construction works would be a necessity. Hours of demolition and construction would be limited by condition in order to preserve residential amenity.

- 15.20 The Environmental Protection team's original recommended opening hours for the commercial premises has been revised slightly to midnight on Fridays and Saturdays (recommended closing was 11pm originally). This is in line with the recent Jack's decision close by (ref: 161296) and corresponds with premises licensing.
- 15.21 The Council's Contaminated Land Officer has been consulted as part of the application and has no objection or comments to make in respect of risk of contamination.
- 15.22 The proposals are considered to be acceptable in terms of amenity subject to the conditions recommended by the Environmental Protection team.

Highway Safety and Parking Provision (including Cycling)

- 15.23 The Highway Authority has confirmed that they have no objections to the proposals subject to a condition for a construction method statement. A similar condition has also been requested by the Environmental Protection team and a combined version is recommended at section 17.1 of this report.
- 15.24 The Highway Authority has also requested a condition stipulating the height above ground level of the proposed Juliette balconies on Long Wyre Street, as well as their projection. It is not considered necessary to include this condition as the position of the balconies is shown on the elevation drawings submitted and these would be conditioned as approved drawings. The projection of the balconies can be established via condition.
- 15.25 The proposals do not include any car parking or cycle parking, although this is considered to be policy compliant as the adopted Vehicle Parking Standards SPD accepts reductions in the parking standard as appropriate where the development is sustainably located within an urban area (including town centre locations) that has good links to sustainable transport, which is the case here.

Archaeology

- 15.26 The proposal includes lowering the ground floor level and, given the location of the building within the historic settlement core of Colchester, it would ordinarily be likely that heritage assets of archaeological interest (i.e. below-ground archaeological remains) would be found. Following confirmation from Colchester Archaeological Trust (CAT), however, that the entire footprint of the building was previously excavated (2-3 metres deep) and anything left over was destroyed there is no possibility of encountering any surviving archaeological deposits on this site. There is no requirement, therefore, for further archaeological investigations as part of this application.

Flood Risk

- 15.27 The NPPF sets strict tests to protect people and property from flooding which all local planning authorities are expected to follow. Where these tests are not met, national policy is clear that new development should not be allowed. When determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere, which is considered to be the case here. The site is located within a flood zone 1 which is unlikely to be susceptible to flooding and the development, which does not create any additional hardstanding or floorspace, would not increase the likelihood of surface water flooding elsewhere. As such, the proposal is considered to be acceptable in terms of flood risk and mitigation is unnecessary.

Biodiversity

- 15.28 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. The NPPF is clear that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.
- 15.29 In this case, the application site is within a built up area that is not considered to be a suitable habitat for protected species, given the high levels of light and noise disturbance and lack of natural features (e.g. trees and vegetation). The proposal is not, therefore, considered to have an impact on biodiversity. It is also considered unnecessary and unreasonable for the proposal to include biodiversity enhancements given the nature of the site and its surroundings as any measures are unlikely to be successful.

16.0 Conclusion

- 16.1 The proposal is considered to be acceptable in principle subject to planning conditions and the negotiated legal agreement relating to securing affordable housing and a contribution towards public realm improvements. The proposal represents sustainable development, providing residential accommodation in a highly accessible location and introducing a more diverse composition of uses in the town centre which would increase vitality and generate local employment. The proposals would also result in a locally listed building being brought back into use, with external alterations that generally enhance the appearance of the building (subject to detailing being required by condition).

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions:

18.0 Conditions

1. Time Limit

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

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

2. Development to Accord with Approved Drawings

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:

Location Plan 6239-1101

Existing Basement Floor Plan 6239-1201

Existing Ground Floor Plan 6239-1202

Existing First Floor Plan 6239-1204

Existing Second Floor Plan 6239-1206

Existing Roof Plan 6239-1208

Ground Floor Proposed Plan 6239-1203-Rev H

First Floor Proposed Plan 6239-1205- Rev G

Second Floor Proposed Plan 6239-1207-Rev G

Proposed Roof Plan 6239-1209-Rev D

Existing and proposed Long Wyre Street Elevation 6239/1301 Rev G

Existing and Proposed Elevations 2, 3 and 4 6239/1302 Rev J

Except where details are expressly excluded in the conditions below.

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

3. Construction Method Statement

No works shall take place, including any ground works or 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 and under-body washing facilities;
- HGV routing plan;
- the means or method of protecting the travelling public within the highway whilst working from height above and adjacent to the highway;
- 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, as well as to ensure that on-street parking of vehicles in the adjoining streets does not occur in the interests of highway safety.

4. Additional Details on Windows

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

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in the interests of the character and appearance of the locally listed building and its conservation area setting.

5. Architectural Detailing

Notwithstanding the information submitted, no works shall take place (except for site clearance and underground enabling works) until additional drawings (at a scale between 1:5 and 1:50 as appropriate) of the architectural features have been submitted to and approved in writing by the Local Planning Authority. These drawings shall include details of the new stone surrounds on Long Wyre Street and the new stone pilasters to Units 3C, 4A and 4B. The development shall be implemented in accordance with the approved additional drawings.

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

6. Shopfront Details

Notwithstanding the submitted drawings, no works shall take place to each of the ground floor frontages of the following buildings

Building 1 (incorporating Units 1-2)

Building 2 (incorporating Units 3A-3B inclusive)

Building 3 (incorporating Units 4A-4B)

until full details of the associated shopfronts and entrances to residential accommodation, by sections and elevation at scale 1:20 and 1:5 (as

appropriate) and to include details of the materials to be used and external colour, have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include stall risers/plinth, pilasters, fanlights, and fascias with corncicing. The development shall then be implemented in accordance with the approved details and be retained as such.

Reason: Insufficient details have been submitted with the application to ensure that the ground floor frontages are detailed in such a way to reflect the character of the host building and the predominant character of the surrounding Conservation Area. Details are required in the interests of the external character and appearance of the locally listed building and the character of the surrounding Conservation Area in accordance with the requirements of the National Planning Policy Framework, Development Plan Policies DP1 and DP14, and the Colchester Borough Council Shopfront Design Guide Supplementary Planning Document.

7. Details of Chimneys, Flues, Extract Ducts, Vents etc

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

Reason: In the interests of preserving the character and appearance of the locally listed building and its conservation area setting as Heritage Assets.

8. Materials to be Agreed

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

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

9. External Noise

No works shall take place until a noise survey for proposed residential properties that are in the vicinity of the road shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAm_{ax})
- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAm_{ax})

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be

implemented prior to occupation of ANY/SPECIFY building on the site and shall be maintained as agreed thereafter.

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

10. Sound Insulation on Any Building

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

11. Site Bounday Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

12. Refuse and Recycling Facilities

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

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

13. Communal Storage Areas

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

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

14. Food Premises (Control of Fumes and Odours)

Prior to the first use of the A1 and A3 development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and efficient working order.

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

15. Grease Traps Required

Prior to the first use of the A1 and A3 development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

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

16. Minor Additions and New Services

Prior to any new services being installed or any existing services being relocated (in each case including communications and telecommunications services) details thereof (including any related fixtures, associated visible ducts or other means of concealment) shall have been submitted to and approved, in writing, by the Local Planning Authority and the works shall be carried out in complete accordance with the approved specification.

Reason: In the interests of preserving the character and appearance of the locally listed building and its conservation area setting as Heritage Assets.

17. No New Minor Fixtures

No new grilles, security alarms, lighting, cameras or other appurtenances shall be fixed on the external faces of the building other than those shown on the drawings hereby approved unless otherwise first agreed, in writing, by the Local Planning Authority.

Reason: In the interests of preserving the character and appearance of the locally listed building and its conservation area setting as Heritage Assets.

18. Restriction of Hours of Operation

The A1 and A3 uses hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Monday to Thursday: 0800-2300

Fridays and Saturdays: 0800-0000

Sundays and Public Holidays: 0800-2300

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

19. Limits to Hours of Work

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

Weekdays: 0800-1800

Saturdays: 0800-1300

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.

20. Removal of Permitted Development Rights (External Painting)

Notwithstanding the provisions of Schedule 2, Part 2, Class C of the Town and Country Planning General Permitted Development) Order 2015 as amended (or the equivalent provisions of any Order revoking and re-enacting that Order), no exterior painting of the building fronting Long Wyre Street or Culver Street East/St Nicholas Square shall be undertaken unless otherwise approved by the Local Planning Authority by virtue of planning permission.

Reason: In the interests of the character and appearance of the locally listed building as an Undesignated Heritage Asset and in order to preserve its contribution to the surrounding Conservation Area.

18.1 Informatives

18.1 The following informatives are also recommended:

1. Advisory Note on Construction & Demolition

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

2. 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.

3. 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.

4. Shopfront Informative

For the avoidance of doubt, the reference to 'shopfronts' in condition 6 refers to the building frontages in their entirety for each part of the building (i.e. Building 1, Building 2, and Building 3 as set out in the condition).

5. Sound Insulation Informative

In respect of Condition 10, please be advised that the proposed layout has bedrooms adjacent to neighbouring properties living rooms and studio style accommodation. Approved Document E of the Building Regulations 2010 is a minimum standard and for this development Environmental Protection requires an enhanced scheme of sound insulation which shall have been submitted to and agreed in writing the local planning.

6. Highways Informative

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

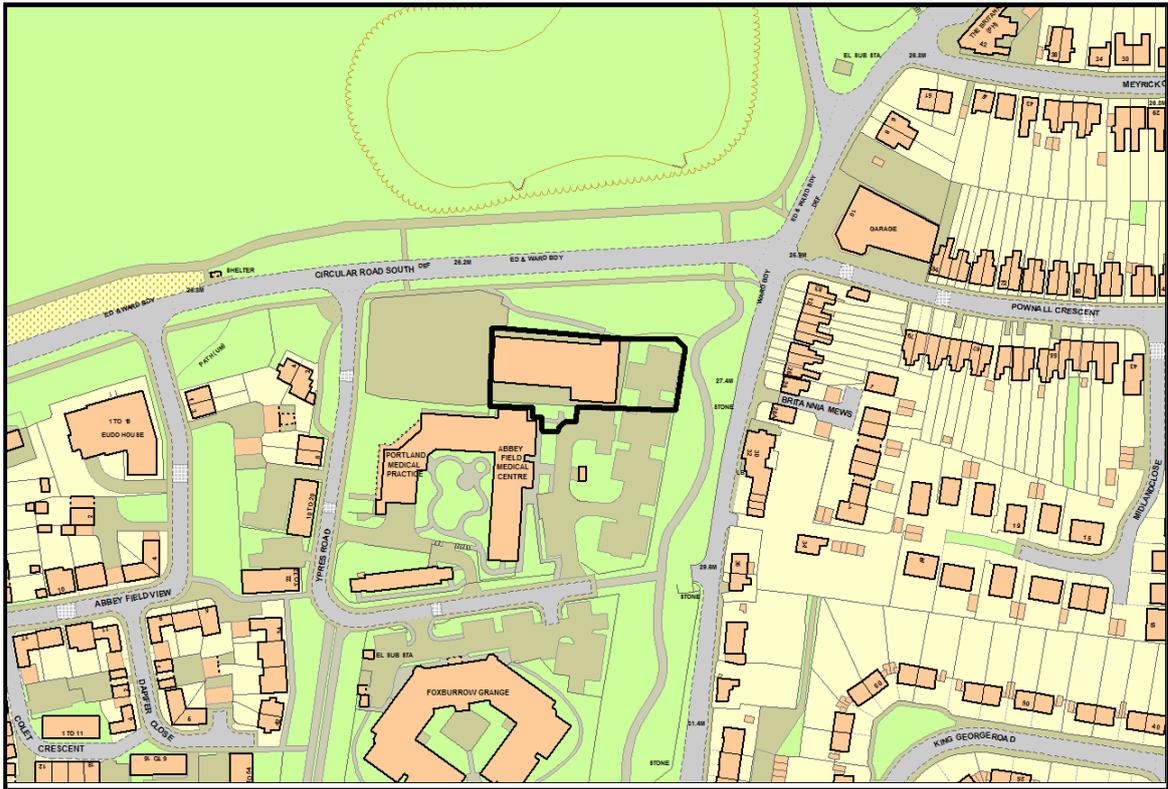
The applicants should be advised to contact the Development Management Team by email at

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

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

7. S106 Informative

PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.



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Item No: 7.2

Application: 171779
Applicant: Colchester Brough Council
Agent: Colchester Borough Homes
Proposal: Change of use to Theatre Rehearsal Space, and for Community based lettings. Including associated internal fit-out works, and minor exterior alterations.
Location: The Former Garrison Gym, Former Gym, Circular Road South, Colchester, CO2 7FD
Ward: Shrub End
Officer: Alistair Day

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

2.1 The main issues for consideration are:

- The impact that the proposed development would have on the special interest of the former gym, a locally listed building, and whether the proposed works will preserve or enhance the character and appearance of the Garrison Conservation Area;
- The effect that the development would have on the amenity of nearby residential properties;
- The impact that the proposed development would have on highway and pedestrian safety and the free flow of traffic; and
- Whether the proposed use is compatible with the terms of the s299a legal agreement that was signed as a part of the Garrison Urban Village development (ref O/COL/01/0009).

2.2 The application is recommended for approval.

3.0 Site Description and Context

3.1 The former garrison gymnasium dates from c 1860. It is an impressive double height building of red brick with strong rusticated quoins and gauged circular arches springing from brick pilasters. The roof was originally covered with slate and lit by a large square lantern. The lantern was removed when the building was re-roofed in the mid twentieth century. The roof and interior were destroyed by fire in June 2013 and the shell of the building was made water tight during 2015-16 (reinstatement of roof and windows etc). As a part of these reinstatement works, the opportunity was taken to install solar panels on the south roof pitch. The building is included on the Local List of building of special interest and the application site is situated within the Garrison Conservation Area.

3.2 The former gym is located to the south of Abbey Field and is separated from Circular Road South by a line of trees. To the east of the building is a landscaped area (the Garrison Eastern Greenlink) beyond which is the wall and railings bounding Berechurch Road. To the south of the site is the former MRS building (now the Abbey Field Medical Centre) and associated car park. A Locally Equipped Play Area is proposed on the site of the former garrison swimming pool (to the west of the gym) and is a requirement of the Garrison Urban Village legal agreement.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission to change the use of the building to theatre rehearsal space and for community based lettings. Minor internal and external enabling works are also proposed.
- 4.2 The proposed opening hours of the theatre / community use are 08:00 – 00:00 (midnight) Monday to Sunday (including bank holidays).

5.0 Land Use Allocation

- 5.1 Garrison Regeneration Area – mixed use.

6.0 Relevant Planning History

- 6.1 O/COL/01/0009 – Outline Planning application for the Garrison Urban Village Development – conditional approval
- 6.2 120254 - Change of use to D1 primary health care facility, internal alterations and adaptations, 2no. minor extensions, formation of car park and perimeter 2.4m security fencing and gates. Erection of site signage, installation lighting to car park – conditional approval.
- 6.3 146384 - Reinstatement works following a major fire – conditional approval.

7.0 Principal Policies

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan comprises the adopted Core Strategy (December 2008, amended 2014), Development Policies (October 2010, amended 2014) and Site Allocations Plan (October 2010)
- 7.2 The adopted Colchester Borough Core Strategy provides local strategic policies. Particular to this application, the following policies are most relevant:
- UR1 - Regeneration Areas
 - UR2 - Built Design and Character
 - ENV1 - Environment
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Plan Policies:
- DP1 Design and Amenity
 - DP14 Historic Environment Assets

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

- SA GAR1 Development in the Garrison Area

7.5 The National Planning Policy Framework (the Framework) must also be taken into account in planning decisions and sets out the Government's planning policies that are to be applied when making decisions. The Framework makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

Relevant Adopted SPD

7.6 Development Brief Goojerat and Sobraon Barracks

8.0 Consultations

Landscape Officer

8.1 The Landscape Officer has confirmed that there is no objection to this application subject to the following planning condition:

No works shall take place until a scheme of hard and soft landscaping works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

Historic Building Officer

- 8.2 The Historic Building Officer comments can be summarised as follows:
- 8.3 The proposed location of the AHU will be very visible from the street and will fail to preserve the character of the locally listed building or that of the conservation area. The proposal would cause less than substantial harm and there would be public benefits resulting from the re- use of the gym.
- 8.4 It is recommended that the following amendments are made:
- AHU is relocated to a more discreet location;
 - the handrails to the external steps are painted black,
 - the replacement doors to south elevation is powder-coated aluminum and
 - new access road and paving from accessible parking bays is formed in tarmac.

