

Planning Committee

Town Hall, Colchester
25 April 2013 at 6.00pm

This committee deals with

planning applications, planning enforcement, public rights of way and certain highway matters.

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

Information for Members of the Public

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Material Planning Considerations

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

The following approach should be taken:

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

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

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

- Planning policies, including the NPPF and Colchester’s own Local Plan documents
- Government guidance, case law, appeal decisions, planning history, “fallback” positions
- Design, scale, bulk, mass, appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations such as archaeology, listed buildings or a conservation areas
- Environmental issues such as impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism
- Social issues such as affordable housing, accessibility, inclusion, education, recreation
- The ability to use planning conditions or obligations to overcome concerns

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

- land ownership issues including private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses
- matters specifically controlled through other legislation
- unless they are “exceptional”, personal circumstances, including hardship

Strong opposition to a particular proposal is a common feature of the planning process. However, in the absence of substantial evidence of harm or support from the Development Plan is unlikely to carry much weight. The same principles apply in reverse where there is strong support for a proposal that is contrary to the Development Plan and there is harm (or lack of substantially evidenced benefit).

Inspectors and Courts (see *North Wiltshire DC V SoS & Clover, 1992*) have established that precedent can be a legitimate consideration, but it is not enough to have a “general anxiety” and there has to be evidence of a real likelihood that similar applications (in all respects) will be submitted.

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions and Considering Reasons for Refusing Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework reinforces this by stating that "*Planning should operate to encourage and not act as an impediment to sustainable growth*". Therefore, development should be considered with a positive approach. However, not all development is acceptable and almost every permission will require planning conditions in order to make them acceptable. Some will remain unacceptable and should therefore be refused. Circular 11/95 (The Use of Conditions in Planning Permissions) and Circular 03/2009 (Costs Awards In Appeals And Other Planning Proceedings) set out advice on the government's policy regarding the appropriate use of planning conditions and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to "unreasonable" behaviour. They derive from an interpretation of court judgments over the years and, although not planning law, are important material considerations. A decision to set them aside would therefore need to be well-reasoned and justified.

In terms of the Planning Committee, Circular 03/2009 makes it clear that "*Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority*".

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that "*Whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed*". Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. *The Circular adds that "A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead."* Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, they are challengeable at appeal as *ultra vires* (i.e. their imposition is beyond the powers of local authorities). If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted.

In considering the reasons for that refusal, Circular 03/2009 makes it clear that planning authorities must "*properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason*". In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.

COLCHESTER BOROUGH COUNCIL

PLANNING COMMITTEE

25 April 2013 at 6:00pm

Members

Chairman : Councillor Theresa Higgins.
Deputy Chairman : Councillor Helen Chuah.
Councillors Nick Barlow, Nigel Chapman, Peter Chillingworth, John Elliott, Stephen Ford, Sonia Lewis, Cyril Liddy, Jackie Maclean, Jon Manning, Nigel Offen, Philip Oxford and Laura Sykes.

Substitute Members : All members of the Council who are not members of this Committee or the Local Plan Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-
Councillors Lyn Barton, Mary Blandon, Mark Cable, Barrie Cook, Nick Cope, Beverly Davies, Annie Feltham, Marcus Harrington, Dave Harris, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Michael Lilley, Sue Lissimore, Colin Mudie, Gerard Oxford, Will Quince, Lesley Scott-Boutell, Terry Sutton, Anne Turrell, Dennis Willetts and Julie Young.

Agenda - Part A

(open to the public including the media)

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

An Amendment Sheet is available on the council's website by 4.30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;

- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

5. Declarations of Interest

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

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

reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

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

6. Minutes

1 - 3

To confirm as a correct record the minutes of the meeting held on 28 March 2013.

7. Planning Applications

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

1. 130186 Ilex Close, Colchester
(Shrub End)

4 - 25

Proposed infill development of 43 dwellings and associated parking, landscaping and creation of allocated spaces for existing residents.

2. 130362 Land adjacent to Marks Tey Hotel, London Road, Marks Tey
(Marks Tey)

26 - 38

Application for the continued use of land for Car Boot Sales operating between 06:00 - 16:00hrs for Sellers and 07:00 - 16:00hrs for Buyers together with the formation of a new access.

3. 130230 Worsnop House, Old Heath Road, Colchester
(New Town)

39 - 47

Proposed refurbishment and extension to existing sheltered housing scheme to include the conversion of bedsits to one bedroom flats.

4. 130233 Innisfree, De Vere Lane, Wivenhoe
(Wivenhoe Quay)

48 - 56

Erection of a detached dwelling with associated parking facilities.

5. 130448 111 Straight Road, Colchester (Lexden) **57 - 63**

Two storey rear extension to create new family room and two bedrooms.

8. Amendment Sheet **64 - 69**

See Amendment Sheet attached.

9. Exclusion of the Public

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

PLANNING COMMITTEE 28 MARCH 2013

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Peter Chillingworth*,
Helen Chuah*, John Elliott*, Cyril Liddy*,
Jackie Maclean*, Jon Manning, Nigel Offen,
Philip Oxford and Laura Sykes

Substitute Members :- Councillor Mark Cable for Councillor Nigel Chapman
Councillor Michael Lilley for Councillor Stephen Ford
Councillor Marcus Harrington
for Councillor Sonia Lewis

(* Committee members who attended the formal site visit.)

107. Minutes

The Minutes of the meeting held on 28 February 2013 were confirmed as a correct record, subject to the correction of the word 'heir' in the third paragraph from the bottom of page 11 to read 'their'.

108. Reasons for refusal on application No. 120965//Change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park'.

Councillors Barlow (in respect of having met the applicants in his previous capacity as Portfolio Holder), Cable (in respect of being the Council's representative on the Dedham Vale and Stour Valley Project and a volunteer for the National Trust, Flatford), Chillingworth (in respect of his membership of CPRE Essex) and Offen (in respect of his membership of CPRE Essex) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

At the meeting of the Planning Committee held on 28 February 2013 application No. 120965 was considered and the Committee resolved that it was minded to refuse planning permission with detailed reasons to be submitted to a future meeting for approval. The Head of Environmental and Protective Services submitted a report which detailed the proposed reasons for refusal of application 120965. In addition, a 'Statement of Positivity' was provided in the Amendment Sheet.

The Committee thanked Officers for their work in successfully encapsulating the Committee's deliberations and formulating the detailed reasons for refusal.

RESOLVED (NINE voted FOR and THREE ABSTAINED from voting) that the reasons for refusal, as set out in the report, be approved and a formal decision notice be issued

109. 130333 Pavilion, Mile End Recreation Ground, Fords Lane, Colchester.

Councillors Chuah and P. Oxford joined the Committee at this point.

The Committee considered an application for prior notification of the proposed demolition of a disused toilet block. This application had been brought before the Committee as Colchester Borough Council was the applicant. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application for prior notification be approved, without conditions, subject to the informative set out in the report.

110. 121313 Land to the north of Lion Quay, High Street, Rowhedge

Councillor Lilley (in respect of his previous meetings with Rowhedge Heritage Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the development of a Riverside Centre on land to the north of Lion Quay, High Street, Rowhedge. This application had been brought to the Committee as a result of objections received which could not be resolved through conditions and the lack of on-site parking. The Committee had before it a report in which all information was set out. The comments from Anglian Water and the Highways Authority were set out in the Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Ms Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Neil Chatterjee submitted a petition pursuant to the provisions of Planning Committee Procedure Rule 8 in the following terms:

‘We the undersigned object to the proposal on the grounds that it is too large and high for the area and will add further to the already considerable parking problems in the High Street and surrounding areas. We feel that it would be better for all of the community and the Heritage Project itself if such a large building was situated in the proposed Port Development Area.’

