



**Application:** 190952  
**Applicant:** Mr Craig Huber  
**Agent:** Mr Jonathan Bell  
**Proposal:** Construction of 4no. Detached Dwellings, 2no. Detached  
 Cart Lodges and New Access  
**Location:** 235 London Road, Stanway, Colchester, CO3 8PB  
**Ward:** Marks Tey & Layer  
**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 the proposal is a Departure from the Local Plan as the site lies outside the defined settlement limits in the adopted local plan and proposes four new dwellings.

## 2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development, including whether a Departure to the Local Plan can be justified, and also whether the scheme is acceptable in terms of layout, design, residential amenity, highway safety and impact on the setting or nearby Listed Buildings. The impact upon trees and vegetation and wildlife also needs to be considered.
- 2.2 The application is subsequently recommended for approval. In terms of principle, whilst the site lies outside the settlement boundary, it is in very close proximity to the adopted settlement boundary. It is also close to a wide range of facilities and services, and highly accessible on foot, cycle and by public transport. The site is not isolated and would have good accessibility and is thus a sustainable location. Accordingly, on balance it is considered that a Departure to the Development Plan is justified as the proposal represents sustainable development. The site is in a highly sustainable location and would conform with the presumption in favour of sustainable development outlined in the NPPF. There is also the public benefit of providing additional housing to be included in the planning balance. It is therefore considered that the principle of the proposal can be accepted and that the application should be considered on its planning merits.
- 2.3 With regard to the planning merits of the proposal it is considered that the layout, design, scale and form of the proposal is acceptable, with the new Edwardian style dwellings relating satisfactorily to the character of the existing host dwelling and street scene. It is also considered there would not be a material impact upon the setting of nearby Listed Buildings, including the Grade II\* dwelling opposite, and that any such impact would be minor and less than substantial. Any harm would be outweighed by the public benefits of new homes in a sustainable location.
- 2.4 It is not considered that there would be any significant impact upon neighbouring residential amenity, highway safety or wildlife. The trees and vegetation within the site that is to be removed has been assessed as low quality and there is an opportunity for some replacement planting to mitigate any loss.

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

- 3.1 The site is located to the South of London Road and incorporates the side garden land set either side of a detached, red bricked Edwardian dwelling number 235. The site is essentially infill development located between established existing residential linear development fronting London Road and a pre-school. Opposite the site is a grade II\* listed dwelling known as 'Catchbells'.
- 3.2 There is a frontage boundary hedgerow along the garden to No.235 and some trees and vegetation within the site.

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

- 4.1 The proposal is for the construction of 4 detached dwellings in red brick and slate and in an Edwardian style. The dwellings will be set back from the road

with two either side of No.235. It is proposed to use the existing vehicular access to serve the existing dwelling and the proposed two dwellings to the West. A new access is would be provided to serve the new dwellings to the East. Plots 1 and 4 at either end of the site would have a single garage set in front of their respective dwellings.

- 4.2 It is proposed to retain as much existing landscaping and hedgerows as possible, particularly on the boundaries although there will inevitably be some tree and vegetation loss within the site. An arboricultural impact assessment has been submitted with the application.

## **5.0 Land Use Allocation**

- 5.1 Unallocated. Garden land.

## **6.0 Relevant Planning History**

- 6.1 None of recent of relevance.

## **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  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR2 - Built Design and Character
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:  
DP1 Design and Amenity  
DP12 Dwelling Standards  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

7.4 This is not an allocated site so the Site Allocations policies (adopted 2010) are not relevant to this application.

7.5 The Stanway Joint Design Statement and Parish Plan is applicable.

7.6 Submission Colchester Borough Local Plan 2017-2033:  
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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.

7.7 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  
Street Services Delivery Strategy  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
Stanway Joint Design Statement and Parish Plan

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

1 Prior to the first occupation of the proposed dwellings, both the proposed vehicular access shall be constructed or reconstructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

2 Prior to the proposed access being brought into use, minimum vehicular visibility splays of 43m by 2.4m by 43m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

3 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

4 The development shall not be occupied until such time as the car parking and turning areas, has been provided in accord with the details shown in Drawing Numbered 2018-211-002. 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.

5 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) 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. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

6 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 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 within the site which shall be maintained free from obstruction and retained thereafter.