Subject to the above amendments, the following conditions should be attached:

- Samples of new bricks including specifications
- Brick bond to match that of the building
- Railing details
- Enclosure details

Urban Design Officer

- 8.5 No comment as the application does not generate any significant urban issue issues.

Environmental Protection

- 8.6 Environmental Protection have no objection in principle subject to the following conditions being applied should permission be granted:-
- Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant (including extract ventilation and air conditioning), equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

- The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:
 - Weekdays: 08:00 to 00:00 hours
 - Saturdays: 08:00 to 00:00 hours
 - Sundays and Public Holidays: 08:00 to 00:00 hours

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

Highway Authority

- 8.7 The Highway Authority has stated that, from a highway and transportation perspective, the impact of the proposal is acceptable subject to the following mitigation and conditions:

Prior to the first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Travel Plan (similar to the Draft TP that has been discussed and agreed) including the initial commitments; and amended and supplemented under the provisions of a yearly report. The Travel Plan should include a commitment to provide a Travel Plan co-ordinator to give advice to any new employees and visitors to the development.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants and visitors of the development, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose thereafter.

Reason: To promote the use of sustainable means of transport

Prior to the commencement of the proposed development, the applicant shall submit a scheme of off road parking and turning for motor cars in accord with current Parking Standards which shall be approved in writing by the Local Planning Authority. The car parking area shall be retained in this form in perpetuity and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur and to enable cars to join the highway in a forward gear, in the interests of highway safety

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

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 None received at the time of writing the report

11.0 Parking Provision

11.1 24 allocated parking spaces within the existing car park

12.0 Open Space Provisions

12.1 N/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Background

15.1 Outline planning permission was granted in 2003 for Garrison Urban Village Development. This proposal comprised residential development (up to 2,600 dwellings) mixed uses including retail, leisure and employment, public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development.

15.2 The former gym and the MRS building (located adjacent to the gym) are identified in the garrison legal agreement for transfer to the Council and are to be used for community and health uses. These buildings were transferred into Council ownership in 2010.

- 15.3 The MRS building was converted for health use (the Abbey Field Medical Centre) in about 2012. At about the same time, the discussions were taking place with a local community group about taking on the lease of the gym. Prior to the lease being signed, the former gym was substantially damaged by fire (2013). The fire destroyed the roof, windows and the interior of the building. The upstanding brick walls however remained structurally sound. An application was submitted in 2014 for the repair and refurbishment of the former gym. As a part of this application, permission was also granted for the installation of solar panels to the south roof slope of the gym and for minor amendments to windows and doors. The works proposed under this application have now been implemented.
- 15.4 The current application seeks permission to change the use of the building to theatre rehearsal space and for community based lettings and for enabling works to interior and exterior of the building.

Principle of Development

- 15.5 The proposal to use the former garrison gym as theatre rehearsal space and for community use reflects the guidance set out in the Council's adopted Development Brief and proposals put forward Garrison Urban Village Development planning permission.
- 15.6 Core Strategy Policy UR1 states that new development in Regeneration Areas (of which the Garrison is one) will be encouraged provided the design and scale is sympathetic to the character of the area and that it enhances historic buildings and features. Policy SA GAR1 of the Site Allocations Plan states that areas identified as predominantly residential will also include leisure, community and health uses.
- 15.7 Given the above, the principle of using the garrison gym as theatre rehearsal space and for community use is considered compatible with the Council's adopted planning policies and guidance documents.

Heritage Issues

- 15.8 Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and DPP Policy DP1 seek to promote and secure high quality design. Section 12 (paragraphs 126 to 141) of the Framework deals with conserving and enhancing the historic environment.
- 15.9 The former gym is the sole surviving garrison building to the south of Abbey Field that dates from the mid nineteenth century. The building is prominent due to its corner position and the open landscape of Abbey Field. It is an attractive well-proportioned building with distinctive architectural features. The building is included on the Local List due to its architectural qualities

and for historic and social interest. The various single storey additions to the gym are not considered to be architectural or historic interest.

15.10 The application as originally proposed sought:

- the installation of an Air Handling Unit (AHU) on the roof of the single storey extension on the south side of the former gym;
- the widening of the existing external doors on the south elevation;
- the repositioning of a door and window on the south extension;
- the infilling a door opening on the west elevation of the South extension;
- the re-ordering of the car park to provide access to the south side of the gym; and
- the construction of external graded paving, and steps to allow suitable access, and safe escape (in the event of fire) from the building.

In addition to the above, minor internal alterations works are also proposed to create an open plan office, a Kitchen, and additional storage spaces.

15.11 The supporting Design and Access Statement (DAS) explains that the AHU is a necessary addition as it will provide the required ventilation to make the building comfortable for the users of the building. The DAS goes onto to state that alternative locations have been considered for the AHU (including internal locations), however, in order to physically fit the required unit in a position that will allow suitable access for maintenance, mounting the equipment on the roof of the modern single storey extension was felt to be the most appropriate location. Screening was proposed to reduce its visual impact.

15.12 When considering the impact of a proposed development, the Framework states at paragraph 132 that great weight should be given to the conservation of the heritage asset's significance. Paragraphs 133 and 134 of the Framework relate to differing levels of harm (i.e. substantial and less than substantial harm) to a designated heritage asset; in this instance the designated heritage asset is the Garrison Conservation Area. Paragraph 135 refer non-designated heritage assets (i.e. locally listed buildings) and requires the effect of an application on its significance to be taken into account when determining the application.

15.13 The proposed AHU, by virtue of its size and high level location, was considered to be both visually intrusive and detract from the architectural or historic character of the gym and the appearance of this part of the conservation area. The proposed screening was not considered to adequately mitigate the visual impact of the AHU. These concerns were raised with the applicant and, as a consequence of these discussions, the AHU has been re-sited to ground level, sited between the gym and the medical centre. A timber fence is proposed to screen the AHU and provide security for the equipment. The new location is much more discreet and will only really be seen in very local views – i.e. from the car park and play area. Notwithstanding this, the proposed AHU will nevertheless cause some harm

to the setting of the conservation area and therefore it needs to be demonstrated that the proposal will have public benefits. The proposed installation of the AHU will make the building more attractive to community group users and thereby help to secure the building's long-term future and its contribution the character and appearance of this part of the Garrison Conservation Area. In view of this, it is considered the harm caused by the installation of the AHU would be outweighed by the benefits. The other works proposed as a part of this application are considered to have a neutral impact on the character and appearance of the conservation area and that of the locally listed building.

- 15.14 For the reasons given above, the application is considered to accord with aforementioned development plan policies, national guidance and the statutory test in the 1990 Act.

Residential Amenity

- 15.15 DPD Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. Part III of this policy seeks to protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight.
- 15.16 The nearest residential properties to former gym buildings are located some 55m from the building (on Berechurch Road). There are also residential properties in Ypres Road. The use of the gym as a community centre has the potential to generate noise and therefore cause disturbance to local residents. In order to safeguard the residential amenity of nearby residents, the Environmental Protection Team has recommended that the building opens after 08:00 and closes by 00:00. Environmental Protection has also recommended that all plant equipment does not exceed 0db(A) above the background levels. Conditions are accordingly proposed.
- 15.17 The construction works could also the potentially to cause noise and disturbance. To safeguard the amenity of nearby residents, it is also recommended that a construction management plan (to include the hours of work) is submitted for approval.
- 15.18 Subject to the above safeguards, it is not considered that the proposed development would not have a significant adverse effect on the living conditions of the neighbouring residential properties. The proposed development is not therefore considered to conflict with DPD Policies DP1 or Paragraph 17 of the Framework insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

Trees and Landscape

- 15.19 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in Section 11 of the Framework.
- 15.20 There are a number of mature trees located between the application site and Circular Road South. There are also a number more recently planted saplings located within the car park area to the south of the former gym.
- 15.21 The application proposes the re-ordering of the car park and adjacent landscape areas to facilitate vehicular access to gym. The existing tree planting within the car park is considered important as this helps to soften the visual impact of parked cars and integrate the development with the adjacent green link. The Landscape Officer has confirmed that there is no objection to the proposal subject to a landscaping condition.
- 15.22 It is considered that conditions requiring the protection of trees are sufficient to safeguard the existing trees on, or adjacent to, the application site. Given this, the current planning application is considered to accord with CS Policy ENV1, DPD Policies DP1 and DP21 and paragraph 118 of the Framework which requires planning application to conserve or enhance landscape features.

Transport, Accessibility and Parking

- 15.23 Both the CS and DPP contain policies to safeguard highway safety and promote accessible developments. The current application seeks permission for the re-use of an existing building within the Garrison Regeneration Area.
- 15.24 The site is located approximately 1m to the south of Colchester town centre. Circular Road South and Berechurch Road are located to the north and east of the site respectively. Buses travel along both of these roads. Ypres Road wraps around the west and south of the site. The main vehicular access to the site is from Ypres Road (south side) and is shared with the adjacent Abbey Fields Medical Centre.
- 15.25 In terms of pedestrian and cycle connectivity, there are combined pedestrian / cycle ways to the north and east of the site. A Toucan crossing connects these routes to the pedestrian cycle link that crosses Abbey Field and continues beyond. There are 2m wide footways to the south and west of the site. There are also controlled pedestrian crossings at the junction of Circular Road South and Berechurch Road. The site is thus well connected in terms of pedestrian and cycle links.

- 15.26 The existing car park provides 52 car parking spaces (including 6 disabled parking bays and a mini bus bay). The intention has always been that the end users of the former MRS building and gym would share this car park. The current application states that the users of the former gym will be allocated 24 of the existing 52 car parking space (including 3 disabled parking spaces).
- 15.27 The adopted parking standards for a leisure use (D2) state that a maximum of 1 car parking space is required per 20sqm; the floor area of the former gym is 810 m² and this will equate to a maximum of 41 car parking spaces. Given that the maximum parking number relate to non-residential uses, the proposal to provide 24 parking spaces falls within the guidelines set by the Council's adopted parking standards.
- 15.28 Notwithstanding the above, the potential pressures for car parking are acknowledged and, as such, there is a need to encourage and promote alternative modes of transport to the car. To this end, the Highway Authority has requested that the occupiers are required to adhere to a travel plan. The travel plan will need to include both 'hard' infrastructural measures (such as cycle parking, buggy stores, and notice boards promoting different modes of transport) and soft behavioural measures (such as promotion via social media). The travel plan will also need to set out targets, monitoring and review details, remedial measures and the funding arrangements for the appointment of a travel plan coordinator. The requirement to provide travel plan accords with development plan policies and the principles in Framework which promote sustainable transport choices and accessibility. Subject to condition requiring a travel plan to be agreed and provision appropriate car park layout and cycle parking, the Highway Authority has confirmed that they do not wish to raise an objection to this application.
- 15.29 The current application is not considered to have a significant adverse impact in terms of highway safety and/or capacity. Moreover, it is considered that the former gym building is well located in terms of sustainable transport opportunities. Given this, the proposal to re-use the former gym as a theatre rehearsal space and for community letting is considered acceptable and would accord with relevant development plan policies and national planning policy guidance set out in the Framework

Contamination

15.30 DPD Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land. Given that the site was formerly garrison land there is potential for contamination. A contamination strategy was approved as a part of the conversion of MRS building and formation of the car park. Given this, and the scope of the proposed under this application, the Council's Contamination Land Officer has verbally advised that it would be appropriate to attach a condition to cover for the eventuality of unexpected contamination being discovered.

16.0 Conclusion

16.1 The Framework has at its heart the promotion of sustainable development. The proposal has significant sustainability credentials. A core planning principle of the Framework is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The proposal will enable the re-use of the gym, a locally listed building, which contributes to the designated heritage asset of the conservation area. It is considered that the scheme would acceptably fulfil the environmental dimension of sustainable development by preserving the identified heritage asset. The development will also have economic benefits as a result of construction activity, continuing the regeneration of the garrison area and the possible creation of additional jobs. The proposal will also help to facilitate the re-use of the former gym for community uses to serve the garrison development and wider residential areas, thus fulfilling the social dimension of the Framework.

17.0 Recommendation

17.1 It is recommended that this application is approved subject to the following conditions

18.0 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 to Accord With Approved Plans*

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

COR313406 TD03 Rev A.
COR313406 TD04 Rev A.
COR313406 TD07 Rev A.
COR313406 TD08 Rev A.
COR313406 DD09 Rev A
COR313406 DD10 Rev A
COR313406 DD11

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

3 - Construction Method Statement

No works (including enabling works) shall take place 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. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) hours of deliveries
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) the hours of work
- v) measures to control the emission of dust and dirt during construction

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.

4 - Materials

All new external and internal works and finishes, and any works of making good, shall match the existing original fabric in respect of using materials of a matching form, composition and consistency, detailed execution and finished appearance, except where indicated otherwise on the drawings hereby approved.

Reason: To ensure a satisfactory appearance to the development and to safeguard the special interest of the Locally Listed building and the character and appearance of the Garrison Conservation Area.

5 - Coping Detail

The retaining walls that form part the new access ramps / path shall be finished with a brick on edge coping brick unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

6 - Tree Protection

All existing trees shall be retained, unless shown to be removed on the approved drawing. All trees on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees (or their replacements) 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, by the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

7 - Landscaping

No works shall take place to the car park and/or associated landscaped areas until a scheme of hard and soft landscaping works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

8 - Cycle Parking

Notwithstanding the details submitted, the locations of the re-sited cycle parking and the new cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the cycle parking is conveniently located for the intended users and that these facilities are fully integrated with existing and/or proposed landscaping.

9 - Refuse and Recycling

Prior to the development hereby approved being brought into use, refuse and recycling storage facilities shall be provided in a visually satisfactory manner and in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. Such facilities shall thereafter be retained to serve the development

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

10 - Car Parking

No works shall take place to the car park and/or associated landscaped areas until details of the car parking layout intended to serve this development has been submitted to and approved in writing by the Local Planning Authority. The car parking area (including areas for the turning for motor cars) shall be retained in the approved form in perpetuity and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur and to enable cars to join the highway in a forward gear, in the interests of highway safety

11 - Travel Plan

No building or use hereby permitted shall be occupied or the use commenced until, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall comprise immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use, targets, monitoring and review details, remedial measures and arrangements for the appointment of a Travel Plan Coordinator. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan to the satisfaction of the Local Planning Authority.

Reason: In order to deliver sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking & cycling.

12 - Noise from plant and machinery

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant (including extract ventilation and air conditioning), equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

13 - Opening Hours

The use hereby permitted shall not operate outside of the following times:

Weekdays: 08:00 to 00:00 hours

Saturdays: 08:00 to 00:00 hours

Sundays and Public Holidays: 08:00 to 00:00 hours

Reason: To safeguard the amenities of the locality

14 - Contamination

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

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme.

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

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

15 - Insertion of Mezzanine Floor

Notwithstanding the definition of development or permitted development the creation of any mezzanine level, intermediate floorspace or extension to / within any building or part of a building within this development is not permitted without the further grant of planning permission for an expansion of floorspace from the Local Planning Authority.

Reason: To enable a proper assessment of the traffic and parking implications that would result as a consequence of increase the floor area at the building.

