



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

**Item No:** 7.4

**Application:** 212888

**Applicant:** Mr D Cave

**Agent:** C Exley, Stanley Braggs

**Proposal:** Construction of three 4-bedroom detached houses, each with an integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees.

**Location:** Land between 7 and, 15 Marlowe Way, Colchester, CO3 4JP

**Ward:** Prettygate

**Officer:** Chris Harden

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Cllr Buston who raises the following concerns: that the proposal is contrary to Local Plan policies relating to open space, built design, amenity, community facilities and retention of open space and to the provisions of the NPPF (well designed places). Full comments are outlined in the consultations section of this report.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the layout, scale, form and design, and impact upon neighbouring residential amenity, highway safety and vegetation.
- 2.2 The application is subsequently recommended for approval. In summary, the site is within the settlement limits and is in a sustainable location so accords with Local Plan Policy in principle. It is considered the site can adequately accommodate the three proposed dwellings without them appearing cramped or being out of keeping with the character of the street scene. It is not considered the proposal represents overdevelopment as the sizes of each plot are comparable with other plots in the vicinity and satisfy relevant plan policies concerning private amenity space.
- 2.3 It is not considered the loss of this currently open area can justify a refusal in principle as there is adequate space for landscaping across the frontage of all plots and the scheme proposes retention of the TPO trees. The Planning Committee resolution/deliberations on the previously refused scheme did not raise an overall objection to the principle of development on the site in this respect.
- 2.4 The design, scale and form of the dwellings is considered acceptable, and the height of the dwellings has been reduced compared to the previously refused scheme. Their scale, including height and main gable proportions relate satisfactorily to the scale and form of other dwellings in the vicinity and the dwellings themselves have appropriate elements of design and detailing, including fenestration. The design revisions are therefore considered to overcome the concerns raised on the previously refused scheme to the detailed design and form of the dwellings.
- 2.5 The dwellings are also considered to be adequately spaced and set off either side boundary. Views of Lexden Manor to the rear are achievable through the gaps. There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site. There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed dwellings in terms of overbearing scale, loss of light or overlooking or in respect of noise and disturbance.

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

- 3.1 The site lies within the settlement limits and is currently partly an open grassed area with two TPO'd trees that lies within an established housing estate that dates from the late 60's early 70's. Adjacent to the site are two storey dwellings on either side and to the rear is the property known as Lexden Manor which has received permission for extension works and conversion.

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

- 4.1 The proposal is for the construction of three No. 4-bedroom detached houses, each with an integral garage, plus individual private driveways connecting to Marlowe Way. It would include the demolition of a modern brick boundary wall to Lexden Manor, which has already been partly removed. This element was permitted development. The two protected (TPO) trees at the front of the site would be retained.

### **5.0 Land Use Allocation**

- 5.1 Settlement Limits

### **6.0 Relevant Planning History**

- 6.1 210304 Demolition of brick boundary wall to Lexden Manor. Construction of three 4-bedroom detached houses, each with integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees.

Refused: *"The proposed three dwellings, by reason of their detailed design, form and scale (including being higher than the adjacent properties) would be out of keeping with and harmful to the character of the established streetscene and surroundings."*

- 6.2 210331 land adj Lexden Manor – Erection of 1 No.5 bed house. Approved & implemented.
- 6.3 192337 Conversion of Lexden Manor to create 5 flatted units. Approved
- 6.4 COL/89/1308, Conversion of the main dwelling into flats and additional cottages and apartments in the grounds. Refused. Appeal dismissed

### **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 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

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

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

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

## 7.3 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  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR2 - Built Design and Character

## 7.4 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  
DP12 Dwelling Standards  
DP14 Historic Environment Assets  
DP15 Retention of Open Space and Indoor Sports Facilities

DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

- 7.5 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

N/A

- 7.6 Neighbourhood Plan N/A

- 7.7 Submission Colchester Borough Local Plan 2017-2033:

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to undergo full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

## **5 Year Housing Land Supply**

Section 1 of the Emerging Local Plan was adopted by the Council on the 1 February 2021 and therefore carries full weight.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

Although the Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan which is still to complete examination. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements which has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings (5 x 920 + 5%).

The Council's latest published Housing Land Supply Annual Position Statement (August 2021) demonstrates a housing supply of 5,597 dwellings which equates to 5.79 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2021/2022 through to 2025/2026.