### 8.3 The Council's Archaeologist states:

This proposed development site is located in an area of archaeological interest, recorded in the Historic Environment Record, close to the line of a Roman road (HER Monument no. MCC8754). Consequently, there is high potential for encountering below-ground archaeological remains at this location. Any groundworks relating to the proposed development have the potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 199), 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.

The following archaeological condition (**Z00**) is recommended:

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....”

#### 8.4 Environmental Protection state:

There does not appear to be any land contamination information included on the planning file. Since the proposed development would be vulnerable to any contamination (if present), but given that Environmental Protection are unaware of any potential sources of unacceptable contamination at this time, should this application be approved, we would recommend inclusion of the following precautionary condition:

##### **Reporting of Unexpected Contamination**

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not recommence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. 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 – No information on contamination risks was supplied in support of this application and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

#### 8.5 Tree Officer states:

“Regarding the proposed development and the AIA provided, I am in agreement with the report provided. In conclusion, I am satisfied with the arboricultural content of the proposal. Make the AIA an approved document.”

### **9.0 Parish Council Response**

- 9.1 The Parish Council have stated that Stanway Parish Council OBJECTS to this proposal. The site will be overdeveloped, there is a public footpath / bridle way in the building area which will be compromised, the destruction of natural woodland and the existing road access should be shared.

### **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. There have been no objections received.

## **11.0 Parking Provision**

11.1 8 spaces to serve the 4 new dwellings.

## **12.0 Accessibility**

12.1 In accordance with Policy DP17 it is considered that the development has the potential to provide the required accessibility under the Equalities Act.

## **13.0 Open Space Provisions**

13.1 Not applicable.

## **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.

## **14.0 Planning Obligations**

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

## **16.0 Report**

### Principle

16.1 In terms of the principle of the application, the proposal has been advertised as a Departure to Local Plan policy as it involves new dwellings beyond the defined settlement limits. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

16.2 The updated National Planning Policy Framework (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.

16.3 The NPPF requires that development be sustainable and that any adverse impacts do not outweigh the public benefits for any proposal to be acceptable in principle. Paragraph 8 of the NPPF sets out three dimensions for sustainable development, economic, social and environmental:

a) “an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations;  
and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy”.

16.4 The NPPF states, in Paragraph 11 (and which is reiterated under Policy SD1), that planning decisions should apply a presumption in favour of sustainable development. In this regard, the proposal should be considered in accordance with the Development Plan unless the most important policies for determining this proposal are out-of-date, and that would include a situation where the local planning authority could not demonstrate a five-year supply of deliverable housing sites.

16.5 The Council is currently able to demonstrate a five-year supply of deliverable housing sites and considers that the development plan is up-to-date. This proposal should, therefore, be considered in accordance with the Development Plan unless material considerations indicate otherwise.

16.6 Local Plan Policy SD1 identifies that;

*“Throughout the borough, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy below and the Key Diagrams. Development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations and previously developed land (PDL). Proposals should seek to promote sustainability by minimising and/or mitigating pressure on the natural, built and historic environment, utilities and infrastructure, and areas at risk of flooding”.*

16.7 As outlined earlier, the site lies outside the defined settlement boundary but only by approximately 125 metres. It is in a very accessible location close to a number of facilities and services. It is also in close proximity to other dwellings. Accordingly, the site cannot be considered to be isolated in respect of the provisions of paragraph 79 of the NPPF, which seeks to prevent new housing in isolated locations other than in special circumstances. As the site cannot be considered to be isolated in that way, any application made on this



site would not necessarily need to demonstrate those special circumstances directly.