19.0 Informatives

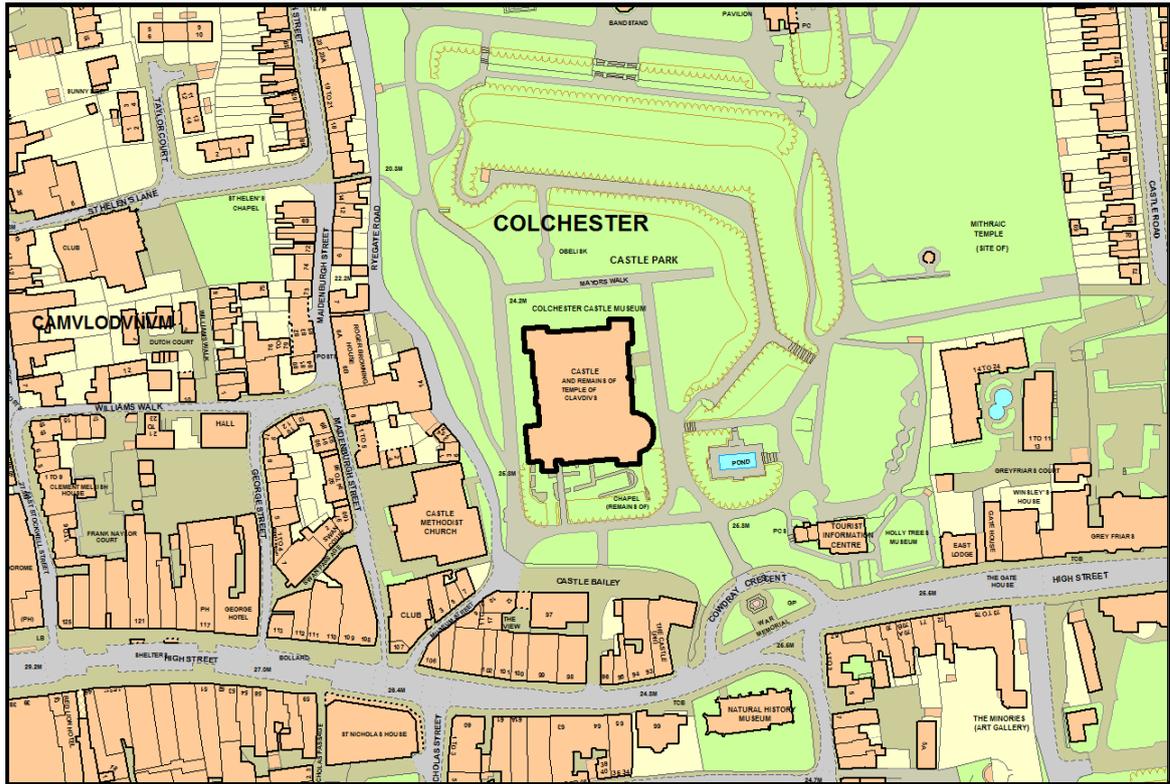
(1) ZT0 – Advisory Note on Construction & Demolition

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

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

(3) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.



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Item No: 7.3

Application: 171944

Applicant: Colchester Borough Council

Agent: -

Proposal: To provide Colchester with Halloween event to operate during the month of October 2017.

Location: Castle Park, Castle Park, High Street, Colchester

Ward: Castle

Officer: Alistair Day

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issues explored below are: the impact on designated heritage assets and the potential for the event to cause noise and disturbance to local residents. The report concludes that the proposed event will not cause significant material harm to the aforementioned material planning issues.
- 2.2 The application is subsequently recommended for conditional approval.

3.0 Site Description and Context

- 3.1 Castle Park is located to the north-east of the town centre and is effectively divided into two sections by the Roman Wall that traverses it, from east to west.
- 3.2 The application site is located in the south western quadrant of the Upper Castle Park. Museum Street, Castle Bailey, Cowdray Crescent and the Hollytrees Museum form the southern boundary of the application site. The west boundary of the site is formed by Ryegate Road. Surrounding these streets is a mixture of commercial, religious and residential properties. The northern boundary of the site is formed by the earthworks of castle rampart. The eastern boundary of the site is formed in part by the castle ramparts and in part by the footpath that runs adjacent to area of land known as Hollytrees Meadow. The east side of the Upper Castle Park is bounded by residential properties.
- 3.3 Within the application site there are a number of highly graded designated heritage assets. The Norman Castle and Hollytrees Mansion Museum are respectively listed grade I and grade II* for their special architectural or historic interest; the main Castle Park gateway and summer house are listed grade II. The majority of the park is a designated scheduled ancient monument (SAM) and this relates to the precincts of the Temple of Claudius and the Norman Castle and its associated ramparts. The Upper Park falls within the Town Centre Conservation Area (Colchester Conservation Area No.1) and the Castle Park is listed in the Register of Historic Parks and Gardens (Grade II). The application site also includes a number of mature trees that make a positive contribution to the setting of the listed buildings and the character and appearance of the area. In addition to the heritage assets within the application site, there are numerous listed and locally listed buildings located immediately adjacent to Upper Castle Park.

4.0 Description of the Proposal

- 4.1 The submitted planning application relates to a Halloween event comprising three marquees with supporting and welfare structures and equipment. The supporting information explains that the site set-up will be from 1 October, with the event operating from 13 to 31 October 2017. The site will be cleared by 3 November 2017.
- 4.2 It is proposed that the event will operated between 10:00 am and 22:30 hrs, with the Castle grounds cleared by 23:00 hrs.

5.0 Land Use Allocation

- 5.1 The Upper Castle Park is identified in the adopted Site Allocations Plan as 'Open Space'.

6.0 Relevant Planning History

- 6.1 151298 - Provision of a Winter Wonderland and Ice Rink with Germanic chalets selling traditional Christmas items – Conditional Approval

7.0 Principal Policies

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan comprises the adopted Core Strategy (December 2008, amended 2014), Development Plan Policies (October 2010, amended 2014) and Site Allocations Plan (October 2010)
- 7.2 The Core Strategy sets out strategic planning policies and the following are of most relevance to this application:

- SD1 - Sustainable Development Locations
- CE2a - Town Centre
- UR2 - Built Design and Character
- PR1 - Open Space
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA5 - Parking
- ENV1 - Environment

- 7.3 The Development Plan Policies provide more detailed planning policy guidance and the following are of relevance to this application:

DP1 Design and Amenity
DP6 Colchester Town Centre Uses
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards

- 7.4 The National Planning Policy Framework (the Framework) must also be taken into account in planning decisions. The Framework makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are three dimensions to sustainable development namely: economic, social and environmental.

8.0 Consultations

- 8.1 The stakeholders have been consulted and their response is summarised below. More information may be set out on our website.

Landscape Officer

- 8.2 No objection.

Archaeological Officer

- 8.3 The proposed development is located within a Scheduled Monument (NHLE no. 1002217), the precinct of the Temple of Claudius and the grounds of the Norman Castle. Designated heritage assets are protected under a number of Acts of Parliament, principally the Ancient Monuments and Archaeological Areas Act 1979, and Historic England must be consulted.

- 8.4 The area has been the subject of previous archaeological assessment in 2015 (Colchester Archaeological Trust reports 850 and 920). Based on this assessment, and the minimal level of ground disturbance associated with this application, no material harm will be caused to the significance of below-ground archaeological remains by the proposed development. I have no objection to this application.

Environmental Protection

- 8.5 No objection subject to conditions to cover opening hours and noise from plant and equipment.

Tree Officer

- 8.6 At the time of writing this report no comments have been received.

8.7 Historic Building Officer

No Observations have been received

Highway Authority

8.8 No Objection.

Historic England

8.9 At the time of writing this report no comments have been received.

9.0 **Parish Council Response**

9.1 The application site is not located with a parish.

10.0 **Representations from Notified Parties**

10.1 Consultation have been carried out with 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:

10.2 Greyfriars Court Property Management

Greyfriars Court Property Management Ltd represent 25 properties within the Greyfriars have stated that whilst they do not object to events being staged, and indeed welcome the use of the park for events for the benefit of the general public and visitors to Colchester, they are extremely concerned regarding certain aspects of this application.

Noise.

- The maximum closing time for queues is stated as 23.30 which is too late. From past experience, visitors to late evening events with an earlier close time have left the park until around 24.00 and the noise from departing visitors will have been unacceptable to residents. The event should close at 22.30. *Officer comment: The hours of operation have since been amended to reflect these concerns.*
- Noise levels from the power equipment, music and the inevitable ghostly sounds need to be controlled. From experience of an identical event, the noise can be quite deafening and late in the evening will be unacceptable.

Security.

What security and marshalling will be imposed and, importantly, enclosing the event from other areas of the park to prevent visitor movements to park areas that normally would be closed. Security is an important issue, as here at Greyfriays Court we already suffer a high degree of anti-social behaviour in and around the recently refurbished Sensory Garden: we would not want a further escalation of this unsatisfactory behaviour through this proposed event.

Conditions

Should Planning approval be granted, it is important that "Conditions" form part of the Approval, with particular reference to the comments made above.

CBC Events Policy

We trust that in the consideration for Approval, the application will satisfy the Council's document "Colchester Borough Council - Events Policy for Parks and Open Spaces"

- 10.3 One representation has been received from a local residents raising concerns over noise and security. They also questioned whether the proposed "Execution Experience" was in good taste given that Colchester is a multi-cultural town, with refugees & soldiers returned from war zones.

11.0 Parking Provision

11.1 N/a

12.0 Open Space Provisions

12.1 N/a

13.0 Air Quality

- 13.1 The site is located within the town centre Air Quality Management Area but is not considered to have any significant impact on air quality in the long term

14.0 Planning Obligations

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

15.0 Report

The Proposal

- 15.1 The submitted planning application relates to a Halloween event comprising three marquees with supporting and welfare structures and equipment. It is proposed that the event (including build and clearance) will take place between 1 October 2017 and 3 November 2017
- 15.2 It is proposed that the event will operate between 10:00 and 22:30, with visitors cleared by 23:00

The Principle of Development

- 15.3 The application site is located in the south western quadrant of the Upper Castle Park; the Castle Park is located immediately to the east of the heart of the town centre.
- 15.4 The proposal to hold a Halloween event in Colchester town centre accords with CS Policy SD1 and the Framework which promote development in sustainable locations.
- 15.5 The Upper Castle Park is identified in the Site Allocations Plan as 'Open Space'. The proposal to hold a Halloween event for a limited period is not considered to conflict with this land-use designation or the function of the park.

Heritage and Design Considerations

- 15.6 Castle Park forms part of the grounds of Colchester Castle and the Hollytrees Mansion and is divided into an upper and lower park by the town wall. The Upper Castle Park includes the following listed buildings: the dual designated Norman castle (listed grade I for its special architectural or historic interest and a schedule ancient monument), Hollytrees Mansion Museum (listed grade II*) and the main entrance gates to the Park and summer house (all listed grade II). The grounds of the Upper Castle Park are designated a Schedule Ancient Monument which covers the precincts of the Temple of Claudius and the Norman Castle with its associated ramparts. The Upper Castle Park also falls within the town centre conservation area and is a Registered Historic Park and Garden. In addition to the above heritage features, there are numerous listed and locally listed buildings that surround the Castle Park site.
- 15.7 Under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (P(LBCA)A) there is a statutory duty to protect from harm listed buildings and their settings and to preserve or enhance the character or appearance of a conservation area. The Ancient Monuments and Archaeological Areas Act 1979 and subsequent amendments make provision for the Secretary of State to protect Scheduled Ancient Monuments (SAMs). The CS Policy ENV 1 and DPD Policy 14 seek to protect the historic environment and thus reflect the provision of the P(LBCA)A. The aims of the Framework are also generally consistent with the requirement of the P(LBC)A. With regard to

design, CS Policy UR2 and Development Plan Policy DP1 seek to promote and secure high quality design. Section 12 (paragraphs 126 to 141) of the Framework deals with conserving and enhancing the historic environment

- 15.8 The application site is one of the most historically sensitive locations in Colchester and, therefore the potential impact that the proposal will have on the identified heritage assets (both direct and indirect) is a fundamental consideration.
- 15.9 In terms of direct impacts, the primary consideration is whether the proposal will result in damage being caused to features of archaeological importance notably the remains precincts of the Temple of Claudius and/or the Norman Castle and its associated earthworks.
- 15.10 All works affecting a SAM or its setting require scheduled ancient monument consent (SAMC). Members may wish to note that Historic England has been consulted separately on the requirement for Scheduled Ancient Monument Consent. Historic England has also been consulted on this application. At the time of writing this report no comments have been received. Members may wish to note that Historic England did not raise an objection to the Winter Wonderland event and, as such, they are not expected to have concerns with this proposal.
- 15.11 The indirect impacts associated with this application relate to the setting of the identified heritage assets. The proposed Halloween event will change the existing setting of the castle and its immediate environment during the course of its operation. That said the change to the setting of the Upper Castle Park will be of a temporary nature and provided appropriate controls are put in place to prevent damage to features of acknowledged importance, it is considered that the proposal will not result in any significant harm being caused.

Trees and Landscape

- 15.12 CS Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in Section 11 of the Framework.
- 15.13 Upper Castle Park contains a number of mature trees and ornamental flower beds that make a positive contribution to the setting of the nearby listed and the character and appearance of the area. It is considered important to ensure that existing trees are appropriately protected to avoid any potential damage to their long term health. To this end, the proposed temporary buildings will be sited outside the identified tree protection zones and temporary matting will be used to help mitigate against wear and tear and compaction.

15.14 Given the above, it is considered that the proposal would not result in harm to the landscape of Castle Park and would not result in the loss of important trees. The current planning application is therefore considered to accord with CS Policy ENV1 and policies DP1 and DP21 that require development schemes to protect existing landscape features.

Residential Amenity

15.15 PD Policy DP1 states that all development must be designed to avoid unacceptable impacts on amenity. Part III of this policy seeks to protect existing public and residential amenity, particularly with regard to (amongst other things) noise and disturbance, pollution (including light and odour pollution).

15.16 The application form states that the event will operate from 13th October 2017 (preview weekend) to 31 October 2017. The opening hours will be between 10:00 and 22:30. All visitors to the event will need to purchase a ticket (either in advance or on the gate). It is proposed that the event will be open to the public at 12:00 (children's event) with age restricted events taking place from 17:00. In addition to the 'standard' event, it is proposed to hold a day time family event on selected dates from 10:00-16:00.

15.17 It is acknowledged that large scale events in Castle Park have the potential to cause disturbance to nearby residents. The proposed activities have been sited on the area of the park between the castle and Ryegate Road, so that the castle acts as a buffer to the east and south boundaries, which are predominantly formed by residential properties. This is the same approach that was adopted when the Winter Wonderland event was held in the Castle Park.

15.18 The Environmental Protection Team has noted that screaming from customers, particularly adults in the evening period, may have the potential to disturb nearby residents late at night. Similar concerns have been expressed by the Greyfriars Court Property Management. To avoid undue nuisance being caused to local residents, Environmental Protection Team has suggested that the event finishes at 22:30. The applicant has confirmed that the event times will be amended so that the event closes at 22:30 and that the site will be cleared by 23:00.

15.19 With regard to noise levels generated by amplified sound, machinery and equipment, Environmental Protection has recommended that all generators are of the 'silent type', amplified music and lighting is directed away from residential properties and that the noise from equipment does not exceed a noise level of 15-min Laeq of 55dB at the site boundary. These requirements have been discussed with the applicant and they are considered acceptable to them. Conditions covering these elements have been recommended to safeguard the amenity of nearby residents. The applicant has also advised that stewards will police the event to prevent anti-social behaviour.

- 15.20 Subject to safeguard mentioned above, it is not considered that the proposed development would have a significant adverse effect on the living conditions of the neighbouring residential properties. In view of this, the proposed development is not considered to conflict with DPD Policy DP1

Parking and Highway Matters

- 15.21 Castle Park's position in the heart of the town centre means that that it is highly accessible by a various sustainable modes of transport.
- 15.22 Vehicular access to the event for the purposes of set-up, servicing and clearance will be via Museum Street. Once within the site, vehicles will follow a clockwise gyratory route around the Castle. All event set-up vehicles are to be marshalled by event staff and parking areas are to be installed at various locations using track matting to allow vehicles to unload without blocking the road way. Visitors to the event will be expected to use the town centre car parks, if coming by car, or travel to the event by public transport, by foot or cycle.
- 15.23 The Highway Authority has confirmed that they have no objection to this proposal in terms of its impact on highway safety or capacity.

Tourism

- 15.24 DPD Policy DP10 seeks to promote tourism, leisure and cultural activities within the Borough.
- 15.25 The proposed Halloween event will provide a scary, horror-based entertainment with a small area of retail providing refreshment and merchandising. The event has the potential to attract significant numbers of visitors to Colchester. The proposed event would serve to raise the regional profile of Colchester, boost the town centre economy and create potential jobs. The potential economic benefits of this proposal for the town are considerable.

Other Issues

- 15.26 From an operational point of view, the applicant has advised the following:
- the Event Application Process for the Park will be followed;
 - the event will comply with the Council's Event Policy and the Castle Park Events Licence;
 - An adequate bond will be put in place for reinstatement of the park after the event.
- 15.27 Whilst the above details are not planning matter, they will help to ensure that the event will be well managed and that the grounds are restored after the event.

16.0 Conclusion

16.1 The proposal to hold a Halloween event at the Upper Castle Park accords with local and national planning policies and with appropriate conditions it is considered that any potential harm caused by this proposal can be suitably mitigated. The application is therefore recommended for a conditional approval.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Conditions

1 – Time Limit

The period of this permission for the operation of the Halloween event is from only 1 October to 3 November 2017.