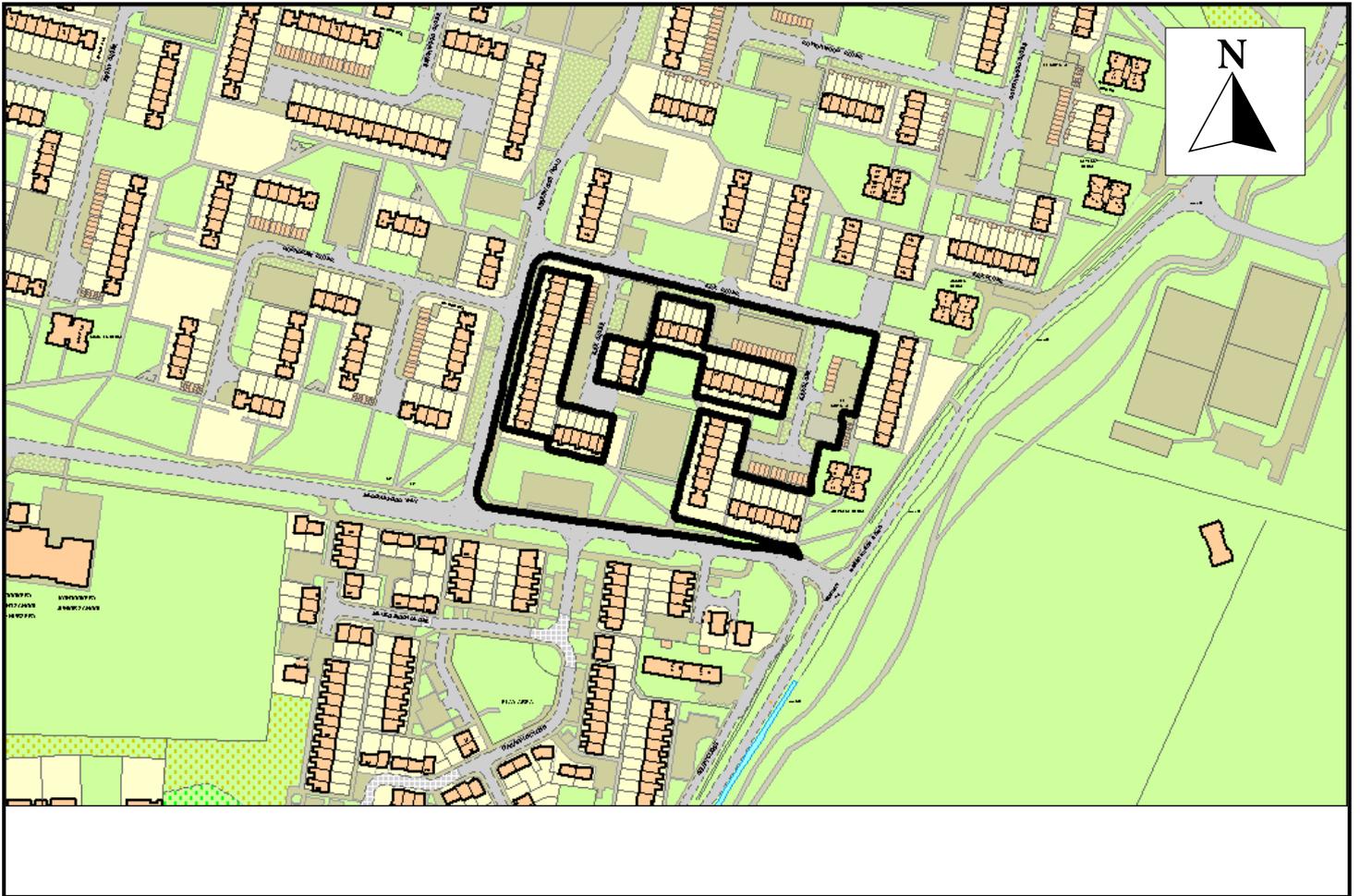
Mr Chatterjee addressed the Committee in opposition to the application. He drew the Committee’s attention to the 16 written objections, the 30 online objections and the petition against the proposal containing 200 signatures. He highlighted the Land Registry covenant stating that the site would not be used for anything other than a Heritage Centre or public open space. He stated that no alternative parking had been provided in the village and no precise information had been received from the Highways Authority. He also referred to the request from the Parish Council for a

structural survey to confirm the stability of the land, which had yet to be carried out.

Mr Keith Philips, Chairman of the Rowhedge Heritage Trust, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that public consultation had taken place and that the Heritage Trust was working with the Parish Council. He suggested that the temporary structure had shown the need for a permanent structure on the site. He was of the view that the parking issues would only affect a small minority and highlighted the point that the Centre would be for local use with the majority of visitors coming by foot, bicycle or ferry.

Members of the Committee sympathised with concerns regarding parking, noted that the adopted parking standard for this class of building required a maximum number of parking spaces not a minimum and commented on the considerable support for the project as well as the development's favourable design. The Principal Planning Officer explained that a note could appear on the decision notice advising that a Structural Survey would be required.

RESOLVED (TWELVE voted FOR and TWO voted AGAINST) that the application be approved subject to the conditions and informatives as set out in the report and the amendment sheet together with an additional informative regarding the need for a structural survey to be undertaken.



Application No: 130186
Location: Ilex Close, Colchester
Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **25 April 2013**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

7.1 Case Officer: Lucy Mondon

Due Date: 07/05/2013

MAJOR

Site: Ilex Close, Colchester

Application No: 130186

Date Received: 5 February 2013

Agent: Dove Jeffery Homes

Development: Proposed infill development of 43 dwellings and associated parking, landscaping and creation of allocated spaces for existing residents.

Ward: Shrub End

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major application on which material planning objections have been received and the officer recommendation is to approve.

2.0 Synopsis

2.1 The application seeks planning permission for the erection of 43 No. dwellings, with associated parking and open space. Allocated parking would also be provided for existing houses.

2.2 The proposal is for 100% affordable housing which would significantly contribute to the availability of affordable housing in the Borough.

2.3 The following report considers material planning matters together with issues raised in consultations and local representations. The report describes the site and its setting, the proposal itself, and the consultation responses received.

2.4 The planning merits of the case will be assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended in association with a Section 106 Agreement securing 100% affordable housing and management of the open space.

3.0 Site Description and Context

3.1 The application site is located between Ilex Close and Baronswood Way, Shrub End, Colchester and comprises of pockets of grassed areas and surfaced parking within existing housing. The site originally formed part of a larger MOD housing estate, but has now been sold to the Applicant.

3.2 The area is characterised by terraced two-storey houses that are arranged in sporadic blocks that are interspersed with areas of grass and surfaced parking, including some garages. Although there are some active frontages within the existing development, a large proportion of existing properties are arranged so that they back onto the street and footways.

3.3 There is a recent housing development to the south of the site at Oakapple Close. This development is read in context with the Ilex Close site.

4.0 Description of the Proposal

4.1 The application seeks planning permission for the erection of 43 dwelling, comprising of eleven two-bedroom houses, twenty-two three-bedroom houses, and ten two-bedroom flats arranged in seven blocks within existing development. Three areas of open space are included within the proposed development, with associated landscaping.

4.2 Allocated parking would be provided for both existing and proposed development as follows:

- Proposed houses: two car parking spaces per dwelling
- Proposed flats: 1.5 car parking spaces per dwelling (plus sixteen cycle spaces)
- Existing houses: one car parking space per dwelling

4.3 The application is accompanied by the following:

- Planning Statement
- Flood Risk Assessment
- Arboricultural Impact Assessment, Tree Protection Plan and Method Statement with Replacement Tree Planting Plan
- Transport Statement
- Heritage Statement
- Site Investigation Report, Desk Study and Sampling
- Ecological Survey

4.4 There have been some amendments to the proposal, and additional information has been submitted, as follows:

- The assisted play area has been omitted from the scheme;
- Lockable gates are to be provided to private rear access alleys;
- A footpath has been widened to provide a cycle route through the site between Ilex Close and Baronswood Way;
- A revised tree survey has been submitted; and
- The Agent has submitted a letter in response to the objection comments received as part of the planning consultation.

This information is available to view on the Council's website.

5.0 Land Use Allocation

5.1 Predominantly residential.

6.0 Relevant Planning History

6.1 There is no planning history on the site that is of relevance to the proposal.

6.2 A similar development has been constructed to the south of the site at Oakapple Close (approved under reference: 091420). This development involved the erection of 61 No. new dwellings, the demolition of 10 No. existing dwellings, and the refurbishment of 73 No. existing dwellings. All the new dwellings were for affordable housing.

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

SD1 - Sustainable Development Locations

H1 – Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

PR1 - Open Space

PR2 - People-friendly Streets

TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
ENV1 - Environment
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP12 Dwelling Standards
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 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Backland and Infill
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Cycling Delivery Strategy

8.0 Consultations

8.1 Urban Design:

“The layout offers an overall improvement to the insecure and inefficient arrangement of dwellings as originally planned by the MOD for military families. This original use was not intended for public access and functioned more as a private and exclusive estate. Now that the MOD is in the process of disposing of the estates the opportunity to increase the density and reuse the housing should be considered a sustainable means of providing additional housing but the more public occupation must dictate changes to the existing layouts which were only designed for exclusive military use.

The increase in density is inline with the core strategy guidelines and, importantly, increases the security of the design and current arrangement by, where possible, creating defensible spaces around the existing back gardens. The original layout is at very low density and is laid out in such a way that many back gardens are exposed to public open space. Whilst the provision of open space is highly generous the open and vulnerable existing layout cannot be considered safe and effective urban design when the homes are available for public occupation. The new layout provides resolution to the exposure of back gardens and creates additional surveillance to public areas. In any rationalisation of such a low density scheme there will be a loss of open space. In this case the

quality of the existing POS whilst generous must be considered of poor quality with regard to the potential for crime and anti social behaviour. The change of occupation of this estate dictates that more secure by design principles need to be established in the refurbishment.