## 8 Five Year Supply Calculation

- 8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2021/2022 through to 2025/2026.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing and selected emerging allocations and windfall allowance	5597
Total number of years' worth of housing supply including emerging allocations	
Supply against SM with permissioned sites, existing allocations, windfall and selected emerging allocations	5.79

- 8.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.75 years is deliverable within this period.

The LPA's 5YHLS has been tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Backland and Infill  
Affordable Housing  
Open Space, Sport and Recreation  
Sustainable Construction  
Cycling Delivery Strategy  
Urban Place Supplement  
Sustainable Drainage Systems Design Guide  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
Myland Parish Plan AND Myland 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 Cllr Buston states:

“The Application is contrary to the following policies :

(1) CBC Policy PR 1 : Open Space : Which provides that the Council will protect and enhance (inter alia) the existing network of green links, open spaces....etc, and secure additional areas where deficiencies are identified. The proposal does not either promote or achieve this.

(2) CBC Policy UR2 : Built Design and Character : The proposed dwelling, by reason of its inappropriate design, form and scale , would be out of keeping with and harmful to the character of the established street scene and surroundings

(3) CBC Policy DP1 : Design and Amenity : The proposal represents an unacceptable impact on amenity. It does not respect or enhance the character of the site, its context or surroundings in terms of its architectural approach, particularly proportions townscape and/or landscape setting, and detailed design features. The development does not protect existing public and residential amenity or respect or enhance the landscape and other assets that contribute positively to the site or the surrounding area. This development would not positively contribute to the public realm

(4) CBC Policy DP 4 : Community Facilities: This proposal removes Community facilities by removing the amenity open space. The involvement of the local

community has not been sought in identifying the importance of local facilities.  
(5) CBC Policy DP 15 : Retention of Open Space : The proposal would result in the loss of an area important for its amenity or contribution to the green infrastructure network or to the character of the area in general. The public amenity space provides a valuable visual break in the built environment.  
(6) CBC Policy DP 16 : Open space provision : No alternative provision has been proposed in the application.  
(7) NPPF 12 : Well Designed Places : Para 130 : The removal of open and publicly accessible amenity space - used for over 50 years - will not function well or add to the overall quality of the area.”

### 8.3 Highway Authority states:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following mitigation and conditions: (precised, full in conditions section).

- Vehicular access
- No unbound materials.
- Boundary hedge shall be planted a minimum of 1m back from the highway boundary etc
- Car parking provision.
- Cycle storage
- Construction Management Plan

### 8.4 Environmental Protection state:

Should planning permission be granted Environmental Protection wish to make the following comments: suggest conditions as follows (precised, full conditions in condition section)

- Construction Method Statement
- Limits to Hours of Work
- EV Charging points

### 8.5 Colchester Cycling Campaign states:

Convenient secure cycle parking should be provided at one space per bedroom that is as convenient as the car garages  
NB The use of car garages for cycle parking is not advised because any space left over is rarely suitable. Many cycle lockers and hangars are available, c.f. Cyclehoop The Dutch commonly provide space in utility rooms.

### 8.6 Archaeologist: “report approved, no further work needed, full discharge – I had already been sent it directly by CAT.”

### 8.7 Lexden Conservation Group states: Object to the proposal:

- The Lexden Conservation Group objects to this latest revised planning application for the same reasons as the previous two applications, because the request is basically the same.



- Loss of wildlife habitat: the surrounding area is rich in wildlife with birds, bats, stag beetles, foxes and the occasional badger making their way up from Lexden Park. This strip of land formed part of a wildlife corridor from Lexden Park to the woodland at the end of Marlowe Way. This land was always assumed to be owned by the Council who maintained it for 50 years and in that respect was considered public open space. To lose it would be a great loss of amenity to the local residents and wildlife. The local area has already lost a significant number of trees and wildlife habitat due to the development within the grounds of Lexden Manor.
- The trees on this piece of land, which have TPOs, have already been reduced by the developers so they are smaller than the root system. These roots will be very close to the proposed houses and drives so would, no doubt, soon succumb to the damage caused to them by building works and future pruning.
- David Attenborough states: "It is surely our responsibility to do everything within our power to create a planet that provides a home not just for us, but for all life on Earth."
- Impact on character: Marlowe Way was designed with green open spaces which give the road its unique character. Policy DP1 provides that all development must respect and enhance the character of the site. This plan is detrimental to the character of Marlowe Way and for residents and wildlife. To lose it could set a precedent for other strips of land, not only in Marlowe Way, but in Poets Corner as well.
- Design: The proposed design is not only overcrowded but still very different in style to the other houses in Marlowe Way.
- Overdevelopment of the site: the gardens of these houses are still very small in relation to the size of the houses which also reduces the green areas for wildlife. The plans in this new application show the green open space as being the same as now but does not show the driveways of the proposed houses or that house no.3 has been moved forward.
- With new estates in Colchester being created with green areas, and the Government encouraging 'pocket parks', it is against current thinking to take away a precious green area in Poets Corner enjoyed for over 50 years by wildlife, local residents, their children and their pets.