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

2 - Approved Drawings

The development hereby permitted shall be carried out in accordance with the following document / details: layout drawing, Protection Method Statement, Castle Bailey-Castle Park Reinstatement Method Statement, Tree Protection Zone drawing.

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

3. Restriction of Hours of Operation

Unless otherwise agreed in writing with the Local Planning Authority, the use hereby permitted shall not be open to customers outside 10:00 to 22:30 and the site shall be cleared by 23:00

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

4. Restriction of Hours of Delivery

Unless otherwise agreed in writing with the Local Planning Authority, no services deliveries shall be received at the site outside of the following times:

- Monday to Sunday 08:00 to 14:00 or when the event is in operation

And all vehicles shall access the site from the Museum Street entrance

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site

5 - Noise

All Generators should be of the 'silent' type.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of nearby residents by reason of undue noise.

6 - Site boundary noise levels (for amplified sound, machinery and equipment)

Amplified sound, machinery and equipment shall not exceed a noise level of 15-min Laeq of 55dB at the site of boundary with residential properties.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

7 - Lighting

All lighting installed at a part of the event hereby permitted shall be directed away from residential properties and no light shall shine into residential properties.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue lighting emission.

8 - Tree Protection

The marquees, support buildings and welfare structures, plant, equipment or other machinery shall be sited outside the tree protection zones as shown on the submitted Tree Protection Zone Drawing unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that existing trees are appropriately safeguarded.

19.0 Informatives

1 - ZT0 – Advisory Note on Construction & Demolition

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

2 - 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.

3 - 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.



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Item No: 7.4

Application: 171857

Applicant: Mr Bruce O'Brien

Agent: -

Proposal: Demolish rear extensions. Construction of two storey rear extension. Resubmission of 170260.

Location: 8 Roman Road, Colchester, CO1 1UR

Ward: Castle

Officer: Daniel Cameron

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issue for consideration are the design and appearance of the proposed rear extension and its potential impacts on the character of the surrounding conservation area. A recently dismissed planning appeal on the property provides parameters against which the proposals have been assessed.
- 2.2 The application is subsequently recommended for approval subject to the conditions outlined at the end of the report.

3.0 Site Description and Context

- 3.1 The application site lies within the historic walled town centre of Colchester, a short walk from the junction of High Street and Roman Road. It lies immediately to the east of Castle Park and Castle Road and to the immediate west of the remains of the Town Wall with a small section of Castle Park extending behind the dwelling. This location provides for public views of both the front and rear of elevations of the property.
- 3.2 The area is wholly residential in appearance in contrast to the mixed commercial, retail and residential uses evident on East Hill and High Street and within the commercial town centre. The dwellings within the area are a mixture of early and later Victorian vernacular styles and are typically composed of short terraces or semi-detached pairs. They are generally finished in red and Gault clay brick, originally with subdivided wooden box sash windows and slate roofs.
- 3.3 The application site lies within the Town Centre Conservation Area and is subject to an Article 4(2) Direction. This provides control over alterations to windows, doors or openings on street facing elevations, the changing of roofing materials, demolition of chimney stacks or pots, the rendering or painting of brickwork and the demolition, alteration and erection of front boundary gates, walls, fences or other means of enclosure (except hedges). The direction affects properties on both Roman Road and Castle Road.

4.0 Description of the Proposal

- 4.1 The scope of the current application is broadly unchanged since it was last considered by Planning Committee. The detailed design and materials have changed in response to the appeal decision. The application still proposes the demolition of the existing rear extensions at the property and the erection of a part single storey, part two storey rear extension. The proposed rear extension still projects some 3.3m into the existing rear garden at the property and extends across the full width of the existing rear wall. A small single storey element would be located close to the neighbouring property to the north, 9

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Roman Road, while the remainder of the rear extension would be two storeys in height. The form of the proposed rear extension would lead to a reorganisation of the existing rear garden at the property, resulting in slightly more useable outdoor space for the applicants.

- 4.2 The current extensions to the rear of the property include a small lean-to close to the existing rear wall of the property which is further extended by two catslide extensions running the length of the garden. The current extensions have a piecemeal appearance and are faced in a number of materials. The existing extensions, by their ad-hoc nature, do not contribute positively to the character of the conservation area and the quality of the views of the rear of the property from Castle Park. These views are somewhat screened at present by a mature Yew tree set in the public open space to the rear of the property. However, the presence of this tree cannot be relied upon to be a permanent feature. While it is noted that the tree is in the ownership of the Council and further protected by the conservation area designation, it could still be removed if it were to be damaged or found to be diseased.
- 4.3 The external facing materials for the proposed extension are brick and slate in keeping with the predominant materials expressed within the character of the conservation area. Members may recall that the previous proposal sought timber cladding and this formed part of the reasons for refusal.

5.0 Land Use Allocation

- 5.1 The land is currently designated as predominantly residential within the current Local Plan.

6.0 Relevant Planning History

- 6.1 The extension of this dwelling was previously considered by Planning Committee in March 2017 under reference number 170260. It proposed the demolition of the existing rear extensions to the property, the erection of a part single storey, part two storey rear extension to be clad in timber, with a replacement front door and fan-light. The principal differences between this scheme and the current proposal concern the proposed facing materials and the proportioning of window openings in the rear elevation.
- 6.2 In the case of the previous application, the applicant was unable to reach an agreement with the Council regarding aspects of the detailed design and the proposed facing materials to be used in the rear extension. The application was subsequently refused by committee. The reasons given for the refusal were based on the harmful impacts on the character and appearance of the conservation area resulting from use of incongruous materials and overly dominant fenestration pattern at first floor level on the rear gable of the proposed extension.

- 6.3 An appeal was lodged with the Planning Inspectorate against the refusal of the Council with the result being a split decision whereby the replacement front door and fanlight were approved by the Inspector; whilst the rear extension was rejected. The Inspector upheld the decision and conclusions of the Council with regard to the rear extension (and front door).

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. Appeal decisions are one such material consideration. 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:

UR2 - Built Design and Character
ENV1 - Environment

- 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
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets

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 Comments from the Archaeological Advisor have been carried over from the previous application on the site. As the proposed development is in the area of the Roman town and the property backs onto the Town Wall, groundworks relating to the rear extension have the potential to cause damage to archaeological deposits that exist. That said, it has been recommended that a condition be applied to any permission to record and advance the understanding of any below ground heritage present on the site.

8.3 Comments have also been received from the Historic Buildings and Areas Officer. They note that the proposed scheme seeks to address the previous reasons for refusal; although in design terms it does retain a contemporary flavour. The officer concludes that the development as now proposed would serve to preserve the character and appearance of the wider conservation area. While there are no elements which would justify the refusal of this application, it is recommended that a number of conditions be applied to any approval to ensure that architectural detailing of the proposed extension is acceptable within the context of the wider conservation area.

9.0 Parish Council Response

9.1 The application sits within an unparished town centre ward.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No representations were received.

11.0 Parking Provision

11.1 The property does not currently benefit from any off-street parking, although a residents parking scheme is in effect. This application would not impact upon the level of parking currently available in the area.

12.0 Open Space Provisions

12.1 A modest garden exists at the property, as a result of the proposed works the usable area of the garden would increase from 15 sq. metres to 20 sq. metres.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

- 15.1 The main issues in this case are:
- The Principle of Development
 - Design and Layout
 - Scale, Height and Massing
 - Impact on the Surrounding Area
 - Impacts on Neighbouring Properties

- 15.2 The NPPF is clear in the significance it attaches to achieving good design within the planning system. Paragraph 56 of the NPPF states that ‘...good design is a key aspect of sustainable development...’ and ‘...is indivisible from good planning...’. The Planning (Listed Building and Conservation Areas) Act 1990 echoes the stance of the NPPF by placing a general duty upon Local Planning Authorities to give special regard to the desirability of preserving or enhancing conservation areas.
- 15.3 The general duty is further strengthened by paragraph 131 of the NPPF which states that planning applications should be weighed against ‘...the desirability of sustaining and enhancing the significance of heritage assets...’ and ‘...the desirability of a new development making a positive contributions to local character and distinctiveness...’. The Article 4(2) Direction which covers this part of the conservation area underlines the importance of the preservation of the character of the conservation area to the Council.
- 15.4 Local Plan policies reflect these aims, Core Strategy policy UR2 requires development to be informed by the context of its location and to provide high quality design. This policy along with Core Strategy policy ENV1 highlight the importance of the preservation and the safeguarding of the unique historic character of the Borough. Development Policies DP1 and DP14 also require a high standard of design from development proposals that serve to protect and enhance the historic environment.
- 15.5 Development Policy DP13 centres on dwelling alterations, extensions and replacement dwellings. It states that residential extensions within defined settlement boundaries are acceptable provided that the other policy requirements are met and there are no unacceptable impacts upon the neighbouring properties to the application site in terms of overlooking, overshadowing and privacy. With reference to this application, it is clear that issues of design and the conservation of heritage assets area of paramount importance and the principle of development is therefore predicated on whether the application can comply with the requirements of these policies.
- 15.6 The overall design submitted by the applicant is broadly acceptable. The height, scale and massing of the extension is clearly subservient in terms of hierarchy to the parent building. The overall design has a contemporary feel to it, yet has succeeded in overcoming the unacceptable elements that were identified in the reasons for refusal of the previous proposals. While the Historic Buildings and Areas Officer has recommended conditions relating to the design as submitted, these focus more on aspects of detailing and would ensure that architectural details not immediately apparent within the application are appropriately designed.

15.7 In terms of the character of the conservation area, the built form is typified by simple artisan cottages and lower middle class housing of the period, which in the vicinity are mainly date from the mid to late Nineteenth Century. These comprise two storey, terraced and semi-detached properties finished in either red or Gault clay brick. The red brick and slate finish of the proposed extension would maintain this established aesthetic and would serve to preserve the character of the conservation area. The modern aspects of the proposed extension, while not, historically contextual, are not unduly assertive within the design and would not amount to harm to the character of the conservation area.

15.8 In terms of residential amenity, the two neighbouring properties, 7 Roman Road to the south and 9 Roman Road to the north, would not be affected by the proposed rear extension through either loss of light or loss of privacy. A rear extension already exists at the side of the neighbouring property at 7 Roman Road, nearest to the proposed extension. This extends some distance into their existing rear garden. The proposed extension at 8 Roman Road would not project beyond it, meaning there would be no impact on the level of privacy. The orientation and location of the dwellings relative to each other would mean there would be no impact through the loss of light. With regards to the northern neighbour property at 9 Roman Road, again, the location and orientation of the buildings and the relationship between them means that the proposed extension would have no impact upon the amenity or privacy currently enjoyed at this property either.

16.0 Conclusion

16.1 To summarise, this application is considered to address and overcome the reasons given for refusal of the previous scheme and would result in a contextually appropriate addition to the rear streetscene and wider conservation area. There are no issues with the application in terms of national or local policy and no adverse representations received from either consultees or members of the public.

17.0 Recommendation to the Committee

17.1 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 to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawing numbers 4816.01 and 4816.04 Revision B. Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. ZBC – Materials to be Agreed

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

Reason: This is a prominent site where types and colours of external materials to be used should be polite to their surroundings in order to avoid any detrimental visual impact.

4. ZME – Sample Panel

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

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

5. Z00 – Detailed Designs

Notwithstanding the details shown or implied by the approved drawings, no works shall take place until additional drawings (at a scale between 1:5 and 1:50 as appropriate) of the architectural detailing have been submitted to, and approved in writing, by the Local Planning Authority. These details shall include doors and door surround, windows (including material, sections, finishes, and depth of reveal), cills, lintels, eaves, verges, barge boards, and Juliet balcony guard rails.

Reason: Insufficient or inappropriate details has been submitted to ensure that the character and appearance of the conservation area is not compromised by poor quality architectural detailing in accordance with adopted local plan policies UR2, ENV1, DP1 and DP14.

6. ZMV – Rainwater Goods

All rainwater goods (gutters, downpipes, hopperheads and soil pipes) shall be finished in aluminium and painted black.

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

7. Z00 – Archaeological Investigation

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

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Borough Council's Core Strategy (2008 and as updated 2014).

18.0 Informatives

18.1 The following informatives are also recommended:

1 - ZT0 – Advisory Note on Construction & Demolition

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

2 - 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.

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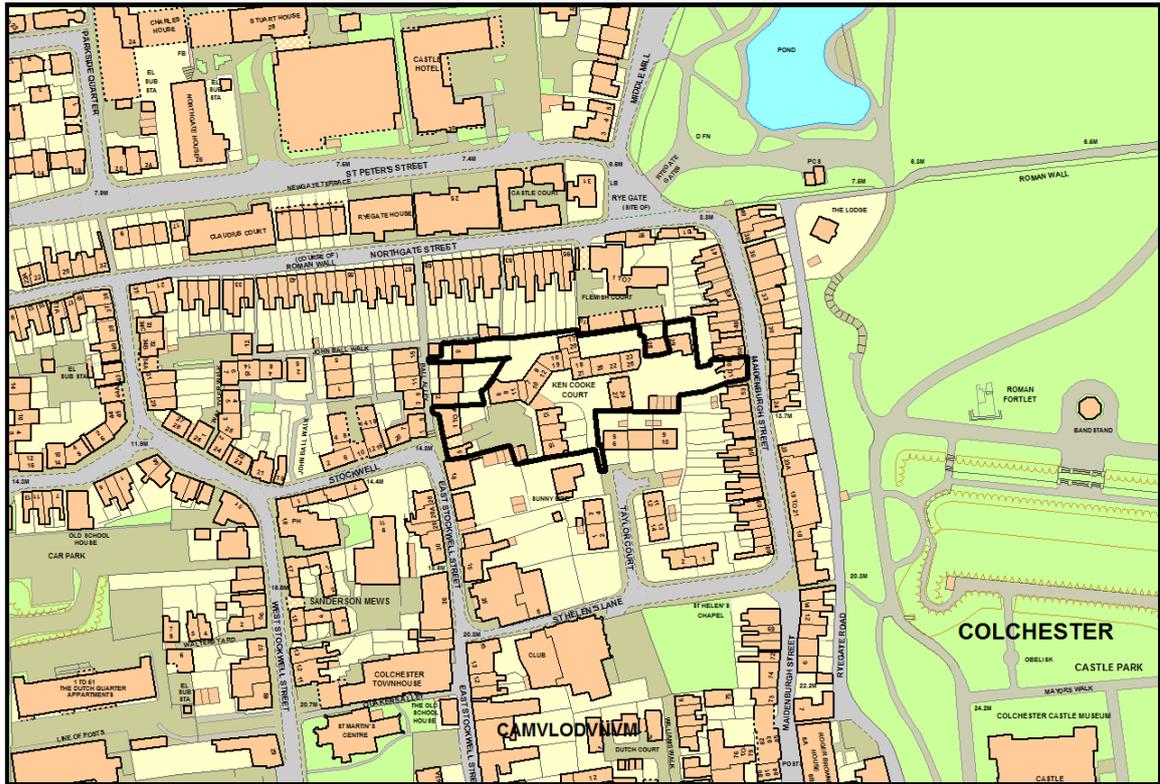
3 - ZTB - Informative on Any Application With a Site Notice

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.

4 - ZUJ - Informative on Archaeology

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

<http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>



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Item No: 7.5

Application: 171820

Applicant: Mr A Shelmardine

Agent: Miss L Bane

Proposal: Dutch Quarter replacement of windows to flats in Ken Cooke Court & Ball Alley

Location: 8 Ball Alley and, Ken Cooke Court, East Stockwell Street, Colchester, CO1 1FF

Ward: Castle

Officer: Daniel Cameron

Recommendation: Approval subject to conditions.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been submitted by Colchester Borough Homes (CBH).

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of the proposed replacement windows and doors on the affected properties upon the character and appearance of the Colchester Town Centre Conservation Area 1.
- 2.2 The application is subsequently recommended for approval subject to the conditions outlined at the end of this report.

3.0 Site Description and Context

- 3.1 This application affects several unlisted post war CBH owned homes located within the Dutch Quarter at Ken Cooke Court. The development itself is composed of an inward looking courtyard of flatted properties with pedestrian and vehicular access with only a small number of properties facing out into the wider conservation area.
- 3.2 The properties at Ken Cooke Court are uniform in their adoption of a competently designed and simple elevations which mirror many of the features of the vernacular style of the wider conservation area; although the buildings are visibly of modern construction. The buildings are an honest interpretation of traditional building forms but echo and do not replicate traditional detailing.
- 3.3 The conservation area itself is notable for its dense concentration of listed and locally listed buildings. The majority of the listed buildings date from the medieval period, although they have been subsequently altered and re-fronted over time with the result being that traditional Georgian and Victorian architectural details now predominate. Materially, there is a dominant use of red brick, render and slender proportioned timber windows. The application site is characterised by simple modern, single paned windows with chunky sections that are clearly not historic.