This proposal creates an improvement in the quality of open space with the provision of an assisted play area for young children. With gates to the rear access alleys the development is made more secure. We have requested the developer provides lockable gates to the rear alleys. The more efficient density provides greater surveillance over POS, further reducing the opportunity for crime.

The need to achieve a good parking standard on the site must be rationalised against the retention of the existing housing and the intricacies of the layout. The new housing has been provided with 200% parking, whilst the existing units are allocated 1 space per unit. This amount of parking has proved visually difficult to accommodate within the layout but with some additional tree planting to provide visual mitigation a more satisfactory solution is achievable. I consider the parking provision a justifiable standard considering the complexity of the layout and other demands of the site.

There is a loss of trees on the site but many of which are not of significant value. There are three trees in the south west corner of the site, two cherry trees and a lime which are recorded as B category, whilst there is a protocol to normally retain B category trees it should be considered in light of the 5 affordable units proposed here would be sacrificed for the retention these trees.

From an urban design perspective I am able to support this application because it is a justifiable rationalisation of an out of date and dysfunctional layout. Architecturally the scheme is well considered providing new homes that are of their time whilst have visual sympathy for the retained houses.”

- 8.2 Environmental Protection: No objections subject to conditions relating to lighting; communal storage areas; parking; and noise and emission control during demolition works and construction.
- 8.3 Environmental Protection (contamination): The contamination report concluded that no significant sources of potential contamination have been identified, save asbestos fibres at a single location. In addition, the fabric of the on-site garages has been identified as potentially asbestos containing material, requiring appropriate removal and disposal. Recommended conditions regarding the removal and disposal of asbestos and action to take should unexpected contamination be encountered.
- 8.4 Spatial Policy: The proposal does not provide adequate cycle links within the development or links into the surrounding pedestrian and cycle network. It is suggested that paths within the development should be widened to allow unsegregated shared use for cyclists and pedestrians (particularly the North/South path and the East/West path); all other paths to allow cycling; and a raised table crossing point installed on Baronswood Way opposite the North/South path adjacent to proposed plot 22. Subject to the above issues being adequately addressed, there is no spatial policy objection to the development.

8.5 Arboricultural Officer: Initial consultation raised issues with the tree survey submitted. Following further negotiation between the Arboricultural Officer and the Agent a revised tree report has been submitted. The Arboricultural Officer's comments are as follows:

The development will require the removal of a large number of trees including 8 'B' category trees (as per BS5837:2012) specifically T19 – 22 and T31 - 33. Ideally the buildings should be reconfigured to allow the retention of these trees; however, if they are to be removed as part of the development process there is space within the area to install replacement trees.

Trees adjacent plot 10 & 17 are shown to be retained but given the size, proximity and species of these trees this retention is likely to be problematic during the construction process and will almost certainly result in direct conflict between the trees and the built form immediately. Consideration should be given to reducing the number of units to allow more space for the trees to be retained. It should also be noted that these groups should be treated as a single entity as removal of one of the trees in each group will likely result in the requirement to remove all of them.

T13 should not be retained adjacent to a carparking space as this species (Ash) has a propensity to have limb failure in later life. The condition of this tree is also borderline for being categorised as B.

I would advise against the application/site layout as currently proposed, though this should not form the primary reason for objection.

8.6 Archaeology: Recommended condition in order to address the following: the archaeological report submitted indicates that there are cropmarks of probable archaeological interest located on part of this site especially in the south-west corner which will be developed for Block G, (plots 34-43).

8.7 Environment Agency: No comments received.

8.8 Highway Authority: Recommended condition for travel packs to be provided.

8.9 Natural England:

- The area could benefit from enhance green infrastructure (GI) provision.
- The ecological survey submitted does not identify that there would be any significant impact on statutorily protected sites, species, or Biodiversity Action Plan (BAP) habitats as a result of this proposal. Opportunities to incorporate biodiversity in and around the development should be encouraged.

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

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 4 letters of support have been received. The comments received are summarised as follows:

- The design 'looks great';
- Safety improved;
- Parking regularised;
- Service charge reduction;
- Landscaping improvements are welcome;
- Parking areas underused at present

10.2 155 letters of objection have been received, some of which are duplicate representations. Of these objections, 18 are from residents of Ilex Close. The comments received are summarised as follows:

- The local school and doctors are oversubscribed and the development will make it harder to get a place;
- Fear of crime: The introduction of civilians to the area will increase crime and anti-social behaviour. Crime has risen since the housing estate at Oakapple Close was developed;
- Overcrowding;
- Less open space;
- Less parking available;
- More traffic;
- The development should provide housing for, or benefit, military personnel;
- Increased litter;
- Noise;
- Health and safety and noise disturbance during the build;
- Nowhere for children to play;
- The play area will cause anti-social behaviour and noise;
- The roads are in a bad state of repair;
- The footpaths to be provided are too narrow;
- The proposal would result in limited access to the front doors of existing properties;
- No benefits to local residents;
- Existing trees will be removed and the replacement saplings are unlikely to survive to maturity;
- The development would destroy wildlife;
- Increase in flood risk;
- Overlooking and loss of privacy;
- Values of properties affected

10.3 A letter of objection has been received from Cllr Lyn Barton as follows:

- This is essentially a military estate which has unique requirements as many of the men are away serving their country. To impose such a large civilian community in the middle is not appropriate and will inevitably lead to problems. There is already a lack of school places in this area and whilst I am aware there are plans to increase the intake at Montgomery School I fear this will not ensure there are sufficient places for military children.
- The density of the scheme and the resulting loss of open space constitutes a loss of amenity
- Doctors and dentists in the area are already over prescribed and this will only exacerbate the problem.

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

11.0 Parking Provision

11.1 The Vehicle Parking Standards SPD provides the parking standards for dwellings. The adopted standard for dwellings of two or more bedrooms is a minimum of two car parking spaces per dwelling; and a minimum of one secure covered cycle space per dwelling (unless a secure area can be provided within the curtilage of the dwelling). Visitor car parking is also required: 0.25 spaces per dwelling (rounded up to the nearest whole number).

11.2 The proposal provides 2 parking spaces per house and 1.5 parking spaces per flat. There would be 15 visitor spaces. Each of the existing dwellings would be allocated 1 parking space. There would be 16 covered cycle spaces provided for the flats and there is space within the private gardens for cycle parking.

11.3 See paragraphs 15.19-15.22 of the main body of this report for detail and discussion.

12.0 Open Space Provisions

12.1 The proposal provides areas of open space within the development. The Agent has confirmed that the open space would be maintained by a private management company. Therefore there is no requirement for a contribution towards open space (please see paragraph 14.1 below).

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. The Development Team concluded that, as the scheme is for 100% affordable housing, the normal contributions are not required. Should any areas of public open space be managed by Colchester Borough Council a commuted sum would be required for maintenance.

15.0 Report

- 15.1 The NPPF sets out the Government's aim to boost the supply of housing in the country, stating that housing applications should be considered in the context of the presumption in favour of sustainable development in order to deliver a wide choice of quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The Colchester Borough Council Core Strategy seeks to promote sustainable development to provide good quality housing and employment opportunities.
- 15.2 The application site lies within an urban area where the principle of residential development is acceptable and supported by both the NPPF and the Core Strategy. The site is in a sustainable location, with public and private transport links, including cycle links, to the town centre and the proposal offers a mix of accommodation.
- 15.3 The main planning considerations are: layout and design; impact on the character of the area; landscaping and trees; residential amenity; highway safety, parking and sustainable travel; biodiversity; and flood risk and drainage.

Layout, design and impact on the character of the area

- 15.4 The proposal is considered to be acceptable in terms of its density, layout, design and impact on the character of the area.
- 15.5 The site is located within an area of moderate accessibility, where the recommended housing density is over 40 dwellings per hectare (Core Strategy Policy H2). The proposed development accords with this housing density. The density of the scheme is not considered to be out of character with the area, given the recent development to the south at Oakapple Close.
- 15.6 The proposal would infill some areas of open space and surfaced parking within an existing residential development. The existing development does not have a particularly strong layout, with properties backing onto the road, a dominance of parking, and undefined open areas. The Essex Design Guide states that, with regards to placing buildings at densities over 20 dwellings per hectare, there should be a continuity of built frontage. The proposal achieves this design principle by arranging the dwellings in blocks of terraced properties and a block of flats that, for the most part, front the road. The properties that front Ilex Close, and Baronswood Way, and the block of flats on the south-west corner of the site, provide a strong built form, with a visual rhythm, that increases activity in the street scene and improves the layout of housing on the site. Where properties front the road, they are set back behind an enclosed front garden with railings and planting demarking the boundary as recommended in the Essex Design Guide. The general layout of the scheme is therefore considered to be acceptable and succeeds in enhancing the character of the area.