## 8.8 Tree officer states:

### Survey and Analysis

#### 1.1 Regarding the proposed development and the Arboricultural Impact Assessment provided:

#### 1.2 I am in agreement with the survey and AIA.

#### 1.3 If the recommendations within the report are followed the impact on trees to be retained will be minimal and these trees will continue to be of value to the street scene.

1.4 It is advised that a schedule of arboricultural monitoring and site supervision is agreed prior to permission being granted such that a pre-commencement condition for this is not required.

## 2.0 Conclusion

2.1 In conclusion, I am satisfied with the arboricultural content of the proposal subject to the above.

## 3.0 Recommendation

3.1 Agreement to the landscape aspect of the application subject to condition

## 9.0 Parish Council Response

9.1 Non-Parished.

## 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.

44 letters of objection have been received which raise concerns on the following points:

- Loss of undeveloped open space. Valuable green & dog walking space.
- Green spaces important for health and well being.
- Loss of wildlife.
- Increased traffic, parking problems. Parking inadequate. (DP19).
- Opposite T junction- highway safety problems.
- Design, materials out of keeping. Too modern.
- Too close to tree and concerned about their future health. Could die.
- Appear overcrowded.
- Overdevelopment
- Other development sites left in mess.
- Clearance of site before permission granted.
- TPS report downgrades vegetation.
- CGI pictures misleading. Inaccuracies.
- Will be rubber stamped by Cttee.
- Breaching Human Rights- noise/peace.
- Contrary to DP1, DP12 & DP14- not enhance site and surroundings.
- Will set precedent for loss of other open spaces.
- Overlooking. Why so little window area to rear?
- Loss of light.

3 letters of support have been received which make the following points:

- No material objections to the development.
- Houses in same density and size as existing houses on the road/estate, whilst the building materials are not sympathetic with the overall look that is easily rectified.
- Space available was obviously intended to have 3 houses - there are 3 house numbers 'missing'.
- Residents being 'nimby' as few, if any, objected to the very large house built in the grounds of the existing Manor, which has left the Manor House with a very small garden and removed a large area which had been left to 'wild'.
- Will tidy up messy area and look so good, Marlowe Way has lovely open space as you come in, mainly used by dog walkers.
- the new build on Masefield Drive looks so good , let's all move on in 2022.

## **11.0 Parking Provision**

11.1 2 car spaces per dwelling.

## **12.0 Accessibility**

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

## **13.0 Open Space Provisions**

13.1 N/A

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

15.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team. A Unilateral Undertaking is required to secure contributions for RAMS, Community Facilities and Sport/Recreation.

## 16.0 Report

### Principle

- 16.1 As the site lies within the settlement limits the proposal should be judged on its planning merits in accordance with the hierarchical settlement elements of the adopted Local Plan policies SD1 and H1 of the adopted Local Plan and Policy SP1 of the Emerging Local Plan which aim to direct such development to the most sustainable locations.
- 16.2 Settlement policies and the NPPF indicate a presumption in favour of sustainable development (which includes this site).
- 16.3 The Council is able to demonstrate a five year housing land supply and as such paragraph 11(d) of the NPPF is not engaged.