4.0 Description of the Proposal

- 4.1 The proposed development is to replace the windows and street facing doors to all of the properties within Ken Cooke Court. Existing window details are common to all the affected properties and take the form of single glazed, timber windows finished with a dark stain and incorporating prominent trickle vents. At present the windows are showing signs of fatigue including some isolated instance of deterioration and rot.

- 4.2 The existing doors are not uniform, where they serve as front doors to properties these comprise four panelled doors with two lights, and where they serve as access doors to service areas, they are either fully timbered or timbered with louvers (depending on whether ventilation is required). Where the doors serve as access points to communal areas, they are heavily glazed with two large panes of glass. All doors are finished in a dark stain. The existing doors do show some limited signs of wear although not to the same extent as seen on the existing window frames.
- 4.3 It is intended within this application to replace the existing windows that face out into the public realm of the wider Dutch Quarter with double glazed, aluminium windows finished to be similar in appearance to those they are replacing. The use of aluminium allows for a slimmer frame to be utilised, more closely resembling the slender timber framed windows exhibited in the wider conservation area, without incurring disproportionate levels of cost. The windows which look inward towards Ken Cooke Court are proposed to be replaced with uPVC windows which generally replicate the form and profile of the existing windows and are again, proposed to be finished in a similar colour match to the existing windows.
- 4.4 The replacement doors are like for like replacements of the current doors and will be finished in a dark stain. They are solid timber doors set within aluminium frames.

5.0 Land Use Allocation

- 5.1 The existing land use allocation within the current Local Plan is predominantly residential.

6.0 Relevant Planning History

- 6.1 A number of planning applications have been before Planning Committee relating to the replacement of windows on CBH properties within the Dutch Quarter with the most recent being the replacement of windows and doors to properties at Ball Alley, John Ball Walk, Nunns Road, Shortcut Road, Walters Yard, Wat Tyler Walk, Stockwell and West Stockwell Street. The application was approved by Planning Committee in September 2016.

7.0 Principal Policies

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

UR2 - Built Design and Character
ENV1 - Environment

- 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
DP14 Historic Environment Assets

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 The Historic Buildings and Areas Officer has commented with regards to the impact of the proposed windows and doors on the character of the wider conservation area. It is noted that the use of double glazing will necessitate visually heavier section window frames. This would be the case with double glazing regardless of what material was used. They conclude that the impact of the change is minimal and also note that the appearance of many of the buildings will be improved through the removal of the existing windows with discordant top-hung vents which are alien in conservation terms. It was also noted that the removal of prominent trickle vents would be of benefit to the conservation area as these are also considered an alien feature; if necessary this could be secured by condition.

9.0 Parish Council Response

- 9.1 The application is located in an unparished town centre ward.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No representations were received.

11.0 Parking Provision

- 11.1 This application does not propose development which would require additional parking provision, nor does it reduce the amount of parking available in the immediate area.

12.0 Open Space Provisions

12.1 This application does not proposed development which would require additional open space to be provided, nor does it reduce the amount of open space available in the immediate area.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

15.1 The main issues in this case are:

- The Principle of Development
- Detailed design
- Impact on the Conservation Area

15.2 As the properties affected by this application comprise flats, permitted development rights to replace the windows and doors to the various properties are not in place. However, regard should be given to the provisions established by The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Class A of Part 1 of Schedule 2 normally allows for the replacement of windows and doors to a given dwelling house provided that the materials used are of a sympathetic nature and are visually similar to those being replaced. It should be noted that the materials do not have to match the existing materials as confirmed by the Technical Guidance to the Order provided by the Department of Communities and Local Government.

15.3 Further, it should be noted that the presence of a conservation area does not affect these rights, but does impose a general duty on behalf of the Local Planning Authority under The Planning (Listed Building and Conservation Areas) Act 1990 to give special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.

- 15.4 Local Plan policies support this aim, Core Strategy policy UR2 requires development to be informed by the context of its location and to provide high quality design. This policy along with Core Strategy policy ENV1 highlight the importance of the preservation and the safeguarding of the unique historic character of the Borough. Development Policies DP1 and DP14 also require a high standard of design from development proposals that serve to protect and enhance the historic environment.
- 15.5 The principle of the development is therefore predicated on the ability of the application to at least preserve the character of the surrounding conservation area. It is further clear that when considering the design of the proposed windows and doors, their visual appearance carries more weight than the material they are constructed from. To some degree, the choice of finish and colour may be of greater significance than the material in determining the visual impact of the windows.
- 15.6 In design terms the replacement windows would be broadly like-with-like with the existing. Although the inclusion of double glazing would necessitate a deeper section profile to the replacement windows, it is considered that in appearance this would be a marginal alteration from the existing and taken collectively would not constitute harm to the character of the conservation area. The appearance of the windows could be enhanced through the use of symmetrical or balanced frames; where fixed and opening lights are of the same thickness. The finish of the windows could also use a less artificial colour than the proposed mahogany-type brown finish. Alternatives could be considered through the use of conditions.
- 15.7 Existing issues with the current windows include their difficult and costly maintenance, their age and increasing state of wear, and their undesirable impact upon the amenity of the residents owing to issues around condensation and mould caused by the windows. Given that the majority of the properties are inhabited by social housing tenants of CBH, there is a clear public benefit to their replacement to both the properties themselves and to the residents.
- 15.8 In terms of the doors to be replaced as part of this application, they are also showing increasing signs of wear. This is creating issues for the occupants both regarding the security of the doors and their amenity as the doors are no longer wind tight.
- 15.9 The replacement doors are of a traditional appearance and are to be constructed in solid timber and again, are broadly of a like-with-like design. This should address both the amenity and security concerns of the residents.
- 15.10 In terms of their impact upon the conservation area it is considered that overall this would be minimal. The visual appearance of the windows facing into Ken Cooke Court would be similar regardless of the material they were constructed from. The broad, like-with-like design choice replicates the element of repetition created by the existing windows within the conservation area and would maintain this aspect of its character. The windows facing out into the wider Dutch Quarter would more effectively replicate the slender window proportions evident on many of the surrounding buildings. With regards to the doors, it is

considered that the appearance would sit well with the new windows and furthermore are of an appropriate design and finish to compliment the wider area.

16.0 Conclusion

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

17.0 Recommendation to the Committee

17.1 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 to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers A-1516-PL-01 Rev A, A-1516-PL-02 Rev A, A-1516-PL-03 Rev A, A-1516-PL-06, A-1516-PL-08, A-1516-PL-09, A-1516-PL-10, A-1516-PL-11, A-1516-PL-12, A-1516-PL-13, A-1516-PL-Rev A, and A-1516-PL-14.

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

3. Z00 – Materials as Stated in Application, Non Standard.

The external facing materials to be used shall be those specified on the submitted application form, with the exception of those noted on Drawings A-1516-PL-02 Rev A and A-1516-PL-03 Rev A as being constructed in aluminum, which, for the avoidance of doubt, shall be constructed in Aluminum, unless otherwise agreed, in writing, with the local planning authority. Details of the proposed colour and finish of the windows and doors shall be submitted to and agreed in writing by the local planning authority prior to installation.

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

4. Z00 – Additional drawings showing details of Aluminum Windows.

Notwithstanding the details shown or implied by the approved drawings, no works shall take place until additional drawings (At a scale between 1:5 and 1:50 as appropriate) of the aluminum windows proposed and indicated on Drawings A-1516-PL-02 Rev A and A-1516-PL-03 Rev A, have been submitted to, and approved in writing, by the Local Planning Authority. These details shall include window sections, finishes and depth of reveal as well as cills and lintels where appropriate.

Reason: Insufficient details have been submitted to ensure the character and appearance of the conservation area is not compromised by poor quality architectural detailing.

18.0 Informatives

18.1 The following informatives are also recommended:

1 - ZT0 – Advisory Note on Construction & Demolition

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

2 - 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.

3 - 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.

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 Willetts. The reasons for the call in are that Cllr Willetts has received several representations that the proposed extension is out of character and not in keeping with adjacent properties, particularly the timber clad extension and that the original planning application COL/02/1740 withdrew general permitted development rights to protect the visual amenity of adjoining residents and prevent over-development of the site. The current application would exacerbate both these factors.
- 1.2 Since submission the design of part of the scheme has been amend (see 4.2). Cllr Willetts has advised that he would still like the application to be determined by committee as although the design is now a more conventional approach the other factors for the call in remain issues of concern.

2.0 Synopsis

- 2.1 The key issues for consideration are design, whether the proposal is overdevelopment of the site and the amenity of the neighbouring properties.
- 2.2 The application is subsequently recommended for Approval.

3.0 Site Description and Context

- 3.1 The Waldens is a small development of dwellings dating from 2002/3. It includes two houses fronting Lexden Road. Number 1 is accessed of a private drive off Lexden Road. The front of the house is immediately adjacent to the driveway and the rear is close to the rear boundary with Number 1, 3 and 5 Colchester Road - a single storey element is approximately 1m from the boundary and a projecting rear storey element approximately 1.7m from the boundary. The rear boundary has screen fencing and along the rear of the house, in the garden of 3 Colchester Road is a 3.5 metre conifer hedge. To the western side of the house are two parking spaces and to the eastern side is the garden and a single garage.

4.0 Description of the Proposal

- 4.1 It is proposed to build a first floor extension over the existing single storey rear element; remove the roof of the existing two storey rear element and extend this at first floor towards the boundary and add a roof light in the resultant flat roof; and build a first floor extension on piers. The combined works will produce a two storey structure across the whole rear of the house approximately 1m from the rear boundary. A small single storey side extension is also included within the parking area.
- 4.2 Since submission the design of the first floor extension on piers which originally had a more contemporary approach has been amended to a more traditional approach. The site plan has been amend to accurately reflect ownership/land registry documents. The agent has also advised that a first floor window in the west elevation would have obscured glazing.

5.0 Land Use Allocation

5.1 Within the defined Settlement Boundary.

6.0 Relevant Planning History

6.1 F/COL/02/1740 - Proposed residential development of three, four bedroom houses, one five bedroom house and one three bedroom bungalow – Approved.

Condition 5 of the permission states:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Schedule 2 of the Order (i.e. any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the Local Planning Authority.

Reason: To safeguard the visual amenity of the area, to protect the amenity of adjoining residents and to prevent the overdevelopment of the site by controlling future extensions, alterations and associated development.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP19 Parking Standards

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

The Essex Design Guide
EPOA Vehicle Parking Standards
West Bergholt Parish Plan & West Bergholt Village Design Statement

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 Archaeological Adviser - No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation

8.3 Tree Officer – details of tree/hedges that are to be protected is required.

9.0 Parish Council Response

9.1 With regard to the original scheme the Parish Council have stated that the proposal cannot be supported and agrees with the objection from the neighbours. It considered that the proposed extension is out of character and keeping with adjacent properties. The Parish Council refers to policies DG3, DG7 & DG 9 of the CBC adopted Village Design Statement. A possible solution could be a hipped or normal roof, rather than the suggested mono-pitch, in order to match the other side of the house.

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.

10.2 Two representation of support from 11 Lexden Road and 2 The Waldens (original scheme)

- plans are unobtrusive and in keeping with the character of the current houses in the development. We have asked for the additional window in bedroom 3, which overlooks our rear garden, to be obscured (**NB This has been agreed via email by the applicant's agent and can be conditioned**). The proposed parking space in the front of the proposed boot room should be amended to accord with Land Registry documents (**NB plans have been revised accordingly**)

10.3 Two representations objecting from 1 and 3 Colchester Road (original scheme)

- The first floor rear extension will have a detrimental impact on the amenity of our property, invading our privacy; currently there are no windows to the rear elevation
- When planning permission was granted for the original development of The Walden, permitted development rights were removed to prevent the overdevelopment of the site, we consider that the current application fails to satisfy this requirement.
- Consider that the normal permitted development restrictions are an appropriate guide for assessing privacy and overdevelopment.
- The extension is visually unattractive when viewed from number 3 Colchester Road, is out of character with the house and local area and will impact on the visual amenity of number three particularly if the boundary hedge fails.
- Extension on piers and timber cladding is not in harmony with the exiting property.
- Concerned about damage to boundary hedge in garden of number 3 Colchester Road.
- Extension will impact on enjoyment of patio/barbeque area adjacent to the hedge.
- Grant of planning permission will set a precedent for other proposals and resulting over development of the whole site.
- Lack of measurement on drawings is unhelpful.
- Query need for an extension. **Officer Note - This not a planning matter.**
- May impact on legal right to light **Officer Note - This is not a planning matter.**

10.4 Comment on revised scheme – objections (From number 3 Colchester Road)

- Confirm our original objection still stands and hope that the Council will refuse permission for the proposed development for the reasons of over development as set out in previous letter.
- Note that the parties that support the scheme are occupiers of properties which were part of the development on which the permitted development rights were excluded.

11.0 Parking Provision

11.1 Parking provision will be in line with current Adopted Standards.

12.0 Open Space Provisions

12.1 This scheme raises no concerns regarding open space.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

15.1 The main issues in this case are:

Design and Layout

15.2 The design of the scheme, as amended, reflects the detailing of the existing house and the general character of The Waldens development. The use of piers to support the first floor extension is perhaps a rather unconventional approach but given that this feature will have minimal impact outside of the site it is not considered that this can be resisted.

Scale, Height and Massing

15.3 The scale and bulk of the extension is proportionate to the existing dwelling.

Impact on the Surrounding Area

15.4 Concerns have been expressed about the extension being an overdevelopment of the site which would impact the surrounding area. It is pointed out that Condition 5 of the original planning permission for The Waldens removed normal permitted development rights for extensions. The reason for the condition was to prevent overdevelopment as well as protecting visual amenity and residential amenity. The majority of the works proposed by the current application could not have been erected as permitted development.

15.5 It is not considered that the extension would result in an overdevelopment; the scale is not excessive for the size of the host dwelling. From within The Waldens the extension will not appear particularly prominent. From the rear of the houses in Colchester Road the extension will be more visible; this is not in itself a reason to suggest the scheme is over development. Currently the properties have a view of a two storey building and extending at this height towards the boundary at the scale proposed is not considered to result in overdevelopment. There will be no significant public views from Colchester Road.

15.6 The impact on the surrounding area is acceptable.

Impacts on Neighbouring Properties

- 15.7 Due to the juxtaposition of the site with the adjacent properties the scheme must be very carefully assessed in terms of overlooking, overbearing and overshadowing.
- 15.8 As originally submitted the scheme included a clearly glazed first floor window facing the rear gardens of number nine and number 11 Lexden Road. In discussion with their neighbours the applicants have agreed that this window would be obscurely glazed. This will overcome any overlooking issues. This glazing is acceptable in this bedroom as there is already a clearly glazed window which will be retained.
- 15.9 There is a side first floor window facing towards number 5 Colchester Road and 2 The Waldens. No concerns have been expressed from either property. The view of No 2 (a bungalow) is of the front elevation and there is garaging which will screen the front windows. The separation from No 5 Colchester Road is approximately 25m and as that house is set at an angle there will be no undue overlooking issues between the windows. The garden area is mainly screened by boundary planting. There are some oblique views of the rear garden of number 3 Colchester Road again existing planting will provide some screening.
- 15.10 There have been concerns raised about overlooking of number 1 Colchester Road; there are no windows to the rear of the proposed extensions and there will be no direct overlooking of either number 1 or 3 Colchester Road. The extension will be visible from the rear windows and garden of the housing in Colchester Road, particularly number 3; however there will be sufficient separation between the dwellings (which for number 3 varies between approximately 15 and 20 metres) for these extensions not to have an unduly overbearing impact on either the house or the protected sitting out areas as identified in the Essex Design Guide. It is appreciated that number 3 has a patio area adjacent to the rear boundary however a reason for refusal due to any impact on a patio in this position cannot be justified.

Hedge /Trees

- 15.11 The extension will be in close proximity to hedging and trees in adjacent gardens. The Tree Officer has not suggested the impact of the works on these landscape features will be unacceptable but has asked for further information on protection measures. This has been provided and the officer's comments and/or suggested conditions will be reported on the Amendment Sheet.