- 15.7 The scale and height of the proposed houses would respect that of existing development. The design of the proposed houses respects the local vernacular, in terms their height, proportions, form, and materials, whilst providing interest in the street scene by introducing slightly different design features, such as the double height front ranges and the use of light coloured boarding. The block of flats would be two metres higher than the adjacent houses, but this is not considered to result in the block of flats appearing out of place, being sited on a corner of the site that can accommodate a strong feature. It is therefore considered that the proposal would sit comfortably within its setting.
- 15.8 Whilst Core Strategy Policy ER1 and adopted SPD would normally require the imposition of conditions ensuring Sustainable Homes Code Level 3 is achieved, the proposal is for 100% affordable housing and all registered social landlords are required to build to a higher standard than this. Consequently no such condition is necessary.
- 15.9 Development Policy DP16 requires that all new residential development shall provide private amenity space to a high standard, with secure usable space that is also appropriate to the surrounding context. Garden size standards are: 50m² for one or two-bedroom houses and 60m² for three-bedroom houses. With regards to the block of flats, a minimum of 25m² per flat is required for communal use. Where balconies are provided, the space provided can be taken off the communal requirement. The proposal provides sufficient garden size for all but three of the proposed houses. The garden sizes for plots 1, 2, and 3 are below the 50m² required, being 46.4m² in area. This is not considered to be unacceptable given the context of the area where existing gardens are below 50m² in some instances. The block of flats is provided with sufficient communal outdoor space, having considered that balconies or terraces are provided for each flat.
- 15.10 The site is currently a mix of grassed areas and surfaced parking areas within existing housing. There is a limited amount of usable open space on site, the grassed areas being interrupted by numerous footpaths, and the parking areas are generally not used to capacity. The majority of the proposed development would be sited on the parking areas and, therefore, a relatively minimal amount of usable existing open space would be lost as a result of the development. The loss of grassed area to the south-west corner of the site would be the most readily felt as this is a wider area of grass that is readily visible from the road. However, the proposal would provide three areas of open space within the site, as well as soft landscaping along the road frontage, which would provide some relief to the built form. The proposed areas of open space would be clearly defined and would provide a sense of place to the centre of the site, with existing and proposed dwellings facing the open space, creating a type of communal courtyard. This would have the added benefit of providing increased natural surveillance to the area which would discourage anti-social behaviour.
- 15.11 The proposal has been discussed at Development Team and no objection was raised with regards to the amount or type of open space provided. The public open space and landscaped areas are to be maintained by a private management company so there would not be any maintenance costs for the Council. A Section 106 Agreement is required in order to ensure that a management company will be responsible for the maintenance of these areas.

15.12 It is therefore considered that the proposal would enhance the character and appearance of the street scene, successfully creating a sense of place and integrating well within existing development from an urban design perspective.

Landscaping and trees

15.13 The proposal provides landscaping throughout the site, providing new planting as well as incorporating some existing trees. Verbal consultation with the Council's Landscape Officer confirmed that the landscaping scheme proposed could be improved, but that the precise detail of the landscaping could be agreed via condition.

15.14 The application was accompanied by a tree report, which has been amended to take on board comments made by the Council's Arboricultural Officer. The proposal would involve the loss of some B Category trees on the south-west corner of the site and would be built in close proximity to trees to be retained on the eastern side of the site. Development Policy DP1 states that development proposals must respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area. The Council's Arboricultural Officer has objected to the scheme on the grounds of the loss of trees and the likely harmful impact on retained trees to the east of the site. However, in this case, the benefit that would be gained from the development in terms of providing forty-three affordable dwellings, as well as the improvements to the general layout of the development, is considered to outweigh the loss of these trees.

Residential amenity

15.15 The proposal is not considered to result in harmful levels of overlooking to existing or proposed neighbouring properties.

15.16 The Essex Design Guide states that, at normal urban densities, some overlooking is inevitable between properties, but, as a minimum, every effort should be made to avoid overlooking of rear-facing living room windows. The Guide recommends that there should be at least 25 metres between the backs of houses. This can be reduced to 15 metres if the backs of houses are more than 30 degrees to one another. The proposal is within existing development and the Guide goes on to state that, where new development backs onto the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore, where the rear faces of the new houses are approximately parallel to the existing, the rear of new houses should not encroach any closer than 15 metres to an existing rear boundary. The rears of houses may be positioned more closely together if one or both of the houses concerned are designed in such a way as not to overlook one another.

15.17 The proposed development would allow for 21-25 metres back to back distances between existing and proposed properties, with a distance of between 11-13.5 metres from the rear boundary of existing properties. This is below the recommended distances set out in the Essex Design Guide. However, it is not considered that this relationship would lead to overlooking between the development and existing properties as direct views from upper floor windows would be obscured by existing trees or outbuildings. There is not considered to be any overlooking from the proposed flats due to their distance from neighbouring properties.

15.18 In terms of daylight, the Essex Design Guide states that acceptable daylight in interiors is achieved if a 25 degree vertical angle from a point 2 metres above the floor at the façade is not obstructed. The proposal achieves this requirement.

Highway safety, parking and sustainable travel

15.19 The Highway Authority has not objected to the proposal. The Highway Authority has recommended a condition requiring the “provision and implementation of a Travel Information and Marketing Scheme for sustainable transport approved by Essex County Council”. However, this is not imposed because it is not considered to pass the relevant tests in this instance.

15.20 In terms of parking, the proposal provides sufficient car parking for all the proposed houses in accordance with Development Policy DP19 and the Vehicle Parking Standards SPD. The car parking provided for the block of flats does not comply with policy or the SPD, providing 1.5 car parking spaces for each flat instead of the two spaces required. However, the number of cycle parking exceeds that required by six spaces and this is considered to compensate for the five additional car parking spaces that would be required under the SPD.

15.21 The fifteen visitor parking spaces provided exceeds the eleven spaces required as part of the parking standards.

15.22 Local residents have expressed concern that the existing housing would only be allocated one parking space per dwelling as a result of the development. The site currently has a very generous amount of parking available that does not appear to be used to capacity (taking into account the parking survey undertaken by the applicant and having made several visits to the site at different times of day). These parking areas are not public highway and are not owned by the MOD or the existing residents and may not, therefore, be available for use by residents for perpetuity should the current or future owner decide to prevent parking in these areas. Further, current planning policy does not require development to secure parking for existing development in accordance with the parking standards and therefore, the proposal to provide one parking space for each existing property is not contrary to policy. The loss of such readily available parking to existing residents is sympathised with. However, the reduction in parking spaces to one space per dwelling is not considered to be a justification for refusal of planning permission given the above considerations. The proposed parking arrangement represents a long-term parking solution for existing residents opposed to the current ad-hoc parking arrangement and there would be some security that at least one parking space would be available to each existing property as the parking spaces would be allocated. Adjoining roads are not subject to parking restrictions so there would also be on-street parking available.

15.23 Amendments have been made to the proposal in order to address some of the comments made by Spatial Policy in respect of cycle links. Some landscaping has been removed from the scheme to enable a 4 metre wide path to be created from Baronswood Way to Ilex Close. This path would provide a cycle and pedestrian link between Baronswood Way and Ilex Close, as well as to nearby cycle links at Berechurch Road. The raised table crossing at Baronswood Way recommended by Spatial Policy cannot be achieved as Baronswood Way is a private road. The inclusion of a cycle link within the site is considered to be a positive addition to the scheme.

Biodiversity

- 15.24 The proposal has been assessed in line with the NPPF and Natural England Standing Advice with regards to protected species and biodiversity. Natural England have also provided comments in respect of the proposals and have no objection to the scheme.
- 15.25 An ecology report has been submitted as part of the application which concludes that the site is not a suitable habitat for protected species and that there are no indication of protected species on the site. The report does make recommendations as to the type of landscaping that can be incorporated into the scheme in order to attract birds and other wildlife. This is to be encouraged and can be considered as part of the detailed landscape proposals to be agreed via condition.

Flood risk and drainage

- 15.26 The site is located within Flood Zone 1 and the application has been assessed in line with the NPPF and Environment Agency Standing Advice. As a Flood Zone 1, the site is unlikely to be susceptible to flooding and development is unlikely to cause flooding elsewhere. The Flood Risk Assessment submitted with the application confirms, having considered the topography of the site and possible flood risk sources, that ground water flooding in the area is low and that there are no significant flood risks in the vicinity of the site. The Planning Statement submitted confirms that a Sustainable Urban Drainage System (SuDs) is proposed which would mitigate for the increase in impervious area as a result of the development. This method of drainage is supported by Natural England as detailed in their consultation response. Details of the surface water drainage can be secured by condition.
- 15.27 Anglian Water has been consulted on the proposal and comments are due by 3rd May.