- 16.8 In principle, therefore, the site is outside the settlement boundary where the proposal would conflict with the aims of policy SD1. Policy ENV 1 also aims to protect unallocated sites outside settlement boundaries. However, in considering the sustainability and accessibility of a site, the NPPF does not advocate an approach that relates solely to whether a site is inside or outside a settlement boundary and takes a more holistic view on such matters. It is considered, therefore, that in this instance, due to the accessibility of the site and the proximity to the settlement boundary, that support can be offered to the principle of this proposal as an exception to the Development Plan. The application site comprises an existing domestic garden and would not extend development into open countryside being within an area of linear development fronting London Road.
- 16.9 To emphasise how sustainable the site and to further justify the Departure from policy it should be noted that there is a footway immediately outside of the site and a bus stop directly opposite on the other side of London Road. The site is within reasonable walking distance of a good range of facilities and services, including (but not limited to) schools, public houses, the business park, supermarkets, fast food establishments and churches.
- 16.10 The site also has good transport links, being on the main road and bus route to Colchester to the East and Marks Tey/Witham/Chelmsford to the West plus links to the A12. Being positioned within very close proximity to a designated bus stop which ensures sustainable travel to both Colchester, Chelmsford and all amenities.
- 16.11 In addition on the opposite side of the road further to the East in quite close proximity to this application site is an allocated housing site that is under development.
- 16.11 Accordingly, overall and on balance it is considered that a Departure to the Development Plan is justified. The site is in a highly sustainable location, only just outside the settlement limits and the presumption in favour of sustainable development outlined in the NPPF would be complied with. There is also the public benefit of providing additional housing. It is therefore considered that the principle of the proposal can be accepted and that the application should be considered on its planning merits.

#### Layout, Design, Scale and Form

- 16.12 Policies UR2 and DP1 require development to be of a high quality design that respects local distinctiveness, enhancing the character and appearance of the Borough. DP1 states;

*“All development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability”.*

DP12 states; *“Residential development will be guided by high standards for design, construction and layout”*.

- 16.13 In terms of the layout of the proposal, it is considered that the site is large enough to be able to accommodate the 4 new dwellings without the site appearing cramped or overdeveloped. There would still be some space between the dwellings and the boundaries, including an intervening gap of 4 metres to the West of No.235, before the single storey element of plot 2. There is also considerable space at the front of the site and the existing building line is respected. There is also room to retain boundary vegetation.
- 16.14 In terms of the design, scale and form of the proposal, the Edwardian style of the dwellings respects the character of the street scene, adhering to an architectural style of good design and high quality architecture. The height of the dwellings also relates to the existing host dwelling and the dwellings have been designed to reflect the Edwardian period and character of No.235 with red brickwork, stones window cills and sash windows. The proposed dwellings will also have a stock brick banding pattern to further relate to the character of the site and No.235.
- 16.15 The garaging to the front of the site also gives a sense of enclosure and the garages would be partly screened with views filtered by the retained vegetation, which would reduce their prominence. They would have a relatively traditional appearance, with black weatherboarding.
- 16.16 Whilst there would inevitably be an impact upon the setting of No.235, which is an attractive Edwardian dwelling and potentially a non-designated heritage asset, this impact is considered acceptable on balance owing to the high quality design, scale and form of the proposal. Accordingly, overall it is considered that the layout, design, scale and form of the proposal respects the character of the site and its surroundings in terms of architectural approach and its townscape setting and would therefore comply with Policy DP1. Similarly the proposal would accord with Paragraph 127 of the NPPF which attaches great importance to the design of the built environment, stating that good design is a key aspect of sustainable development.

#### Impact upon the setting of nearby Listed Buildings

- 16.17 The dwelling opposite the site is a grade II\* Listed house known as ‘Catchbells’ and there is also the Grade II Listed St Albright Church, situated further along the London Road to the West of the site and so the impact upon the setting of these Listed Building needs to be carefully considered. A Heritage Assessment has been submitted with the application.
- 16.18 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. The relevant adopted Local Plan policies are CS ENV1 and DP14. Policy DP14 provides that development will not be permitted that will adversely affect the setting of a Listed building.

16.19 Paragraph 194 of the NPPF (2018) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 195 and 196 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, then this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

16.20 It is considered that the works proposed within this application would have a very minor impact upon the wider setting of the listed buildings in terms of the consolidation of the development pattern along the frontage to London Road. This very minor harm would constitute less than substantial harm with regard to the impact upon the setting of Listed Buildings. The Grade II\* Listed Catchbells, whilst opposite, is set back over 20 metres from the road frontage and is thus some distance from the site. Catchbells retains a separate setting in its own right by being separated from the application site by London Road and a large amount of frontage screening consisting of mature hedgerows and trees. The application site makes no direct positive contribution to the significance of this listed building otherwise than in terms of the wider semi-rural aspect. Whilst there will be some impact upon its setting owing to the development of a currently spacious, vegetated site opposite, this impact is not considered so significant as to warrant a refusal. It is not considered the setting, character or significance of Catchbells would be materially adversely affected to a significant degree and it is considered there would be less than substantial harm in terms of impact upon setting, character or significance. The NPPF requires that this harm needs to be balanced against the public benefits identified with the development in terms of the provision of 4 additional houses in an accessible location.