Parking Provision

- 15.12 The extension will have some impact on parking provision for the house however parking will remain in line with adopted Parking Standards and is therefore acceptable.

16.0 Conclusion

16.1 To summarise, the scheme is considered acceptable in terms of design, impact on the surrounding area and residential amenity and can be supported.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

18.0 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 - ZAX - *Development to Accord With Approved Plans (qualified)*

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 25917/01A, 03, 04, 06B, 07A.

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

3 - ZBA – Matching Materials

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

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

4. ZDG - *Removal of PD - Obscure Glazing But Opening*

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the proposed first floor window in the west elevation (in bedroom 3) shall be glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

5 - ZDH - * Removal of PD - No Extra Openings*

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows, or other opening be inserted above ground floor level in the north (rear) elevation extensions hereby approved except in accordance with details which shall previously have been submitted to and approved, in writing, by the Local Planning Authority. Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

19.0 Informatives

19.1 The following informatives are also recommended:

1 - ZT0 – Advisory Note on Construction & Demolition

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

2 - 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.



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Item No: 7.7

Application: 171964

Applicant: Mr Steve Mannix (The Mercury Theatre)

Agent: Mr David Shipley (Colchester Borough Homes)

Proposal: Demolition of Mercury House and Food @ the Mercury Restaurant; felling of selected trees; construction of 2-3 storey production block; construction of two-storey extension on northeast corner; infill of porte-cochere to provide internal ground floor accommodation; archaeological investigation; landscaping works; and installation of temporary site cabins and storage areas for duration of construction process.

Location: Colchester Mercury Theatre Ltd, Mercury Theatre, Balmerne Passage, Colchester, CO1 1PT

Ward: Castle

Officer: Andrew Tyrrell

Recommendation: Approval (Subject to Conditions)

1.0 Reason for Referral to the Planning Committee

- 1.1 This major application is referred to the Planning Committee for complete transparency and probity; because the Mercury Theatre site is land owned by Colchester Borough Council, and Colchester Borough Council are heavily involved, as the project lead, in the “Mercury Rising” Project to extend the Mercury Theatre.

2.0 Synopsis

- 2.1 The key issues set out in the report are the principle of the development, the design of the extensions and the layout of the adjacent amenity areas, impact on the adjacent Scheduled Ancient Monument (SAM) of the Roman wall and Balcerne Gate, impacts on the nearby listed buildings, impacts on archaeology and impacts on trees; some of which are covered by a Tree Preservation Order (TPO), highway and parking considerations (including proposals to pedestrianise part of the adjacent highway) and other material planning consideration.
- 2.2 The application is subsequently recommended for approval, subject to conditions. The benefits of this scheme, especially in relation to social and economic considerations (which present significant gains for the arts, tourism, and the community of Colchester as a whole), as well as environmental considerations that have arisen from the proposals.

3.0 Site Description and Context

- 3.1 Opened in 1972, the Mercury Theatre is of an individual design and appearance. It could be said to be a striking architectural piece, although the main area of visual interest is the northern main entrance area. Areas to the south and west that have no public prominence are less detailed, and of a simpler design and composition. The eastern elevation is largely dominated by a 1995 extension to the workshop, which is of its time, fairly bland, and largely screened by a sylvan tree-lined boundary to the public highway.
- 3.2 The theatre is located between the Arts Centre, Roman wall, Balcerne Gate and ‘Jumbo’ water tower all of which are, themselves, significant visual and heritage assets of the town centre. Architecturally, this is one of the most dramatic areas of the Town Centre Conservation Area. The Mercury Theatre is also on the list of Local Heritage Assets and is described as:

“Theatre, by Norman Downie Associates, 1970-2. Brick on steel frame with reinforced concrete columns and beams, with hexagonal, slate-hung, tiered fly tower. Irregular plan that grows from the hexagonal stage, that projects into the auditorium (a larger hexagon, stretched) allowing it to function both as traditional proscenium and ‘semi-thrust’. Glazed foyer wraps round the auditorium, with a first-floor bar in the corner over the entrance, which is marked by the bronze figure of Mercury (after Giambologna) on the roof. Offices, workshops, restaurant etc. added round the edge. Windows high up under the projecting eaves, more hexagons. Yellow brick and glass extension (workshops and paint rooms) by Stanley Bragg Partnership, 1997-8. An

original design by a local firm of architects, who were later commissioned to design a similar theatre in Salisbury, Wiltshire.”

4.0 Description of the Proposal

4.1 The proposal has a number of elements. Members are encouraged to peruse the plans prior to the meeting and familiarise themselves with the proposals in full, but the main elements include:

- Demolishing both the single-storey flat roof restaurant to the north-east corner, and “Mercury House” which is a detached property to the south of the main theatre building that was converted some time ago and currently homes the wardrobe department.
- Infilling the porte-cochere (the area under the existing first floor bar), to extend the lobby under here at ground floor and create a new restaurant space in the north-west corner
- Creating a new box office, entrance lobby, creative learning centre, and new lift to the north east corner
- New rehearsal spaces for the theatre, drama companies, opera groups and other community spaces to the south
- Better, purpose built office and wardrobe spaces, improved changing area, green room, and “back of house” facilities
- Improving delivery and access arrangement for stage sets
- Enhancing the public realm to the north, in front of the main entrance, and improving pedestrian routes (and removing vehicles).

4.2 The supporting documents with the applications state that this application follows a substantial Arts Council England funding bid. *“To enable the Theatre to meet audience expectations, provide access for all and ensure financial sustainability, significant development is required. The development includes extra front of house facilities, providing “ancillary income” to be generated from better bars, catering, merchandise opportunities etc. that will ensure the Theatre’s long-term viability. This is coupled with new rehearsal spaces (saving on current rental of premises off site), and technical improvements backstage to support the high-quality programme to match the improved facilities out front.”*

4.3 Members will see online, or during the presentation at the meeting, that the plans include a significant extension to the south, as well as changes to the north, and then some elevational treatments and alterations to help unite the different sections of the building that have evolved over 45 years of different architectural fashions. The design has been developed in collaboration with the Planning Manager, our Urban Designer, Heritage Officer, Arboricultural Officer, Historic England and ECC Highways.

5.0 Land Use

- 5.1 The site is within the town centre, and conservation area. It is adjacent to a Scheduled Ancient monument, several listed buildings, and has a TPO on the site. It is in *Sui Generis* use, as a theatre, which means that there is no available changes of use without planning permission.

6.0 Relevant Planning History

- 6.1 The theatre was constructed from 1970 through to opening in 1972. Mercury House was acquired in 1983, and the former church rectory was changed from residential use to home the wardrobe department. Since then there have been a number of alterations and improvements, including a notable workshop extension in the 1990s (finished in 1995) that followed a fire to the original workshop. The most recent application considered by the Committee was in 2012, when there were updates to the northern Crittal windows.

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
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE2a - Town Centre
- UR2 - Built Design and Character
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 – Environment

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
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP6 Colchester Town Centre Uses
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards

7.4 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
- Community Facilities
- Cycling Delivery Strategy
- Managing Archaeology in Development.
- Planning Out Crime
- Town Centre Public Realm Strategy

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 Historic England advise that the development meets the aims and objectives of the NPPF in respect of the historic environment and we therefore have no objection to planning permission be granted on heritage grounds. Their full commentary is included in the report below, under the “archaeology” and “heritage impact” sections.

8.3 Our own Archaeology Officer has also confirmed no objection, stating that the proposed development is located within an area of high archaeological interest. Archaeology is a key consideration and therefore the archaeologist’s comments have been used in the main report below.

8.4 The Heritage Officer and Urban Designer have provided a combined consultation response. Their comments are quite lengthy and detailed, so have been used within the design and heritage section of the main report below. Fundamentally, they raise no objections and are in support of the development, subject to detailed matters being agreed, such as materials, recesses, etc.

8.5 Essex County Council have provided useful assistance, with their Highways Officers visiting the site at several stages to discuss solutions to problems and ensure that the best arrangements for parking and access could be achieved. Following formal consultation, they commented that from a highway and

transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to mitigation and conditions (which are covered in the recommended conditions, albeit with slightly different wording suggested).

- 8.6 The Arboricultural Officer has visited the site and checked the health and position of the trees. Their consultation comments are that the tree report is acceptable except for the inclusion of T10 and T11 which do not need to be removed. These trees do not hinder the development, nor would they be undermined by the nearby changes to surfacing, therefore they can be retained throughout and after the construction and their loss is unjustified given the public amenity benefits that they offer as part of a group. They have asked for conditions to ensure that the tree protection is covered as included in the recommendation at the end of this item.
- 8.7 The Landscape Officer commented, regarding the landscape content/aspect of the strategic proposals lodged on 24/07/17, there would appear to be some confusion within the proposal as to the number of trees proposed for removal, e.g. proposal drawing COR300202.PL11 would appear to propose the retention of these trees yet the tree survey proposes their removal (these are the same T10 and T11 trees identified by the Arboricultural Officer above to be retained). In landscape terms this group of trees should be retained as they form an important landscape feature within the street scene. However, as discussed there would be no objection to the removal of T9 which would appear to be in conflict with the adjacent built form, this provided the Tree Officer is satisfied the remaining trees within the group, currently suppressed by this tree, will satisfactorily grow into the space left by the trees removal. This as this will arguably be of benefit to the group by improving the long term coexistence between the group and built form in the long-term. The remainder of the proposal would appear satisfactory. In conclusion, there are no objections to this application on landscape grounds subject to the above.
- 8.8 Environmental Protection have raised no objection and recommended an informative on *Advisory Notes for the Control of Pollution during Construction & Demolition Works* and the model condition requiring a Construction Method Statement be submitted and approved to provide details for parking, loading and unloading area, hours of work and deliveries, hoarding, wheel washing facilities etc.
- 8.9 The Theatres Trust have commented on the proposal. Their support states that: *“The Theatres Trust actively encourages theatres owners to invest in their venues to ensure they meet modern building standards, and the needs and expectations of audiences, staff, and performers in order to remain viable and sustainable into the future. The Trust therefore welcomes and supports this application for the refurbishment and extension of the Mercury Theatre which will upgrade and renew the front and back of house facilities to improve the customer experience, encourage wider community use, and provide additional facilities to support productions and generate additional income. In terms of the proposed front of house layout, reorganisation of the entry, café, box office and the infill of the port-cochere creates significantly more useable ground floor space within the existing building footprint, and opens up these spaces to improve the appearance, accessibility and audience circulation on this*

level. It also allows for the relocation of the main entry point so that it is more clearly visible and facing the main pedestrian and vehicle access routes from the town centre to the east. The additional lift WCs on both levels and the learning suite are also supported and enhance the facilities offered by the theatre.

Likewise, the back of house alterations and the construction of a new production block provide much needed additional storage, dressing room and rehearsal space, and have been designed to allow the new spaces to be used separately from the main house and public areas. We also welcome the opening up the stage dock and creation of a new get in door, which will provide a direct, clear and wide route for the delivery and movement of sets and props. We do, however, recommend the installation of an additional acoustic door and sound lock between the stage and the workshop and/ or between the get in area and the new production block next to dressing room 4 to minimise noise and light transfer during performances.

We also appreciate the consideration given to the materials and appearance of this new extension to minimise its impact on the surrounding area, and the proposed archaeology investigations to be carried out to determine the appropriate design for the buildings foundations and substructure.

Overall the Theatres Trust agrees with the clear rationale for this project and agree the proposed works will improve the theatre's facilities and the way it operates and functions to meet these aims. We therefore recommend granting planning permission, attaching conditions as appropriate.

The Trust's advice reflects guidance in paragraph 70 of the NPPF to promote and safeguard cultural facilities, which states that in 'promoting healthy communities', planning decisions should 'plan positively for cultural buildings' and 'guard against the loss of cultural facilities and services'."

9.0 Parish Council Response

9.1 Not applicable.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. A press advert was placed, as well as 2 site notices that have been displayed on lampposts adjacent to the site. The full text of all of the representations received is available to view on the Council's website. However, public response was supportive, with a summary of the few material considerations given below.

10.2 There have been no objections received. There have been 5 letters of support, as well as a “non-committal” that states no objection but then also raises some questions (see below). The supporting comments can be viewed in full online, but they have been summarised below:

- Good project and proposal, the refurbishment work is much needed and the development has been sympathetically designed to prevent it from being overpowering.
- The use of timber cladding utilises the natural camouflage trees already provide.
- Making a feature of the apex of the building by filling in the ground floor with glazing and creating a café space is a positive step.
- Creating of spaces which can be utilised by community groups is very much welcomed.
- Appreciate the thought that has gone into creating better facilities for people with mobility issues by adding lifts and a disabled toilet upstairs near to the auditorium.
- Can see that consideration of creating a space that can provide greater inclusivity for all members of the community has been a fundamental part of thinking here.

10.3 One adjacent resident, to the north, states that they do not object to the planning application, but are concerned about the management of the site throughout the demolition and construction as most residents here are elderly, with mobility issues; emergency services and support staff also need easy access through this already congested area. There are conditions to address the management of the construction phase, so that a scheme can be agreed. There are also controls through environmental protection legislation, which are set out in the included informative and guidance note that would accompany the decision (you can read these at the start of the committee agenda booklet).

10.4 They also state “Felling of trees?” This is covered in the consultation responses and elsewhere. The question provides little guidance as to the expected answer or point being made. Similarly they ask for the definition of “3-storey”, which can be best seen from the plans that illustrate exactly what this means. This relates to the southern end, furthest from their property

10.5 Within the supporting comments, there were also some other comments that were not especially relevant to the planning considerations, but that may be of note to the theatre moving forwards. One suggestion was re-organizing the toilet space to create some “Gender Neutral Toilets”. The benefits suggested include making more cubicles available to people who use them, providing greater inclusivity for single male carers (fathers/grandfathers etc) with young girls they would prefer not to walk past toileting men, and providing inclusivity for Transgender or Non-binary persons. This change, being internal, would not need planning permission.

11.0 Parking Provision

11.1 The proposal removes some staff car parking from the site, which is said to be 5 spaces although this is hard to calculate due to the ad-hoc manner in which people park at the site. This accommodates better delivery access, which can involve large articulated lorries; as well as allowing for some relocated disabled parking. The current disabled parking area is again ad-hoc, and takes place to the northern end underneath the bar (should you say where it's going now).

12.0 Open Space Provisions

12.1 The proposals include better access to the public to the Roman wall which is a Scheduled Ancient Monument, and a sitting out area where the Balkerne Gate can be enjoyed. The proposal also seeks to remove an area of highway right from part of the road network to the north, allowing this to become a shared surface area that is pedestrianised, except for delivery access arrangements relating to the Hole in the Wall public house, which is the only property (other than the theatre) currently served by this area of carriageway. This change to the public realm is seen as an important wider public benefit provided by the scheme and will further improve the pedestrian linkage between the recently upgraded bridge from St Mary's Car Park and the town centre.

13.0 Air Quality

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

14.0 Planning Obligations

14.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. It was considered that owing to the nature of the proposals no Planning Obligations should be sought as none met the legal tests.