Other matters

- 15.28 Comments have been received from local residents expressing concern that the proposal would place pressure upon school spaces, would affect the value of their home, and would result in increased litter in the area. Concern has also been expressed that the proposed development should be for the benefit of military personnel only, providing houses or facilities for military families, and that a civilian population should not be introduced to the area, largely due to the fear of crime.
- 15.29 The application was discussed at Development Team and comments were received from Essex County Council in respect of education. It was determined that, as the proposal is for 100% affordable housing, an education contribution would not be required for the development. No objections were raised in terms of the development posing undue pressure upon existing schools.
- 15.30 The impact of development upon property values is not a material planning consideration and has not, therefore, been taken into consideration as part of the assessment of the application.
- 15.31 The proposal would result in an increased population that would generate more refuse, but there is nothing to suggest that the proposed development would result in a litter problem in the area.

- 15.32 The request that the area remain for military personnel only is not considered to be a material planning consideration. It is not for the planning system to dictate who lives where and the NPPF actively encourages mixed communities.
- 15.33 There is nothing to suggest that new housing would result in increased crime levels. The proposed housing would increase the natural surveillance in the area which would in fact help to reduce instances of crime and anti-social behaviour. In order to increase the amount of natural surveillance further, it is proposed to condition that windows be added to the side elevations of those properties that side onto a footpath or open area. Some properties would be exempt from this condition in order to prevent overlooking.
- 15.34 Local residents have also raised concerns as to the level of disruption that may occur during the construction phase of the development. The method of construction, including hours of work, can be controlled by condition.

16.0 Conclusion

- 16.1 Whilst the proposal is not strictly in accordance with planning policy in terms of the back to back distances between properties and the amount of car parking provided for the proposed block of flats, these are not considered sufficient to justify a refusal of planning permission. The distances between properties is such that overlooking would, at the most, be minimal and the reduction in car parking provided for the block of flats is compensated for by an over provision of cycle parking and visitor parking. Further, the proposal is for 100% affordable housing which is considered to be a significant benefit in meeting housing need.

17.0 Recommendation

- 17.1 APPROVE subject to no objection from Anglian Water and the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- *Development to be 100% affordable housing*
- *Landscape Management Plan*

On completion of the legal agreement, and subject to any additional conditions required by Anglian Water, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

18.0 Recommended Reasons for the Decision

- 18.1 Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy DP16 in terms of the garden size for three of the proposed dwellings or the requirements of the Essex Design Guide in terms of back to back distances between properties. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because the garden sizes would respect the character of the area, being of similar size to existing gardens, and that the distances between properties with intervening features would restrict overlooking.

18.2 Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely that the development does not materially harm neighbours' amenities, is acceptable in highway safety terms, improves the appearance of the site and achieves new affordable housing units.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

With the exception of those details required under conditions 6 and 15, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 001, 200 Rev I, 201 Rev A, 202, 203, 204 Rev A, 205, 206, 207 Rev A, 208, 209, 210, 211, 212, 213, 214, 215 Rev B, and 'store serving Block G'.

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

3 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and approved drawings set out in condition 2.

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

4 - 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 1995 (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.

5 - Removal of PD for Open Plan Fences/Walls

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (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 (including a footpath or bridleway) 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.

6 - *Full Landscape Proposals TBA

Prior to the commencement of development, full details of all landscape works shall have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Existing and proposed finished contours and levels.
- Means of enclosure.
- Car parking layout.
- Other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).
- Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).
- Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant size and proposed numbers/densities.
- Planting area protection or decompaction proposals.
- Implementation timetables.

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

7 – Non-Standard Condition

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded 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 the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

8 - Tree and Natural Feature Protection: Protected Areas

No development shall commence until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

9 - Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

10 - Tree and Hedgerow Protection: General

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

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

11 - Tree and Hedgerow Protection: General

No works or development shall be carried out until a site specific Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

12 – Non-Standard Condition

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by conditions 8 and 10 has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.

- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.
- Reason: To adequately safeguard the continuity of amenity afforded by existing trees.

13 -Non-Standard Condition/Reason

Prior to the first occupation of the development hereby permitted, 161 parking spaces shall have been laid out within the site in accordance with details submitted and agreed under condition 6 of this permission. The approved parking spaces shall thereafter be maintained free from obstruction and available for parking use at all times.

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

14 - Cycle Parking (as approved plan)

Prior to the first occupation of the development, the bicycle parking facilities indicated on the approved plans shall be provided and made available for use. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

15 - Non-Standard Condition/Reason

Notwithstanding the submitted details, no development shall be commenced until details showing the windows to be provided to the side elevations of plots 1, 5, 10, 11, 16, 17, 22, 27, 28, and 33 have been submitted to, and agreed in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To increase the amount of natural surveillance within the site in the interests of crime prevention.

16 - Surface Water Drainage

No development shall commence until details of surface water drainage 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 - Construction Method Statement

No development shall commence, including any works of 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.

18 - Limits to Hours of Work

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

Weekdays: 0800 to 1800

Saturdays: 0800 to 1300

No working on Sundays and Public Holidays

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.

19 - *Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note EZ2 rural, small village or dark urban areas.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

20 - Refuse and Recycling As Shown

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

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

21 - Communal Storage Areas

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

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

22 - Non-Standard Condition/Reason

All identified Asbestos or Asbestos Containing Material should be dealt with in accordance with the recommended actions in the Delta Simons Report, Summary Site Investigation, Desk Study and Sampling, Ref 11-0655.01 (undated). Following completion of the measures identified in this report, a verification report must be prepared, validating the extent of the material that has been removed and which is subject to the approval in writing of the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

23 - Non-Standard Condition/Reason

In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Local Planning Authority and, where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and subject to the approval in writing of, the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

24 - Scheme of Archaeological Investigation

Prior to the commencement of development, a scheme of archaeological investigation (including a programme of archaeological excavation, recording any finds and publishing the results) shall be submitted and approved in writing by the Local Planning Authority.

Reason: To enable a proper archaeological investigation of the site and the identification and recording of any items of archaeological importance.

20.0 Informatives

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

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

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

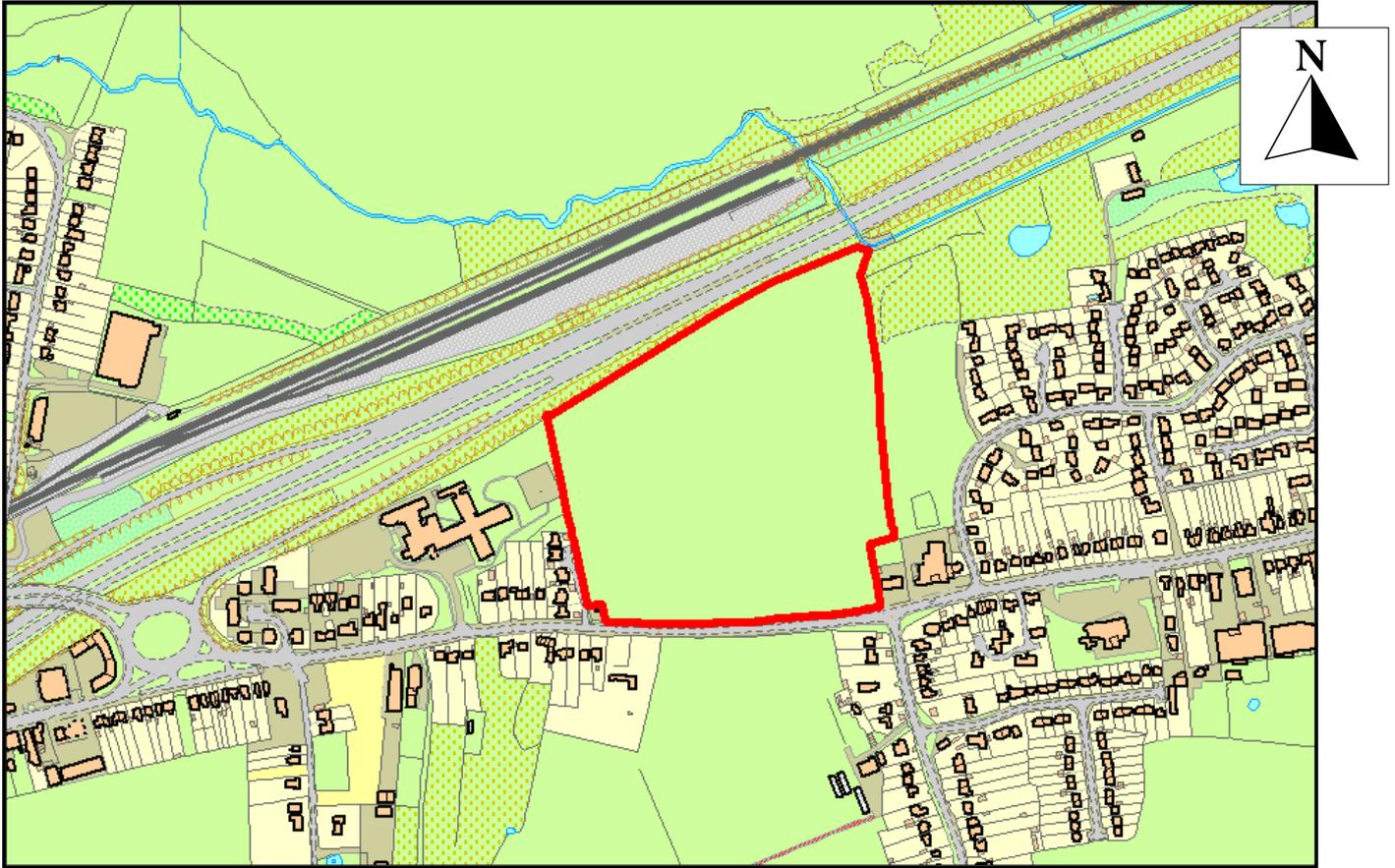
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may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