16.21 It is considered there would not be any significant or material impact upon the setting of St Albrights Church further down the road to the West owing to its distance and visual separation from the site and the existence of long established intervening buildings.

16.22 Overall, it is therefore considered that the proposal meets the requirements of the NPPF in particular paragraphs 193, 195 and 196 and does not contravene the provisions of adopted Development Policy DP1.

#### Impact upon neighbouring residential amenity

16.23 The proposed dwellings would be located far enough from neighbouring dwellings either side to avoid having an overbearing impact on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.

16.24 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 objective standards for assessing this issue as set out in the Essex Design Guide.

- 16.25 Additionally, subject to the first floor bathroom and landing windows on the side elevations being obscure glazed and non-opening to a height of 1.7 m above floor level, the proposal does not include any new windows at first floor level that could offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas. The rear windows would mainly look towards their own rear gardens and there is some screening from vegetation that helps to avoid any significant overlooking of neighbouring private amenity areas.
- 16.26 Vehicular manoeuvring areas are far enough away from neighbouring dwellings to avoid any significant noise and disturbance issues. Given the proximity to London Road, it is not considered that there would be any loss of tranquillity as a result.
- 16.27 The proposal would thus accord with Policy DP1 which provides that development should protect existing public and residential amenity particularly with regard to privacy, overlooking, noise and disturbance.

#### Impact Upon Trees and Vegetation

- 16.28 The submitted Arboricultural Impact Assessment (AIA) states that to implement this development the following tree surgery works will be required: Trees to be removed: G1, G3, G4, T4, T8 & T9.
- 16.29 These trees have been assessed as being of low quality and the Council's Tree Officer agrees with the conclusions of the AIA. The trees and vegetation to be removed lie mainly within the body of the site and partly on the side boundary. It is accordingly concluded that there are no objections to the loss of these trees. There is scope for some replacement planting and trees, and vegetation at the front and rear of the site can be retained and enhanced as part of a condition of a planning consent. The trees to be retained will be protected in accordance with the tree protection method statement provided.
- 16.30 Protective fencing will be installed to prevent access into the protected areas, where the Root Protection Area of trees off site slightly encroaches into the site. These trees to be retained can be adequately protected from construction pressures by implementing and adhering to the protection measures installed.
- 16.31 Accordingly, subject to appropriate protection for boundary trees and some replacement planting, it is not considered the loss of some trees would significantly undermine the character or biodiversity of the area and it is concluded that the proposal would protect the landscape subject to conditions.

#### Highways and Parking issues

- 16.32 It is considered that adequate visibility splays can be provided from both access points, including the existing subject to compliance with the condition suggested by the Highway Authority. Some trimming of frontage vegetation would be

required but fortunately there is a small verge and also a footpath in front of this vegetation which will limit the extent of vegetation required to be removed.

- 16.33 There is adequate space within the site to provide two parking spaces for each property at 2.9 m x 5.5 m each plus a turning area and garaging so the proposal will fully accord with Policy DP19.
- 16.34 No objections have been received from the Highway Authority so the scheme overall is considered acceptable from a highway safety point of view.

#### Other matters

- 16.35 Adequate private amenity space has been provided for the new dwellings and retained for the existing dwelling. Policy DP16 provides that 60m<sup>2</sup> should be provided for 3 bedroom dwellings and 100m<sup>2</sup> for 4 bedroom dwellings and these standards have been met for each dwelling proposed.
- 16.36 It is not considered that an objection could be sustained on the grounds of impact upon wildlife. The site is a domestic garden and not particularly overgrown to any significant degree. It is therefore unlikely there would be a significant impact upon species such as reptiles, bats, newts and birds. The proposal therefore accords with policy DP21 which aims to conserve or enhance biodiversity. The coastal habitat mitigation off site RAMS payment will need to be paid for four extra dwellings and this is £122.30 per dwelling. Permission would not be issued until the requisite payment is received.
- 16.37 With regard to archaeology, a condition will need to be applied stating that “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.” This will ensure adequate recording of any archaeology on site and the proposal will then comply with Policy DP14 which aims to ensure adequate protection/recording of archaeology.
- 16.38 The public footpath opposite is not affected.
- 16.39 Regard has been had to the Stanway Village Design Statement and it is acknowledged that the site is beyond the settlement limits but a Departure is considered to be justified for the reasons set out above.