15.0 Report

15.1 The main issues in this case are:

- Design and Layout
- Archaeology and Heritage Impact
- Impact on the Surrounding Area (including Neighbours)
- Trees and Landscape
- Highway Safety and Parking Provisions
- Other Matters

Design and Layout

- 15.2 Your case officer has been involved in discussions about this scheme throughout a pre-application phase, and during the application itself. There are no concerns about the general design, scale, massing and height. There have also been broader discussions about some detailed matters, including materials, window frames, surrounds, decorative features, etc; although this level of details has not yet been reached and would need conditions. These discussions have also included the heritage officer and the urban designer, who comments from the bulk of the following narrative on design matters.
- 15.3 The minor detailing will have a significant impact on the success of the scheme. The site context is sensitive and challenging, within the town centre conservation area, overlooking the town wall and Balkerne Gate Scheduled Ancient Monuments and a number of listed buildings including Jumbo and Colchester Arts Centre. The site itself is locally listed and has a number of protected trees. The principal theatre use is inward-looking, though associated accommodation offers opportunities for active frontage (windows and doors) to help attractively frame, engage with and self-police the adjoining public realm which surrounds on all sides. The existing building is of mixed architectural quality with the northern end from the original 1970s build the most successful, characterised by concrete structural elements, distinctively angled form and extensive Crittall glazing. Incremental extensions and backland elevations are less successful.
- 15.4 New development on the scale proposed provides the opportunity to unite the arts complex, and help improve the character and quality of the area and the way it functions. The applicant has worked hard to address previous concerns informed by dialogue, although there are still some outstanding issues and areas where greater clarity is required. The project is reliant on funding from various sources including the Theatre itself, the Arts Council, Colchester Borough Council, Essex County Council, a Heritage Lottery Fund bid and public donations, so both construction costs and material costs need to be carefully calibrated to get a suitable outcome. Given the simplicity of the design, the materials are equally important.
- 15.5 The extensive use of timber for cladding of the production block, helps reflect the immediate woodland area that surrounds the building and also provides an appropriate material that benefits from sustainable characteristics. The timber must be a type not subject to uneven weathering, streaking or rot. Timbers that do not require preservative treatment include: Western red cedar, European larch, European oak and Douglas fir. These woods are naturally resistant to insects, moisture and rot. One of these timbers should be used so that the sustainability benefits of timber can be enjoyed. This will require conditions to agree the materials. The detailing is also important and should be tidy, clean and “elegant” in the corner/ridge/joins/edges with equal width timbers (ideally slim) but not in a “tongue and groove”. This will also require conditioning of minor architectural detailing although the principle, design and use of timber is considered to be acceptable.
- 15.6 Similarly, the windows are generally acceptable in the locations and sizes shown. However, within this level of detail there remains lots of options. The

heritage officer and urban designer recommend that the windows are flush and frameless with very slim profiles to the north, north west and north east. They also suggest that the applicant should explore concrete frame surrounds to west elevation, which can be conditioned. The glazed entrance doors to ground floor should have the hinges on the inside of the building so that there is a flush and elegant finish to the exterior. Elegant door and window furniture and slim profiles will achieve a good finish.

- 15.7 Of note, the brick as proposed on the plans, with the correct mortar mix and pointing profile are of a high quality and very welcome. If anything, the beauty of the proposed brick may be visually compromised as it adjoins a utilitarian brick on the existing building, where the desired “chic and sophisticated” finish may be compromised to the east elevation if the detailing were not controlled by planning conditions.
- 15.8 It would be beneficial to add some form of visual break to the southern end of the extension. Although this elevation appears quite stark on plan, it is screened by the protected tree belt that runs east-to west along the southern boundary of the site. However, some contemporary fenestration, concrete banding, articulation or other patterning could add visual interest and could be continued as a feature to the fenestration uniting the new parts (southern end) of the building with the 70s (northern end) to “book end” the building. This again requires planning conditions.
- 15.9 Glass is used widely for the infill section to the porte-cochere to the north west, and the box office extension to the north and east elevation. The use of glass in these areas helps to provide a sense of openness internally and externally provides a level of engagement with the community by creating a sense of ‘animation’ and connectedness between inside and out. The reforming of the northeast corner and infill of the current porte-cochere position at the northern end, help enhance the overall appearance of the existing building with the majority of glass-based interventions providing an uplift to the rather tired appearance overall.
- 15.10 Overall, the apparent scale of the production block has been reduced through the mixed material palette employed, while the extension remains largely hidden from view and generally obscured by the existing treeline. Whilst assisting in the reduction in scale, the differing materials also serve to complement the existing building and architectural forms. The use of glass to the northern end helps to reflect the surrounding parts and thereby provides a ‘lighter touch’ whilst also providing permeability of the building and with it, engagement with passers-by. The removal of the awkwardly positioned restaurant has led to a more rationalised architectural treatment of this prominent corner of the building, recognising the importance of the approach to the internal layout of the revised box office area, but mostly with regard to the relationship with the town with which it faces. Similar to the approach by car park users to the north, the northeast-facing box office is the official welcome to the Mercury Theatre that visitors arriving from the town centre will see and be welcomed by.
- 15.11 There is a “face lift” the main public elevation to the east where the workshop is, with the replacement of the obscure block glass brickwork with plain

glazing. This will help achieve a more active frontage where passers-by will get a glimpse into the inner workings of the theatre. The addition of timber cladding to recesses is welcomed and will complement timber cladding on the neighbouring façade. That further unifies the building as one.

Archaeology and Heritage Impact

- 15.12 Historic England stated that the Mercury Theatre is situated in close proximity to the Roman town wall and the Balkerne Gate which are scheduled monuments, The grade II* Municipal Water Tower (Jumbo) and a number of grade II listed buildings. The proposed development would result in disturbance to important non-designated archaeological remains which can be mitigated through the implementation of a programme of archaeological investigation, secured by a planning condition.
- 15.13 Our own archaeological advisor, has also highlighted that the proposed development is located within an area of high archaeological interest recorded in the Colchester Historic Environment Record, within the historic settlement core. There is high potential for encountering well-preserved stratified Roman occupation deposits relating to the early Roman legionary fortress and later town. Due to the findings of previous investigations (1965, 1967 and 1996/7), it is known that the theatre is located on the site of one or more Roman town-houses with robbed-out walls, tessellated and mosaic floors. Mortar floors, robbed-out walls, a tessellated pavement and mosaic floor were among the Roman remains identified in the 1990s too. There is said to be an intact plinth of a first century fortress building. Overall, these later investigations revealed one or more Roman town houses with tessellated and mosaic floors surviving *in situ*. The first century military plinths forming part of the earlier fortress also appears to have survived.
- 15.14 The latest investigation was carried out in December 2016 and was comprised of assessing the findings of two borehole locations, one on the west side and the other on the east side of the proposed development area. Evidence of Roman layers were identified in both locations, both seemingly consistent with the earlier investigative work carried out. Consequently, a substantial excavation will need to be carried out ahead of any groundwork commencing. There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *NPPF* (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

- 15.15 Every opportunity should be undertaken to minimise the extent of the groundworks, and thereby reduce the impact on and harm to the underlying archaeological remains. A brief for the archaeological investigation will be needed. In this case, archaeological excavation will be required in advance of the new development. In addition, there will be a requirement for the presentation and promotion of archaeological discoveries on the site, and to provide for a lasting legacy about the history of the site.
- 15.16 In terms of wider heritage impacts, the NPPF states at paragraph 128 that *“applicants (should) describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance”*. The Theatre itself is not particularly in keeping with the surrounding buildings owing to its age, unique function, and resultant design. As stated above, the original workshop was destroyed by fire, with the current workshop not opening until 1995, and this forms a large part of the east elevation. The building is also disjointed due to its evolution and incorporation of differing “architectural fashions”.
- 15.17 Despite being located at Balkerne Passage, to the north of St. Mary-at-the-Walls Church (The Arts Centre), immediately adjacent to the Roman Wall (west) and Balkerne Gate (northwest), Hole in the Wall public house and Jumbo, these buildings have no visual links and are all much older, greater heritage value, recognised through their designations. The theatre is designed to stand alone as a feature in this historic setting. As such, the development can be achieved without harm to the heritage context, and with some enhancement of it available. That said, the Mercury Theatre is situated within a conservation area and is locally listed. The local list of buildings and structures was adopted by Colchester Borough Council in 2011. Although the entries contained therein are not deemed to be of national significance, they are seen as historically or architecturally important locally.
- 15.18 The angular north-western tip of the existing building is arguably the most prominent and defining feature of the Mercury Theatre. Given its ‘gateway’ position to visitors from St. Mary’s multi-storey car park across Balkerne Hill, this approach creates a significant view of the building and is a unique example of contemporary architecture in this Conservation Area. As a result of this, the functional and simple infill treatment of the ground storey helps retain the most significant feature of this building and with it, enhances its position within this historic setting. The use of glazing and resultant ‘inside-out’ qualities will provide attractive views from within, and through the building to the town wall and associated landscaping. However, conditions will secure exactly how slim-line the frame would be, how see-through the glass would be, how exactly this would be differentiated/matched to glazing above, to maintain the podium effect.
- 15.19 Appreciation of the Roman wall is enhanced by greater public access, potential for seating areas, and the views of this scheduled monument. The facing west office area fenestration appears formally ordered in keeping with

the neighbouring existing building, although through the conditioned detailing there is scope to enhance the windows further, securing the correct surrounds and depth of reveals. The use of Roman brick in the proposal, in the extension to the southern end, is a direct visual connection between old and new, whilst the use of timber provides a similarly direct connection with the surrounding woodland found to the south and stretching around to the east.

15.20 Indeed, the mass of the new production block is largely obscured by the trees. It also replaces a building that adds little value to the conservation area, where the demolition of Mercury House is of no great concern. This former house is architecturally unremarkable as a mid-1960s two-storey former vicarage and is not considered to have sufficient significance nor provides any future value. Its demolition will not detract from the special status of the conservation area.

15.21 The box office and north end infill proposals improving the quality of the public space and with it, enhance the conservation area. It continues a richness and diversity to this conservation area in a prominent location adjacent to The Municipal Water Tower a.k.a. 'Jumbo'. This is an important building whose setting will be maintained by the proposed development of the Mercury Theatre. This is also important because the relationship between St. Mary's multi-storey car park and the town centre, establishes a strong pedestrian link between the two, passing Jumbo and across the north and east of the Mercury Theatre. With this in mind, it is considered that the proposals bring some benefits to the heritage assets adjacent to the site. The creation of better public realm, particularly near the wall, and improving vistas on approach towards Jumbo, are all improvements.

Impact on the Surrounding Area (including Neighbours)

1522 As stated above, the impact on the area should be uplifting. That has beneficial consequences to surrounding heritage assets, businesses and more generally to all visitors to the area. It is good for the town. Although not much space is given to this herein, that should not hide the importance of this consideration. However, this section of the report focusses on the immediate neighbouring properties, chiefly (but not exclusively) to the north.

15.23 In the pre-application consultation undertaken by the applicants, residents are said to have welcomed the scheme, and in particular the removal of traffic from the adjacent road between the theatre and the residential uses. The windows of the neighbouring flats are close to the highway, being set just a metre or less from the boundary to the pavement, and cars do park here despite the double yellow lines (and because disabled visitors are able to do so for up to 2 hours). The cessation of vehicle movement here will remove traffic from cars, although the creation of a pedestrian area, will change the footfall, while the addition of any seating areas and tables and chairs linked to the theatre restaurant may bring some background noise. None of this raises concerns that would warrant the refusal of the application, in your officer's opinion. It is also noted that no objections have

been raised to the proposals following consultation, site notices and press adverts.

- 15.24 In terms of the Hole in the Wall public house, they have a right of access along the carriageway to be removed. However, this is used sporadically for deliveries only (there being no parking) and that provision can still be accommodated on the shared surface public realm being created to enhance the area. Highway Rights will be extinguished for parts of this area, through a s.247 highways agreement sought outside the scope of this planning application, but retaining a reversing area that (When deliveries arrive) can be used to service the pub. They were consulted on the proposals, and have not objected. The proposals herein then provide for landscaping, which will be further conditioned, to raise the level of the road surface to match the adjacent pavement from the junction opposite Jumbo, and then stretching westwards to the Balkerne gate. The area will be treated in one paved surface, primarily as a pedestrianised area, with only infrequent and short use by the public house's delivery vehicles.
- 15.25 The hedging and trees near to the adjacent flats will be retained. It may be possible to seek some additional planting, but this is very much dependent on the archaeological dig, details, and support from Historic England; so will not be known until a later date, and is conditioned to allow this.

Landscape and Trees

- 15.26 Following directly on from the above, the landscape drawings, though basic in level of specifications, are acceptable in principle. As shown in the application drawings, shared surfaces should again enhance this landmark building. There would ideally be no tarmac and the path around the building would create a continuous level access indistinguishable from the main pedestrian thoroughfares to visually encourage footfall. Indeed, the submission states:
- “The overriding intention of the immediate landscape, was to make the site more accessible and improve the level of community engagement. The improved accessibility around the building provides a more welcome outdoor space that will open the site up to public use. External seating areas around the newly formed café and bar area helps blur the line between theatre-goers and passers-by and will encourage visitors to call in for a drink or snack in the vein that many urban businesses look to operate. This informal approach to indirectly enjoying the theatre experience is part of the revised business model but also one that looks to integrate further, the Mercury Theatre within the thriving town centre.”*

- 15.27 To the west, a simple treatment of the landscape will incorporate new architectural lighting of the Roman Wall. Currently, the Roman Wall and Balcerne Gate provide an interesting backdrop that is underutilised in this location. On the route people take between the car park and town centre, by improving access and highlighting its appearance, this significant historic asset will be more accessible/visible.
- 15.28 Surrounding the southern and eastern boundaries of the Mercury Theatre, are a number of well-established trees that largely obscure the south end of the building and the former vicarage, Mercury House. Several trees to the south of the theatre, facing Church Street, have Tree Preservation Orders placed upon them as they provide an attractive boundary to the view along Church Street leading to the Arts Centre. The proposal indicate the removal of 2 trees to the southern end to allow space for access around the outside of the extension; neither of these trees are currently publicly visible and both have less amenity value than the numerous trees around them that remain. To the east, 3 trees are shown to be removed, however 2 of these do not need to be removed and the suggestion is overly cautious that they may be undermined by the development. Our Arboricultural expert is confident that they can be retained, and therefore T10 and T11 trees should be retained (conditions cater for this). That means that only the end tree of this group, T9, would be removed.

Highway Safety and Parking Provisions (including Cycling)

- 15.29 The most significant step in improving the public realm, as part of the landscape considerations above, is the introduction of shared surfaces around the Mercury Theatre. The removal of the roadway, which detracts from the quality of the outdoor space (and visually conflicts with the quality of the Town Wall), will improve the public realm by producing a pedestrianised area welcoming. This is a fundamental change, removing vehicles from this area, and changing the road network.
- 15.30 As deliveries to the pub, and refuse collection, are still needed, there remains some vehicles movement infrequently across this area. This is likely to be at non-peak hours. A turning arrangement is still necessary, although a “Y” shaped turning area can be achieved using the remaining carriageway at the bend around Jumbo, then reversing back up to the public house. This arrangement, suggested by ECC Highways, means that the positioning of tables and chairs around the northern end of the building can be achieved without obstructing safe passage of vehicles and pedestrians.

- 15.31 ECC Highways have also been proactive in offering a solution to the disabled parking mitigation. Currently, an ad-hoc parking takes place in the portecochere, with cars parked randomly nose-to-tail. This will not be possible once this area is filled in with the new café/lobby, and once the roadway has been removed. However, there is already a small private road into the site on the east, where staff currently park. This will be remodelled, with just the removal of one tree (T9) to allow a parking area for up to 5 disabled parking spaces.

Other Matters

- 15.32 There are no other matters that raise concerns that merit refusal. This includes all other material planning considerations. The scheme brings a number of other benefits which are material considerations, including increased community activities, economic generation, and employment opportunities. It raises the role of the theatre and enhances the vitality of the town centre. This is significant and should be weighted accordingly.
- 15.33 Cycle parking exists on site for staff. The provision of cycle parking will need to be enhanced as part of the scheme, but the details of this are covered by the landscape conditions to ensure that they are located suitably within that scheme in due course. Similarly, the landscape scheme will need to show areas for storage and collection of waste, but these can be achieved appropriately.
- 15.34 Contamination is a possibility, due to the filled-in reservoir in the north-west corner. The materials used to fill this in are unrecorded, but as the contaminated land officer suggests, this is unlikely to pose issues that cannot be overcome by the conditions she has suggested (if the materials are “problematic” in the first place, which is only a possibility).

16.0 Conclusion

- 16.1 To summarise, the proposal is held to wholly comply with the Development Plan and with national policy as set out in the NPPF and PPG. It will help secure the future of one of the foremost cultural assets in the wider region and therefore the scheme is a significant boost to the town. The building has been designed to complement the existing building, and enhance the area. There will need to be extensive archaeological works, but there is no fundamental harm to the heritage of the area. Public realm works will significantly uplift the area – this is an example of how this project will benefit the wider public and not just those interested in the arts.
- 16.2 This is a project that Colchester Borough Council is leading on, alongside the Mercury Theatre, and that has support and funding from the Arts Council, ECC, and other bodies too. There are no reasons to obstruct the development for planning reasons, and it is appropriate on its planning merits. Despite the constraints around the site, including scheduled ancient monuments, protected trees, listed buildings and space generally, through collaborative working a suitable scheme has been evolved and all issues have been resolved to a satisfactory degree to grant planning permission,

subject to further conditions and controls to secure more specific details based on the approved plans.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

18.0 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 to Accord With Approved Plans/AIA*

Other than to meet specific requirements of other conditions below, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PL01, PL02, PL03, PL04, PL05, PL06, PL07, PL08, PL09, PL10, PL11, PL12, PL13, PL14, PL15, PL16, PL17 Rev A, PL18, PL19 Rev C, and PL20, as well as the Arboricultural Impact Assessment dated 28th July 2017 (Ref: TPSarb6651216).