(4) With regards to condition 6, it is expected that the side boundaries of properties that face public or semi-public areas shall be a 1.8-2 metre high wall constructed in brick to match that of the host dwelling.

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

21.0 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 130362

Location: Land Adj. Marks Tey Hotel, London Road, Colchester, Essex, CO6 1DU

Scale (approx): Not to scale

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7.2 Case Officer: James Ryan

Due Date: 31/05/2013

MINOR

Site: Land Adj. Marks Tey Hotel, London Road, Colchester, Essex,
CO6 1DU

Application No: 130362

Date Received: 1 March 2013

Agent: Mr Edward Gittins

Applicant: Mr Iain Melrose

Development: Application for the continued use of land for Car Boot Sales operating between 06:00 - 16:00hrs for Sellers and 07:00 - 16:00hrs for Buyers together with the formation of a new access.

Ward: Marks Tey

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major application that has received objections.

2.0 Synopsis

2.1 This scheme is a full application for a car boot sale site. The site has been used for car boot sales for many years under a number of planning consents. The scheme proposes a new access and an earlier start time of 6am for the setting up of traders only. The opening time to the buying public will stay at 7am as with the existing consent.

2.2 The earlier start time will allow traders on site to set up prior to the buying public arriving and will help ease the traffic congestion that causes significant local problems with cars sounding their horns. The new access will pull turning traffic away from the dwellings in Francis Court. Therefore this scheme is considered to be acceptable on a 1 year temporary basis, subject to a number of conditions.

3.0 Site Description and Context

3.1 This application relates to an area of land within Marks Tey; to the east of the Marks Tey Hotel and to the south of the A12 trunk road. To the south of the Marks Tey Hotel are residential properties. To the east of the site is an area of public open space and beyond this is the Queensbury Road residential area with woodland to the north of that. Commercial properties border the site at its south eastern corner.

3.2 There are currently 2 accesses at the western end of the London Road frontage, known as Gate 1 and Gate 2. East of Gate 2, a hedge runs along the London Road frontage.

3.3 The site has been used for car boot sales for many years (permitted since 2005).

4.0 Description of the Proposal

4.1 This application is for the continued use of land for Car Boot Sales operating between 06:00 - 16:00hrs for Sellers and 07:00 - 16:00hrs for Buyers together with the formation of a new access.

5.0 Land Use Allocation

5.1 The land is white on the Council's Proposals Maps document, meaning it is not allocated for any specific use, and it sits outside of the development boundary.

6.0 Relevant Planning History

6.1 Use of the site for car boot sales was permitted in 2005 (ref: C/COL/05/0308) for a temporary period of two years. Further planning permission was granted in 2007 (ref: F/COL/07/0199) for a temporary period of five years. The temporary period was removed from the decision in 2012 under a removal/variation of condition (ref: 120008).

6.2 An application for a variation of conditions 2 and 3 of the planning permission (ref: 120757) to allow for boot sales to be held on Sundays and Bank Holidays was withdrawn.

6.3 In effect the applicant seeks to vary condition 4 of permission 120008 to allow for the boot sale to operate between the hours of 6am to 4pm but a full application has been made to allow for the provision of a new access point. Condition 4 of permission 120008 states:

The setting up and/or commencement of the use hereby permitted shall not take place prior to 0700 hours and the dismantling/cessation of the use shall take place prior to 1700 hours.

Reason: In order to protect the amenity of the occupiers of residential property in the vicinity of the application site and to avoid doubt as to the scope of the permission hereby granted.

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be "a presumption in favour of sustainable development".

There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

ENV1 - Environment

ENV2 - Rural Communities

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

DP1 Design and Amenity

8.0 Consultations

8.1 Environmental Protection -

Although we understand that historically traders set up on the site from 06:00, we are aware that the residential properties at Francis Court could potentially be affected by early morning activity if not adequately controlled. We therefore recommend the following controls/conditions:-

The frequency of sales shall remain unchanged.

The earlier start time of 06:00 shall only apply to traders setting up and no selling to the public is permitted before 07:00.

Before 07:00 only the new proposed entrance shall be used.

The entrance closest to Francis Court shall be closed.

Site activity shall cease at 16:00.

Before 08:00 there shall be a buffer of at least 40 metres between any vehicle, site activity and the properties in Francis Court.

Signage shall be erected requesting site users to respect the needs of nearby residents and minimise noise levels early in the morning.

All catering vans shall be located as far as practical from residential properties (we suggest at least 150 metres).

There shall be no amplified music or PA systems.

The type of noise associated with this activity can not be effectively controlled with the nuisance legislation. We therefore recommend a 12-month temporary permission in order to monitor the impact with regard to complaints.

8.2 Essex County Council Highways –

No objection to the scheme subject to the provision of 90m by 2.4m visibility splays and no unbound materials used in the surface of the vehicular access within 10m of the highway boundary.

8.3 Highways Agency-

No objections.

8.4 Environment Agency –

No objections.

8.5 Landscape Officer –

The frontage hedgerow is not protected under the hedgerows Regulations 1997.

It is recommended any formal proposal looks to reinforce the existing frontage hedge by back-planting behind any sight splay requirements that cause the hedge to be reduced in width significantly, remove bramble, coppice elm and plant up any existing and resulting gaps with native hedging and hedgerow trees. It is also recommended that this opportunity be taken to look to improve the wider structure of the field and further enhance the character of local landscape by planting a native hedge and hedgerow trees to the field's A12 boundary in accord with the Colchester Borough Landscape Character Assessment's guidelines.

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

9.0 Parish Council Response

9.1 Mark's Tey Parish Council has no objection to the scheme as long as it is only for car boot sales on a Wednesday.

In response: This will be secured by condition.

9.2 Copford with Easthorpe Parish Council made the following observation:

"This council are in favour of moving the entrance as proposed but feel that rather than cutting the hedge back there should be a proper run in to speed up the movement of traffic from London Road. It should be a condition that there must always be a traffic attendant at the entrance with a strictly 6am being the earliest start for sellers and 7am being the earliest start for the public".

In response: Requiring a new slip road would be unreasonable when the scheme as submitted is acceptable to the Highway Authority. It would also require the removal of significantly more hedging which would also be unfortunate in landscape terms.

The start times as applied for will be enforced by condition. The applicants have confirmed that they will ensure the condition is complied with by using a traffic attendant as usual.

10.0 Representations

10.1 Three letters of objection have been received. These objected on the following grounds:

- The new access is located close to the school road junction which is already crowded and hazardous. The new access will make this worse.

In response: The Highway Authority (Essex County Council) and the Highway's Agency have no objection to the scheme. As detailed in the report it is considered that moving the access will be a positive step in highway safety and traffic congestion terms.

- The scheme will cause harm to neighbouring amenity in terms of noise, pollution and disturbance.

In response: The impact of the scheme in neighbouring amenity terms will be addressed in the report.

- The first car boot sale of the year generated vendors arriving at 5.15am and not long after buyers arrived. How will the Council enforce the new arrival times.

In response: The new start times will be enforced by condition. The applicant has been involved in detailed discussions with regards to the way the use operates and the onus will be on them to ensure the condition is complied with. A 1 year temporary consent is proposed. If it transpires that the earlier start time does result in an increase in harm to residential amenity this can be taken into consideration when the expected application to vary the condition to make the scheme permanent is made in a year's time.

- Could the 40m buffer zone be extended for the whole duration of the car boot sale site?

In response: It is not reasonable to require a 40m buffer zone for the whole car boot sale period. This would result in the loss of a significant area of land which is currently available for car boot sale use under the existing consent.

- If this gets approved then an application for a Sunday car boot sale will be approved which is unacceptable.