### Layout, Loss of open space, Design and Impact on the Surrounding Area

- 16.4 With regard to the planning merits of the proposal, it should be noted that the Planning Committee at the time of the previous refusal (210304) decided to refuse the proposal on the design, scale and form of the dwellings being harmful to the character of the street scene. It did not refuse the scheme on the grounds of the loss of the open space itself or the principle of residential development on the site. It is considered that this revised proposal now represents an acceptable layout that is in keeping with the character of the area and does not represent an overdevelopment of the site. Again, the positioning and layout of the three dwellings is similar to the density of other development in the vicinity and garden sizes comply with and indeed exceed the standards outlined in Policy DP16 (eLP DM19). The dwellings have been designed and positioned so that there will be visible gaps between the dwellings and between the side boundaries so the proposal will not appear cramped or represent an overdevelopment. Glimpses of Lexden Manor beyond will also be possible. It should be noted that Lexden Manor is not Listed nor Locally Listed and it is not considered that the proposal could be refused on the grounds of the proposal's impact upon its setting, particularly having regard to the presumption in favour of sustainable development embodied in the NPPF.
- 16.5 As with the previously refused scheme, there will clearly be some loss of open space although there will still be significant grassed areas retained at the front of the site, punctuated by the driveways. The two TPO trees at the front will also be retained and protected. A condition to ensure the front areas are not fenced off will also be applied and so the site would retain a significant element of open, green spaciousness. It is not considered that the existing open space is of such significance in the street scene in terms of its amenity value or contribution to the character of the area that would warrant its retention in its entirety. The loss of this open space did not form part of the previous refusal reason as the Planning Committee overall did not object in principle to its development. The proposal would therefore not conflict with Policies DP1 and DP15 (eLP Policies SP7 and DM15) in this respect.

- 16.6 Consideration of the design, scale and form of the dwellings needs particular care given that they are somewhat visually different from the designs of the surrounding properties. Overall, the dwellings are considered acceptable in this respect. The height of the dwellings has been reduced compared to the previous scheme so that the new dwellings would be the same height as the existing dwellings either side of the plot. One of the dwellings has a gable facing the road and the other too have front facades and this is considered to give the dwellings an appropriate level of variety. Gable widths have also been narrowed during this submission so that they are similar to gable widths of existing dwellings in the vicinity.
- 16.7 The dwellings are considered to have their own contemporary detailing and styling whilst still relating well to the overall character and scale of existing dwellings on this part of the estate. With the use of high quality materials, it considered that these dwellings would represent good design that would not detract from the character of the street scene and surroundings. The precise details of materials can be conditioned and there is the potential to introduce a little variety.
- 16.8 Overall, in terms of layout, design and impact on surroundings the proposal it is considered the proposal would therefore comply with Policy UR2 (eLP SP7) of the Local Plan Core Strategy which provides that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.
- 16.9 The proposal is considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout. Policy DM15 of the emerging Local Plan has similar provisions.
- 16.10 The proposal is considered to comply with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide. It is also considered to comply with the revised NPPF section 12 which promotes well-designed places.
- 16.11 It should be noted that if the scheme is implemented, the previously approved scheme for the conversion of Lexden Manor to flats (192337) could not be implemented as the sites overlap and the required communal garden could not be provided for the flats. However, it is understood that it is the approved dwelling within the grounds (210331) that is being implemented.

Garden space:

- 16.12 Adequate amenity space for the new dwellings has been shown to be provided in accordance with Policy DP16 (eLP DM19). Indeed, garden space compares favourably with neighbouring properties. Policy DP16 (eLP DM19) provides that for dwellings with four or more bedrooms, a minimum of 100m<sup>2</sup> should be provided and in this case the dwellings are provided with over 100m<sup>2</sup> each (ranging from 136-150m<sup>2</sup>) which further emphasises that this is not an overdevelopment of the site.

Impact on Neighbour Amenities:

- 16.13 It is not considered there would be a significant impact upon neighbouring residential amenity from the proposal. The dwellings are positioned far enough from the side boundaries of neighbouring properties to avoid an overbearing impact. The Council policy sets out that a 45-degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.14 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached, and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.15 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. The 1<sup>st</sup> floor windows on the side elevation of plot 3 would just face the blank gable of the neighbouring property rather than look into private amenity space. With regard to 1<sup>st</sup> floor openings on the side elevation of plot 1 a condition can be applied to ensure that openings are obscure glazed and non-opening where they are not above 1.7 m above floor level. These serve a landing and bathroom. The same condition can be applied to the rear 1<sup>st</sup> floor openings on Plot 1-3 plot 3 (which have been minimised in any case) in order to avoid overlooking the amenity space of Lexden Manor and its rear windows. The residential amenity of the occupants of the new dwellings would still be acceptable with the application of the obscure glazing condition at 1.7 m.
- 16.16 The objections received regarding construction works are noted and appropriate conditions can be applied to minimise disruption including a construction management plan and control over hours of working. Environmental Protection have made no objections.
- 16.17 The proposal would thus comply with Policy UR2 (better places for residents and visitors expected) and DP1 which provides that all development should avoid unacceptable impacts upon amenity, including the protection of residential amenity with regard to noise and disturbance and overlooking. Policy DM15 of the emerging Local Plan has similar provisions.