### **17.0 Conclusion**

- 17.1 To summarise, in terms of principle, whilst the site lies outside the settlement boundary, it is located very close to it and in close proximity to a wide range of facilities and services, and their accessibility on foot, by cycle and by public transport, identifies that this site is not isolated and would have good accessibility. Accordingly, on balance it is considered that a Departure to the Development Plan is justified as the proposal represents sustainable development. The site is in a highly sustainable location and the presumption in favour of sustainable development outlined in the NPPF would be complied

with. There is also the public benefit of providing additional housing. It is therefore considered that the principle of the proposal can be accepted and that the application should be considered on its planning merits.

17.2 With regard to the planning merits of the proposal it is considered that the layout, design, scale and form of the proposal is acceptable, with the new Edwardian style dwellings relating satisfactorily to the character of the existing host dwelling and street scene. It is also considered there would not be a significant adverse impact upon the setting of nearby Listed Buildings, including the Grade II\* dwelling opposite, and that any such impact would be less than substantial and outweighed by the public benefits identified..

17.3 It is not considered that there would be any significant impact upon neighbouring residential amenity, highway safety or wildlife. The trees and vegetation within the site that are to be removed have been assessed as low quality and there is an opportunity for some replacement planting.

17.4 With regard to potential contamination of the land Environmental Protection have confirmed that they are unaware of any potential sources of unacceptable contamination at this time. Accordingly a precautionary condition is recommended relating to unexpected contamination.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to prior receipt of the RAMS payment and 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:2018-211-001, 002, 003,010, 011,020, 021,040,041,050, 060, tree protection plan and AIA received 16.4.19.

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 external facing or roofing materials, or frontage hard surfaces 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.

#### **4. Z00 – Vehicular Access**

Prior to the first occupation of the proposed dwellings, both the proposed vehicular access shall be constructed or reconstructed to a width of 5.5m 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 all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

#### **5. Z00- Visibility Splays**

Prior to the proposed access being brought into use, minimum vehicular visibility splays of 43m by 2.4m by 43m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

#### **6. Z00- No Unbound Material**

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

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

#### **7. Z00 – Car Parking and Turning**

The development shall not be occupied until such time as the car parking (each space a minimum of 2.9 m x 5.5 m) and turning areas, has been provided in accord with the details shown in Drawing Numbered 2018-211-002. 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.

#### **8. Z00 – Construction Method Statement**

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) 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. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

#### **9. Z00 – Archaeological Programme of Work**

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 Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

#### **10.Z00 - Reporting of Unexpected Contamination**

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not recommence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. 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 – No information on contamination risks was supplied in support of this application and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

#### **11.Z00 – Tree or Shrub Planting**

The development hereby permitted shall not be occupied until details of



tree and/or shrub planting and an implementation timetable (which shall include retention of the rear hedge height to a minimum of 2.5m and infilling of gaps in the frontage hedge) 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.

## **12.ZFS – Tree and Hedgerow Protection**

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard and submitted AIA. 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.

## **13.ZDF - Remove 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 first floor windows in the side elevations of the dwellings hereby approved shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity up to a minimum height of 1.7 m above floor level before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

## **14. ZFK- Small scale Boundary Treatment**

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

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

### **15.ZMR – External Joinery Details**

No works shall commence on site until details of all new external WINDOW AND DOOR JOINERY have been submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall thereafter be carried out in accordance with the approved details.

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

### **16. Removal of PD for All Residential Extensions & Outbuildings**

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

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

### **17. Removal of PD for Fences/Walls**

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

## **19.1 Informatives**

19.1 The following informatives are also recommended:

### **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.

Highway Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

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

### **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.

### **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.

### **WA1 Positivity Statement**

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