In response: The proposal is for a weekday car boot sale only. Historically this has run on Wednesdays. The decision Members make on this application will have no bearing on any future applications which will be assessed on their own merits.

- A 6am start time is too early as many traders arrive well before this causing noise, pollution and disturbance.

In response: It is accepted that traders do arrive on site prior to the start time. There is little that can be done to prevent this from happening and so the applicants allow the traders on site to stop the indiscriminate obstruction of the highway. This is sensible and the 6am restriction for setting up only will prevent any trading occurring until 7am.

- We are in favour of the new access providing proper gates are provided and the old access is properly closed and the hedge re-planted.

In response: This will be secured by condition.

- I have previously objected to the car boot sale site in principle.

In response: This scheme does not propose a new car boot sale site. This scheme is for a change of hours and a new access point. The principle of a car boot sale has already been secured and if this scheme is refused the applicants have an extant permission to fall back on (without the new access and with a start time for traders and buyers of 7am).

10.2 Two letters of support were received. One of these noted how important the scheme was to the local area.

10.3 Due to the Planning Committee cycle this application has been put on the agenda after the neighbour consultation period has expired but prior to the expiration of the site notice and press notice. Any further representations received will be reported on the update sheet.

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

11.0 Parking Provision

11.1 Parking will be dealt with on site as is currently the case.

12.0 Open Space Provisions

12.1 This scheme does not have any open space requirements.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is classed as a "Major" application due to the site area but as it is an application for the continued use of an existing car boot sale site it does not trigger any planning obligations.

15.0 Report

15.1 The main issues are:

- *Impacts on Neighbouring Properties*
- *Highway Issues*
- *Landscaping*
- *Biodiversity*
- *Flood Risk*

15.1.1 Impacts on Neighbouring Properties

The car boot sale site is currently running under application permission 120008. Condition 4 of this consent restricted the hours of use to between 7am to 5pm. The reason for the condition is to protect the amenity of the occupiers of residential property in the vicinity of the application site and to avoid doubt as to the scope of the permission. The main consideration of this application is therefore the impact of an earlier start time for the setting up of traders upon residential amenity. If this scheme is refused by Members the car boot sale will continue running under its existing permanent consent with a start time for traders and the buying public of 7am.

The site lies within Marks Tey village and is therefore in close proximity to a number of residential properties. Both Gate 1 and Gate 2 are adjacent to Francis Court, a residential road serving five properties. Any noise from the site (vehicles arriving and departing, talking, setting up stalls) would have an affect on neighboring amenity due to the close proximity of the site to residential properties.

The applicant submits that the earlier start time (which is to allow traders on to the site to set up but not trade) will prevent the current situation whereby traders either arrive early and set up in breach of condition, or are made to wait in the public highway which causes traffic congestion. In turn this traffic congestion causes waiting traffic to sound their horns, which causes disturbance to the residential neighbours. Waiting traffic has previously blocked other highway users who sound their horns in frustration at not being able to pass freely. Earlier starts would help remove this particular problem.

Officers agree that the earlier start time for traders will help to a certain degree. It is the unfortunate reality that the applicant has to allow traders on site prior to 6am as to prevent access onto the field would simply result in harmful indiscriminate on street parking on a well trafficked main road. Very early starts are part of the culture of car boot sales. If traders know they can arrive a 6am and start setting up, but there will be no trading until 7am, it is envisaged that the number of traders arriving earlier than 6am will decrease. The applicants have confirmed that they will accept these new times as a condition and will enforce the hours themselves.

Moving the access away from the residential properties in Francis Court and permanently blocking up of Gate 1 will also pull any queuing traffic away from the residential neighbours. The old access will be blocked and new planting along this section of frontage will be secured by condition.

The scheme proposes a 40m buffer zone in the south western corner alongside Francis Court. This will be kept clear until 8am which will further help to reduce the impact of the scheme on neighbouring amenity. This is an extra benefit to residential amenity that is not currently provided in relation to the existing permission.

As confirmed by Environmental Protection, the type of noise generated by car boot sales cannot be practically controlled by the statutory nuisance legislation. Therefore the only method of control is through the planning regime. With regards to the conditions they have requested above, officers recommend that they are all imposed.

The final condition Environmental Protection has requested is for a temporary consent of one year to assess the impact the new arrangements have in practice. This will allow the Council to assess the impact the earlier start time has in practice and the manner in which the organisers enforce the start times. The Council will then be able to reassess the scheme in one year. If it transpires that the earlier start time does result in an increase in harm to residential amenity this can be taken into consideration when the expected application to vary the condition to make the scheme permanent is made in a year's time.

15.1.2 Highways

As the Highway's Agency and the Highway Authority have no objection to the scheme, officers consider that the new access is acceptable in highway safety terms. The pedestrian visibility splays and restrictions on unbound surface materials as requested by Essex County Council will be secured by condition.

15.1.3 Landscaping

The Council's Landscaping Officer has recommended additional planting to bolster the sections of frontage hedge that will be faced back to provide the required site splays. It is also suggested that there is opportunity for further planting along the A12 boundary. This will be secured by condition.

15.1.4 Biodiversity

Due regard has been given to the NPPF (2012) and Natural England Standing Advice. The site is an open field in a rural location, but is not considered to encompass suitable habitat for protected species, being kept mown. The new opening in the hedge will result in the loss of a small amount of habitat; however this will be compensated for by the additional planting that will be secured by condition. The proposal is therefore acceptable in regards to biodiversity.

15.1.5 Flood risk

The site lies within a flood zone 1 and consultation has taken place with the Environment Agency with regards to flood risk from or to the use of the site. The Environment Agency does not have any objections to the development as it is of low risk from flooding.

16.0 Conclusion

16.1 The new access point and the earlier start time allowing for traders to set up from 6am will facilitate an improvement in the impact the existing car boot sale site has on neighbouring amenity. The scheme is acceptable on a 1 year temporary basis subject to the conditions set out below.

17.0 Recommendation

APPROVE subject to the following conditions:

18.0 Recommended Reasons for the Decision

YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval as the creation of the new access point would pull turning traffic away from residential properties and will help reduce the impact of this scheme that already has a permanent consent. Allowing traders on site from 6am will also reduce the impact of the scheme on neighboring residential properties as it will prevent traders and the buying public arriving at the same time, causing further traffic congestion and the disruption of queuing traffic sounding their horns. Furthermore the one year temporary consent will allow the Council to reassess the scheme in one year's time. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely: The impact the scheme has on neighbouring amenity, the difficulties in enforcing the start time condition, the impact of the scheme on Highway Safety, the provision of the 40 metre buffer zone, and the possibility of future planning applications for weekend car boot sales.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Temporary Permission

The period of this permission shall expire one year from the date of this permission at which date the car boot sale use hereby permitted shall be removed. Within 28 days from the date at which this permission expires any building, material, equipment or hard landscaping resulting from, or used in connection with, the development hereby permitted shall be removed from the site in its entirety and in accordance with a scheme that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and because a longer permission would have to be carefully considered by the Local Planning Authority at the time at which any such proposal came forward, as well as to ensure that the site is returned to its previous state so that it does not suffer from any unacceptable longer term impact.

3 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number MT.3.d unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4 - Non-Standard Condition/Reason

Prior to commencement of development, details of a gate to be provided at the new access and at the retained 'Gate 2' shall be submitted to and approved in writing by the Local Planning Authority. These gates shall be installed on site prior to the commencement of development and shall be retained thereafter.

Reason: No details of the proposed gates have been supplied and the current situation of blocking the accesses with large obstacles is unattractive in visual amenity terms.

5 - Non-Standard Condition/Reason

Prior to commencement of development, the vehicular access closest to Francis Court (marked as Gate 1 on plan MT.3.d) shall be permanently closed.

Reason: In the interests of highway safety and neighbouring amenity.

6 - Non-Standard Condition/Reason

Prior to commencement of development, the proposed new access as shown on plan MT.3.d shall be constructed in accordance with the plans. Prior to 0700 hours only this new access shall be used. The access at gate 2 shall be closed off until 0700 hours.

Reason: In the interests of highway safety and neighbouring amenity.

7 - Non-Standard Condition/Reason

The use hereby permitted shall only be carried out on the application site for a maximum of 34 days per calendar year.

Reason: To ensure that the A12 trunk road continues to serve its purpose as part of the Strategic Road Network in accordance with the Highways Act 1980 Section 10(2) and for the reasonable safety requirements of traffic on that road.

8 - Non-Standard Condition/Reason

The use hereby permitted shall be restricted to Wednesdays only and shall not take place on other weekdays, at weekends, public or bank holidays.

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

9 - Non-Standard Condition/Reason

The setting up shall not take place prior to 0600 hours for traders and the selling of goods to the buying public shall not take place prior to 0700 hours. The dismantling/cessation of the use shall take place prior to 1600 hours.