#### Highway Matters:

- 16.18 The Highway Authority have raised no objection to the scheme subject to conditions which can be applied. The proposal complies with Policy DP19 (eLP DM22), with space for 2 car parking spaces for each dwelling.
- 16.19 Appropriate visibility splays in either direction have been provided for the access points and the lamp post at the front of plot 3 is avoided. The neighbour's concerns on highway safety and parking issues have been noted. However, given the lack of objection by the Highway Authority it is not considered the proposal could be refused on the grounds of intensification of vehicular activity in this location which it is noted is opposite a junction. The Highway Authority can be advised of the request that was previously made concerning the possible introduction of double yellow lines and it will be the decision of the Highway Authority to determine whether this is required.
- 16.20 The Essex Design Guide provides that "The overarching aim is to ensure that in new residential and mixed-use environments, the circulation and movement of people is pleasant, convenient, safe, responds to local context and combines with good place-making. Motorised vehicle movement must efficiently service development without predominating..." It is considered that the proposal conforms with these aims of the Essex Design Guide. It would also not cause a severe impact upon the Highway network, as referred to in the NPPF (para.111).
- 16.21 A Construction Management Plan condition can be applied. In order to minimise noise, disturbance and highway issues. An informative can also be applied to bring to the applicant's attention that grassed areas and verges in the vicinity should not be damaged.

#### Impact Upon Vegetation:

- 16.22 The proposal is considered acceptable in terms of its relationship to the two TPO trees at the front of the site. The driveways are sited far enough away from the root protection areas and the dwellings positioned to avoid future pressure for removal/ trimming of the trees. The Tree officer has confirmed agreement with the survey and AIA and states that if the recommendations within the report are followed the impact on trees to be retained will be minimal and "these trees will continue to be of value to the street scene." It is considered that a condition can be applied to secure a schedule of arboricultural monitoring and site supervision.
- 16.23 It is also concluded within the AIA that owing to the nature of the Raywood Ash trees it is "likely that future cyclical works will be required on a 6- 8-year cycle depending on vigour to maintain the structure of the tree" due to inherent structural weakness caused by weak and tight branch unions. Accordingly it is recommended that the contents of the AIA are made an approved document. Overall given the above, it is considered that the impact upon the TPO trees will be very limited and that they can be satisfactorily retained within this

development. The proposal is therefore considered to comply with Policy DP1 in this respect which aims to respect such natural assets.

- 16.24 No other trees are affected by this development. Some unprotected vegetation was removed previously outside this planning application.

Wildlife issues:

- 16.25 As the site is not overgrown and no older or timber framed buildings would be demolished it is not considered that a phase 1 Ecological survey is required. Whilst the comments about impact upon wildlife are noted it is not considered there is a justification to refuse the proposal in this respect given the nature of the site and its surroundings, particularly as the site is a mixture of existing garden land and maintained space. Accordingly, it is not considered the scheme is contrary to policy DP21 which aims to protect and enhance biodiversity. Policy ENV 1 of the emerging Local Plan has similar provisions.

- 16.26 A RAMS wildlife payment has been referenced in the completed Unilateral Undertaking as new dwellings would be created in a Zone of Influence for coastal sites subject to national designations as required by the Habitat Regulations to mitigate any adverse impacts. This payment will need to be made prior to commencement of development. An appropriate Habitat Regulation assessment has been undertaken.

Unilateral Undertaking:

- 16.27 A Unilateral Undertaking is required to be completed in order to secure the required SPD contributions for community facilities and sport & recreation facilities and this has been completed.

Environmental and Carbon Implications

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



## Other

- 16.29 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. The Council's archaeologist is happy with the submitted archaeological investigation report. (Policy DP14 & eLP DM16). The site is not within a flood zone so there is no flood risk issue (DP20). A surface water drainage condition can be applied.