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

3. ZBD - Schedule of Types and Colours to be Submitted

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

Reason: This is a prominent site where types and colours of external materials to be used should be polite to their surroundings in order to avoid any detrimental visual impact.

4. Z00 – Specific Detailing

Prior to the erection of any new development above ground level, detailed elevation drawings and cross sections at a scale between 1:20 and 1:100 (as appropriate) shall be submitted to and agreed, in writing, by the Local Planning Authority for the following detailed design matters:

- The timber cladding edges, joins, corners and other transitions
- Any edge/join and/or integration between different external surface materials
- All entranceways and doors, including frames/surrounds and adjacent walls
- All glazing and windows, their frames, recesses and reveals, and adjacent walls
- Any lintels, cills, shutters, frames and any other surrounds
- Any banding or columns that articulate the surfaces
- Hinges and opening mechanisms for new external doors and windows
- Any rainwater goods

The development shall thereafter be carried out strictly as agreed in the approved details.

Reason: To ensure that there is a satisfactory level of fine detailing, upon which the success of the design depends, and where there is insufficient levels of information on the submitted plans.

5. Z00 - Brick Mortar Mix and Pointing Profiles

Prior to the use of any brick surface finish, details of the mortar mix and pointing profiles shall have previously been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out strictly in accordance with the approved details.

Reason: To ensure that these details are satisfactory for the prominence of the building and conservation area, where there is insufficient detail within the submitted drawings.

6. ZBD - Schedule of Types and Colours to be Submitted

Notwithstanding the approved plans, prior to any above ground works to the southern elevation of the approved development, details of a scheme to add visual interest to the upper floors external façade through fenestration, brickwork patterns, articulation, banding or changes in colour/materials, or other methods to be proposed, shall have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter take place strictly in accordance with the approved details.

Reason: This southern end elevation has a large expanse of unbroken brickwork that needs to be enhanced, but there are a number of options that could be used and that are appropriate, to ensure that this elevation is befitting of its conservation area location.

7. Z00 – Archaeology

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, dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

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

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

development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Borough Council's Core Strategy (2008) and Colchester's Adopted Guidance, Managing Archaeology in Development (2015).

8. ZFB - *Full Landscape Proposals TBA*

No works shall take place above ground level until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the first beneficial use of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Proposed finished levels or contours;
- Means of enclosure;
- Car parking layouts;
- Cycle parking;
- Refuse and recycling storage
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials;
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.);
- Retained historic landscape features;
- Proposals for restoration;
- Planting plans;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- Implementation timetables and monitoring programs.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

9. Z00 – Retention of Trees T10 and T11

Notwithstanding the details shown on the approved drawings and in the approved tree report, the trees labelled as T10 and T11 to the eastern side of the site shall be retained as part of the development.

Reason: For the avoidance of doubt as to the scope of the permission, as it is felt that the development can take place without harm being caused to these trees, which should then be retained for their group value as part of the collective sylvan feel, tree screening and soft forms of landscape enclosure on this main thoroughfare.

10.Z00 - Tree and Natural Feature Protection: Protected Area

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans, as well as T10 and T11, have been safeguarded behind protective fencing to the standard shown in Arboricultural Impact Assessment dated 28th July 2017 (Ref: TPSarb6651216). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

11.ZFS - Tree and Hedgerow Protection: General

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

12.ZFU - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

13.Z00 – Scheme of Tree Supervision

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by conditions 10 and 11 has been approved, in writing, by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. Confirmation that the scheme of supervision shall be carried out as agreed.
- g. How the scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

The development shall then take place in accordance with the approved details thereafter.

Reason: To ensure that a suitably qualified arboricultural expert oversees this development given the number and value of the trees on site, in this prominent central location of town.

14.ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

15.ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

16.ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

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

17.ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 14, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 15, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 16.

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

18.ZG3 - *Validation Certificate*

Prior to the first use of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Conditions above.

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

19.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.

20.Z00 – Disabled Parking Laid Out

The development shall not be made available for public use until such time as the disabled car parking facility has been provided in accord with the details shown in the approved plans. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

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

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2. 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.

3. INS – Materials/Timber Informative

PLEASE NOTE that timber usually suffers when subjected to moisture levels of more than 20% so the applicant should confirm that the proposed location adjacent to a wooded area would not be subject to uneven weathering, streaking or rot. Timbers that do not require preservative treatment include: Western red cedar, European larch, European oak and Douglas fir. It is suggested that these materials are explored before seeking to discharge the materials conditions attached to your permission. These woods are also more naturally resistant to insects, moisture and rot. One of these timbers should be used so that the sustainability benefits of timber can be enjoyed.

4. 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.

5. ZTM - Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631 , or via email at development.management@essexhighways.org or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.

6. ZTR - Informative on Construction Traffic Routes

PLEASE NOTE that prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence. The route should then be inspected again, after completion of the development and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Area Highway Manager may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access for vehicles accessing the application site.

The construction vehicle route to the site should be clearly signed and a strict regime of wheel washing and street cleaning should be in place.

Given the location of the site, a haul route for the delivery of large-scale plant and materials may also be required. Should this prove to be necessary, any route or routes should be agreed in advance with the LPA in consultation with the Highway Authority

7. ZTT - Informative on Change of use from Highway

PLEASE NOTE that the proposed use should not be commenced and the subject land should not be annexed from the Highway until such time as an Order has been confirmed extinguishing all Highway rights therefrom and the Applicant has established title to the land and to protect the public's right and ease of passage over the Highway

8. ZTU - Informative on Signs and/or Other Over-Sails of the Highway

PLEASE NOTE that any sign or overhang of any part of the highway maintained at public expense requires a licence under Section 177 or 178 of the Highways Act, 1980 which will incur a financial charge. The Highway Authority reserves the right under Section 152 of the Highways Act, 1980 to remove or alter any sign overhanging the highway which is considered to be an obstruction to the safe and convenient passage of the public in the highway.

9. ZTY - Informative on Tree Preservation Orders

PLEASE NOTE: This site is the subject of a Tree Preservation Order.

10. ZUI - Informative When Advertisement Consent May Be Required

PLEASE NOTE: A separate consent may be required under the Town and Country Planning (Control of Advertisement) Regulations 2007 in respect of the display of advertisements on these premises. Advice may be sought from the Local Planning Authority.

11. ZUJ - Informative on Archaeology

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

<http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

7 September 2017

Report of	Assistant Director – Policy & Corporate	Author	Andrew Tyrrell
Title	Summary of Recent Appeal Decisions		
Wards affected	All		

This report summarises recent appeal decisions received between 27 July and 21 August 2017. The full decisions are available on each of the relevant planning applications viewable on our website, or via the Planning Inspectorate site. The report ensures that the Committee remain up to date with appeal reasoning, outcomes, and trends; for future decision making.

1.0 Appeals Decisions Received

1.1 The last report to the Committee was dated 27 July 2017. Since then, excluding the Tollgate Village appeal, there have been 6 appeal decisions received at 4 different sites (there were linked appeals on two of the cases, see “Appeal(s) B” and “Appeal(s) C” below). The Tollgate decisions will be analysed in more detail in a separate report to follow in a forthcoming Committee. The appeals covered in this report are:

- A) New 2-Storey Dwelling at 1 Shelley Road
- B) Detached House, Stables and Office, Various additions to house, Removing Restrictive Condition at Fordham House Farm, Mount Bures
- C) Change of Use from Farm Buildings to Create 3 Residential Units at Crepping Hall Farm, Wakes Colne
- D) New Garage at Cavendish House, Dedham

A1. “Appeal A” Details

Site Address: 1 Shelley Road, Colchester
Outcome: Dismissed
Inspector: David Reed BSc DipTP MRTPI
Appeal Ref: APP/A1530/W/17/3172999
Application No: 162449 (Refused on 7 December 2016)
Proposal: The erection of a 2-storey, 2 bedroom, dwelling

A1.1 The original application was handled by Benjy Firth and was refused under delegated powers. The development proposed was considered to be unacceptable backland development, in the rear of a host dwelling, which was out of character with the consistent linear pattern of development nearby. The proposed layout was also considered poor, with unworkable parking, a contrived and cramped arrangement, with no real useable amenity area. The Inspector, dealing with the appeal through written representations, agreed that the main issues to be considered were the impact on the character of the area, and the future living conditions of the occupiers of the proposal.

- A1.2 On the character of the area, the Inspector concluded that both Shelley Road and Shakespeare Road were characterised by chalet bungalows in reasonably sized plots, and whilst the design of the property was similar to local homes, the subdivision of the existing plot into 2, would be out of character due to its small size; and consequently unacceptable. The Inspector also noted the lack of space for soft landscaping to the front, and that if 2 cars parked in the spaces provided they would either obstruct the front door or overhang the footpath. That would also be out of character with the local area. For those reasons the proposal “would cause significant harm”.
- A1.3 On the conditions of the future occupants, both the new garden and the donor property’s gardens would meet minimum spaces standards in Policy DP16, they did not however meet the requirements of the Council’s Backland and Infill Development SPD, which requires that any backland development has gardens that reflect the size and shape of those around it. The new gardens would be smaller, narrower, and of a different shape. The garden to the new dwelling would also be directly overlooked by the host dwellings windows, resulting in a lack of private sitting out area. This lack of privacy was contrary to Policy DP16.

B1. “Appeal(s) B” Details

Site Address: Fordham House Farm, Mount Bures

Outcome: Allowed, with the exception of the repositioned garage.

Inspector: Paul Selby BEng (Hons) MSc MRTPI

Appeal Ref: APP/A1530/W/16/3163332 and APP/A1530/W/16/3163327

Application No: 161569 and 161570 (Refused on 7 September 2016)

Proposals: (1) New detached house and farm office without complying with a condition that the house only be occupied by persons working at the related stud farm.

(2) The addition of a conservatory, dormer windows, new boundary walls, pillars and gates, and repositioned garage, and the construction of new stables.

- B1.1 The case officer for both applications was Jane Seeley, although the joint informal hearing for the appeals was overseen by Ishita Sheth. The issues of concern when, refused under delegated powers, were that the application sought to vary conditions on a house that was only originally granted permission (in the countryside) to support a small stud farm business (back in 2012). It remained necessary to demonstrate that the equestrian enterprise fully satisfied the financial and functional needs tests required by Policy H6. The submitted reports had been prepared by a company that the Council was unable to trace in order to understand their expertise and credentials and validate the robustness of the supporting argument. There were questions over the scale and consequent viability of the new enterprise, labour requirements, income, related traffic movements and other impacts upon this rural locality. The lack of clarity in the application did not allow for adequate assessment of the proposal. The proposed physical development including the stables, could then not be considered because it was not known if they were justified as development in the countryside
- B1.2 On the occupancy restriction, the Inspector noted the issues about the justification for the livery business, which is different to the current stud farm; however he considered that the application was only to vary the occupancy restriction and therefore this consideration fell outside of the appeal and application. He considered that it was not a question of whether or not the change of use was justified, but simply that it would be acceptable for a person working at either the current stud farm or any future livery and racehorse recuperation business to be acceptable (whether that use was or not). In essence, as the condition was designed to ensure that the occupiers also worked at the equestrian use, whether it was a stud farm or livery made little difference and therefore the conditions could be amended to allow for adequate control over the house occupancy being related to both current and

potential future uses. He did not accept that the related change of use would need to be justified first, before varying the condition, as that was outside of what had been applied for and would need a different application.

B1.3 On the physical works, the Inspector noted the argument that the works made the property bigger than the minimum space needed for a rural workers dwelling. However, he concluded that the original house, at 4 bedrooms, was already bigger than the sizes usually allowed in the countryside for rural workers. As such, the impact of the small additions now being proposed were not substantial. The reason for removing permitted development at the time of the original permission was said to be to protect visual amenity but the dormers, conservatory and wall proposed had no visual impact outside the site. If the real reasons for removing permitted development rights was to limit an already large house from further extension then that should have been stated at the time, and the Inspector would now only consider the reason given for the original condition.

B1.4 On the garage being repositioned, the Inspector stated in the course of the hearing that the new garage appeared to be of a different design and materials, and that there were inconsistencies' in the plans, He therefore dismissed this part of the appeal to exclude it from the permission granted for the dormers and conservatory.

C1. "Appeal(s) C" Details

Site Address: Crepping Hall Farm, Wakes Colne

Outcome: Dismissed (both)

Inspector: Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI

Appeal Refs: APP/A1530/W/17/3169803 and APP/A1530/W/17/3169805

Application No: 162579 and 162580 (Refused on 13 December 2016)

Proposal: Change of use and conversion of "redundant" farm buildings to form 3 new dwellings.

C1.1 Bruce O'Brien oversaw the applications which sought Full Permission and Listed Building Consent, which were refused under delegated powers. The appeals were dealt with via written representations. The site, Crepping Hall Farm, includes a listed building and associated buildings. A livery business is operated from the site, including stable buildings, an exercise area and yard. The proposal involved 3 separate buildings around the yard, some of which were included specifically in the listing, whilst others have protection from being "curtilage listed".

C1.2 The Listed Buildings and Conservation Areas Act requires special regard to be given to heritage assets. The buildings in question read as a unified collection of buildings, and had good visual aesthetic. Although they function separate to Crepping Hall itself, they contribute to its setting by close proximity and past relationship. Although there is a mix of residential, commercial and equestrian activities, they remain closely linked.

C1.3 While the internal works to subdivide the buildings into rooms would not affect their interest, the external changes would begin to domesticate them. Amenity areas and parking would further change their nature and would cause some harm. This harm was deemed to be less than substantial, however that then needs to be balanced against public benefit because the extra protection to heritage assets requires justification for any harm caused as set out in paragraph 134 of the NPPF.

- C1.4 Securing the long term future of the buildings would be of public benefit, and the costs that would be borne for annual maintenance did not seem unreasonable for such a property. Whilst the appellants argued that only residential use would be viable, Officers argued that there were other uses that could sustain the buildings in a more suitable manner. The Inspector agreed that the expansion of the current livery use would be the least intrusive use. Although the appellants argued that the current grazing land allowed in 2002 could not sustain more horses, there was more land available and they had not applied for permission to extend their current grazing area; so they could not rule this out as a possibility. The Inspector also highlighted that the conversion costs for an office use would be no more residential use, but would not bring the associated domestication. A light industrial use may also be achievable with less internal alteration, although this would depend on the specific use entailed. The equestrian business already used large vehicles so the roads were capable of accommodating them subject to controls over movements. In conclusion it had not been demonstrated that a residential use was the best option.
- C1.5 On the isolation of the new homes, in terms of sustainability, the Inspector highlighted the rural location, with no lighting or pavements, or speed restrictions for vehicles. This context, and the distances to nearby settlements for day to day needs, would not encourage sustainable methods of travel. Therefore, the homes would be isolated new dwellings in the countryside remote from shops and services. This would only be justified if there were special circumstances, which could include the public benefit of sustaining the listed buildings; however that was not the case herein due to the issues covered above.

D1. “Appeal D” Details

Site Address: Cavendish House, Coggeshall Road, Dedham

Outcome: Dismissed

Inspector: Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI

Appeal Ref: APP/A1530/W/17/ 3173387

Application No: 162902 (Refused on 19 January 2017)

Proposal: Attached Garage.

- D1.1 Ishita Sheth, case officer for the application and written representations appeal, refused this application under delegated powers. The main issues of concern, and considered by the Inspector, were the effect of the garage on the host property, and the surrounding area. The property is fairly new, and lies immediately abutting a gap in the settlement boundaries in Dedham. Planning permission has previously been granted at appeal to extend the domestic garden beyond the settlement boundary and into this area of countryside. However, a previous proposal for a larger/wider garage had been dismissed at appeal.
- D1.2 The Inspector stated that although the area was domestic in appearance, permitted development rights for enclosures and structures had been removed, limiting the physical objects in the “countryside part” of the site and retaining open views across the rural land. Although the garage now proposed was narrower than the previously refused garage (to the point it was questioned if a car would fit inside it), the garage would still “intrude on the openness of the grounds”. The dwelling itself was considered to be overly wide, and the addition of a garage made it appear even wider. Including, they found the garage to be out of character and harmful to the area, contrary to several quoted policies.