## **17.0 Conclusion**

- 17.1 In conclusion the proposal is considered acceptable for the following reasons:
- The site is within the settlement limits and is in a sustainable location so accords with adopted and emerging Local Plan Policy.
  - The site can adequately accommodate the three proposed dwellings without them appearing cramped or being out of keeping with the character of the street scene.
  - It is not considered the loss of this currently partly open area can justify a refusal on grounds of streetscene and there is space for frontage landscaping on the frontage of the development and the scheme secures the retention of the TPO trees. The Planning Committee resolution/deliberations on the previously refused scheme did not raise an objection in principle of development on the site in this respect.
  - It is not considered the proposal represents overdevelopment as the sizes of each site are comparable with other plots in the vicinity.
  - The design, scale and form of the dwellings is considered acceptable and overcomes the concerns raised on the previously refused scheme. location. Their scale, including height relates satisfactorily to the scale of other dwellings in the vicinity. The main gables relate satisfactorily to the gable widths of other dwellings in the vicinity and the dwellings themselves have appropriate elements of design detailing, including fenestration.
  - The dwellings are adequately spaced and set off each side boundary. Views of Lexden Manor to the rear are achievable through the gaps.
  - There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site.
  - There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed dwellings in terms of overbearing, loss of light or overlooking or in respect of noise and disturbance.
  - No vegetation of significance would be affected and the TPO trees can be adequately protected.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions

### **1. ZAA - Time Limit for Full Permissions**

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

### **2. ZAM – Development In accordance with Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 6817/1103B, 1105A, 1108A, 1109A, 1203B, 1204, 1605, 1606, 1607, 1608, 1609 Rec'd 17.2.22, Arboricultural Impact Assessment (which shall be complied with throughout the lifetime of the development works) Rec'd 29.10.21.

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

### **3. ZBC- Materials To Be Agreed**

Notwithstanding the submitted details, no external facing or roofing materials shall be used in the construction of the development hereby permitted (including frontage surfacing) 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.

### **4. Non Standard Condition- Vehicular Access**

Prior to first occupation of the proposed development, each of the proposed vehicular accesses shall be constructed at right angles to the highway boundary and to a width of 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway.

### **5. Non Standard Condition - Visibility Splays**

Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

#### **6.Non Standard Condition - Parking/Turning Area**

The development shall not be occupied until such time as the car parking areas for each dwelling, indicated on the revised drawings has been hard surfaced and sealed. 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 thereafter.

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

#### **7.Non Standard condition - Cycle storage.**

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that 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 within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

#### **8.Non Standard Condition- Travel Information Packs.**

Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

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

#### **9.Non Standard condition- No Unbound Materials**

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

#### **10. ZPA Construction Method Statement**

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

details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative

displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control the emission of dust and dirt during construction;  
and  
a scheme for recycling/disposing of waste resulting from demolition  
and construction works.

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

### **11. Non Standard Condition - Construction and Demolition**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

### **12. Non Standard Condition - Refuse and Recycling**

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

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

### **13. ZFI- Tree or shrub planting**

The development hereby permitted shall not be occupied until details  
of tree and/or shrub planting and an implementation timetable have  
been submitted to and approved, in writing, by the Local Planning  
Authority. This planting shall be maintained for at least five years  
following contractual practical completion of the approved  
development. In the event that trees and/or plants die, are removed,  
destroyed, or in the opinion of the Local Planning Authority fail to  
thrive or are otherwise defective during such a period, they shall be  
replaced during the first planting season thereafter to specifications  
agreed in writing with the Local Planning Authority.

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

#### **14. Z00 – Electric Charging Points**

Prior to first occupation of the dwellings, one electric vehicle charging point shall be provided for each dwelling and thereafter retained as such.

Reason: To encourage the use of sustainable transport.

#### **15. ZDF- Removal of PD- Obscure Glazing.**

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the 1<sup>st</sup> floor windows in the West side elevation of plot 1 and the rear first floor windows of plots 1-3 shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity both to a level a minimum of 1.7 m above floor level before the development hereby permitted is first occupied and all 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.

#### **16.ZCL- Surface Water Drainage**

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

Reason: To minimise the risk of flooding.

#### **17. ZDD- Removal of RD Rights-**

Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no additions, roof alterations, outbuildings or enclosures or other structures (the latter that are forward of the houses hereby approved) shall be erected except in accordance with drawings showing the design and siting of such structures/alterations which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: In the interests of avoiding an overdevelopment of the site preserving the open character of the front of the site.

#### **18. Arboricultural Monitoring**

Prior to commencement of development, precise details of a schedule of arboricultural monitoring and site supervision shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall thereafter be complied with in their entirety.

Reason: In the interests of protecting the amenity value provided by the trees on the site.

## 19.0 Informatives

19.1 The following informatives are also recommended:

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

2. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 – Development Management  
Essex Highways Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
Essex  
CO7 7LT

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

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

### **5.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.

**6. \*\*The applicant is advised to ensure that existing verges and grassed areas in the vicinity of the site should not be damaged by vehicles associated with the construction works hereby approved.\*\***