Reason: In order to protect the amenity of the occupiers of residential property in the vicinity of the application site and to avoid doubt as to the scope of the permission hereby granted.

10 - Non-Standard Condition/Reason

Prior to 0800 hours, the 40m buffer zone shown on plan MT.3.d shall be left clear of any activity including parking of vehicles and any other associated operations.

Reason: In order to protect the amenity of the occupiers of residential property, particularly those in Francis Court

11 - Non-Standard Condition/Reason

Outside of the times of operation hereby permitted under condition 2 of this permission, the site shall be kept clear of all apparatus, signage and items that are required in connection with the authorised use. Furthermore, the site shall be kept free of litter at all times.

Reason: In the interests of neighbouring amenity.

12 - Non-Standard Condition/Reason

Prior to the commencement of development, the areas for the location of hot food sales, generators and refrigerated vehicles shall be indicated on a scaled plan which shall be submitted to and agreed, in writing, by the Local Planning Authority. The use shall be carried out in accordance with the agreed details.

Reason: In the interests of neighbouring amenity.

13 - Non-Standard Condition/Reason

The permission hereby granted expressly excludes the use of public address systems, tannoy and amplified sound equipment.

Reason: In the interests of neighbouring amenity.

14 - Non-Standard Condition/Reason

Prior to commencement of development, details of a temporary sign requesting site users to respect the needs of nearby residents, minimise noise levels early in the morning and detailing the new start times including a plan showing its proposed position shall be submitted to the Local Planning Authority. It shall be installed as approved on car boot sale days and then removed after the event and taken from site.

Reason: In the interests of neighbouring amenity

15 - Non-Standard Condition/Reason

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the east and 2.4 metres by 90 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance.

16 - Non-Standard Condition/Reason

No unbound material shall be used in the surface treatment of the vehicular access within 10 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

17 - Tree or Shrub Planting

Prior to the commencement of development, details of tree and/or shrub planting and an implementation timetable shall be 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.

20.0 Informatives

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

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

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

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

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

21.0 Positivity Statement

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



Application No: 130230

Location: Worsnop House, Old Heath Road, Colchester, CO1 2ER

Scale (approx): 1:1250

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7.3 Case Officer: Carl Allen

MINOR

Site: Worsnop House, Old Heath Road, Colchester, CO1 2ER

Application No: 130230

Date Received: 15 February 2013

Agent: Mr M Gurton

Applicant: Colchester Borough Council

Development: Proposed refurbishment and extension to existing sheltered housing scheme to include the conversion of bedsits to one bedroom flats

Ward: New Town

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

2.1 The key issues explored below are the impact on the amenity of the area and the design of the proposal. The proposal is considered to comply with the Council's policies and would not result in any amenity issues, and the design is considered to be acceptable. Therefore, conditional approval is recommended.

3.0 Site Description and Context

3.1 Worsnop House is a sheltered accommodation complex consisting of 28 one bedroom flats, 16 bedsits and one two-bedroom flat. The site is located on the junction of Old Heath Road with Recreation Road. The Recreation Road frontage has four Silver Birches along with a few smaller trees in the garden area between the building and the boundary with the highway, and there are two mature trees (a Horse Chesnut and a Sycamore) in the street – outside the site. The vehicular access to the site is on Old Heath Road and leads to a central parking area. To the north of the site are the bowling greens of the recreation ground, to the east is a playground and the highway of Recreation Road, to the south and west are Old Heath Road and dwellings.

4.0 Description of the Proposal

4.1 The proposal is to create a two-storey glazed atrium on the secondary entrance on the Old Heath Road elevation (which would be used for mobility scooter storage/charging), a two-storey curved glazed atrium on the main internal entrance along with various refurbishments including timber weatherboarding, balconies and the replacement of the tile hung cladding with rendered external panels. A temporary car park for four disabled cars would be provided in part of the garden on the Recreation Road frontage which would result in the four Silver Birches being removed. This temporary period would be for two years and would act as displaced disabled parking whilst the internal car park is used as the site office and storage area for the refurbishment works. The garden would be re-landscaped.

5.0 Land Use Allocation

5.1 Residential.

6.0 Relevant Planning History

6.1 None.

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

UR2 - Built Design and Character

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

DP1 Design and Amenity
DP17 Accessibility and Access

7.4 Further to the above, the adopted Site Allocations (2010) policies set out below should also be taken into account in the decision making process:

N/A

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

Vehicle Parking Standards
The Essex Design Guide

8.0 Consultations

8.1 Highways – No objection subject to conditions (see Conditions).

8.2 Environmental Protection – No objection subject to conditions (see Conditions).

8.3 Contaminated Land Officer – No objection subject to condition (see Conditions).

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

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 No comments have been received.

11.0 Parking Provision

11.1 There would be four temporary car park spaces created whilst the redevelopment work is undertaken. Mobility scooters would be kept in one of the atriums.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 The main proposals are for the two glazed atriums that would act as the entrances to the building. The curved atrium would be internal to the site and would not be visible from outside the site. The atrium on the Old Heath Road elevation would be visible in the street scene, but given that it would be located on part of the building that is recessed from the front line of the building and it would not bring the building any further forward than this front line, it would not stand out. The atriums would give the building a contemporary twist which together with the other various external changes – including the replacement of the tile cladding with weatherboarding and rendered panels – would improve the overall aesthetic of the building, which currently appears as a rather tired looking 1970s build. The height of the atriums would be no greater than the existing building and would not dominate it. Therefore, the proposal is considered to be acceptable in design terms and accords with UR2 and DP1. The various other refurbishment work would also improve the thermal performance of the building and would help reduce energy bills for residents.
- 15.2 There would be an area of garden on the Recreation Road elevation that would become a temporary disabled car park for a period of two years whilst the work would be undertaken, and would compensate for areas in the main car park being used for storage of construction materials. As a result of providing the temporary car park the four Silver Birches that are within the site would be removed. Whilst the loss of these trees is not taken lightly, especially as their removal is to facilitate a temporary car park, the Council's Arboriculturist has no objection to their removal as they are Category B trees, some of which are too close to the building of Worsnop House and that the applicant is proposing replacement tree planting. The loss of the Silver Birches would not be very apparent in the street scene as the large Horse Chesnut and Sycamore street trees to the front of the plot would remain and they dominate this area of the street. The replacement trees would be located further from the building and as such would have a better long term relationship with the building.
- 15.3 The site has no immediate residential neighbours so there would be no overshadowing concern and the proposal does not raise any overlooking issues. Therefore the proposal would not raise any amenity concerns and complies with DP1.
- 15.4 The atrium on the Old Heath Road elevation would be a secondary entrance and would also serve as an area to store and charge mobility scooters for residents. Therefore the proposal would comply with the access requirement of Policy DP17. No additional units of accommodation would be created so there would be no parking issues as a result of the proposal.

16.0 Conclusion

- 16.1 The design of the atriums and the external changes are acceptable and would improve the overall appearance of the building. The proposals would not result in any amenity issues. The trees that would be lost would be Category B trees with a moderate value and they would be replaced with trees that would have a better long term relationship with the building.

17.0 Recommendation - APPROVE subject to the following conditions

18.0 Recommended Reasons for the Decision

18.1 The proposal accords with the relevant policies in the Statutory Development Plan. Having also had regard to all material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged planning importance.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 10, 11, 12, 13, 14 Rev A, DFC1406TPP and Location Plan unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Materials as Stated in Application

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 10, 11, 12, 13, 14 Rev A, DFC1406TPP and Location Plan unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

4 - Non-Standard Condition/Reason

Prior to the commencement of the development, the access in Recreation Road at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 33 metres to the south west and 2.4 metres by 43 metres to the north east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

5 - Non-Standard Condition/Reason

Prior to commencement of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access in Recreation Road. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

6 - Non-Standard Condition/Reason

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

7 -Non-Standard Condition/Reason

Any vehicular hardstanding to be used by blue badge holders shall have minimum dimensions of 3.9 metres x 6.5 metres for each individual parking space, retained in perpetuity, unless otherwise shown to be temporary parking spaces.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

8 - Limits to Hours of Work

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

Weekdays: 8am to 6pm

Saturdays: 8am to 1pm

Sundays and Bank Holidays: None.

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.

9 - Simple Landscaping Scheme Part 1 of 2

Prior to the commencement of development, there shall have been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the publicly visible parts of the site, which shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

10 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

11 - Non-Standard Condition/Reason

Within 2 months of the hereby approved development being completed the temporary car park (as shown on the approved plans) shall have been removed and the area shall be landscaped as agreed under approved landscaping scheme, unless otherwise by the Local Planning Authority.

Reason: To ensure that the car park remains a temporary feature, in the interest of the local amenity.

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

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

(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

(4) Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

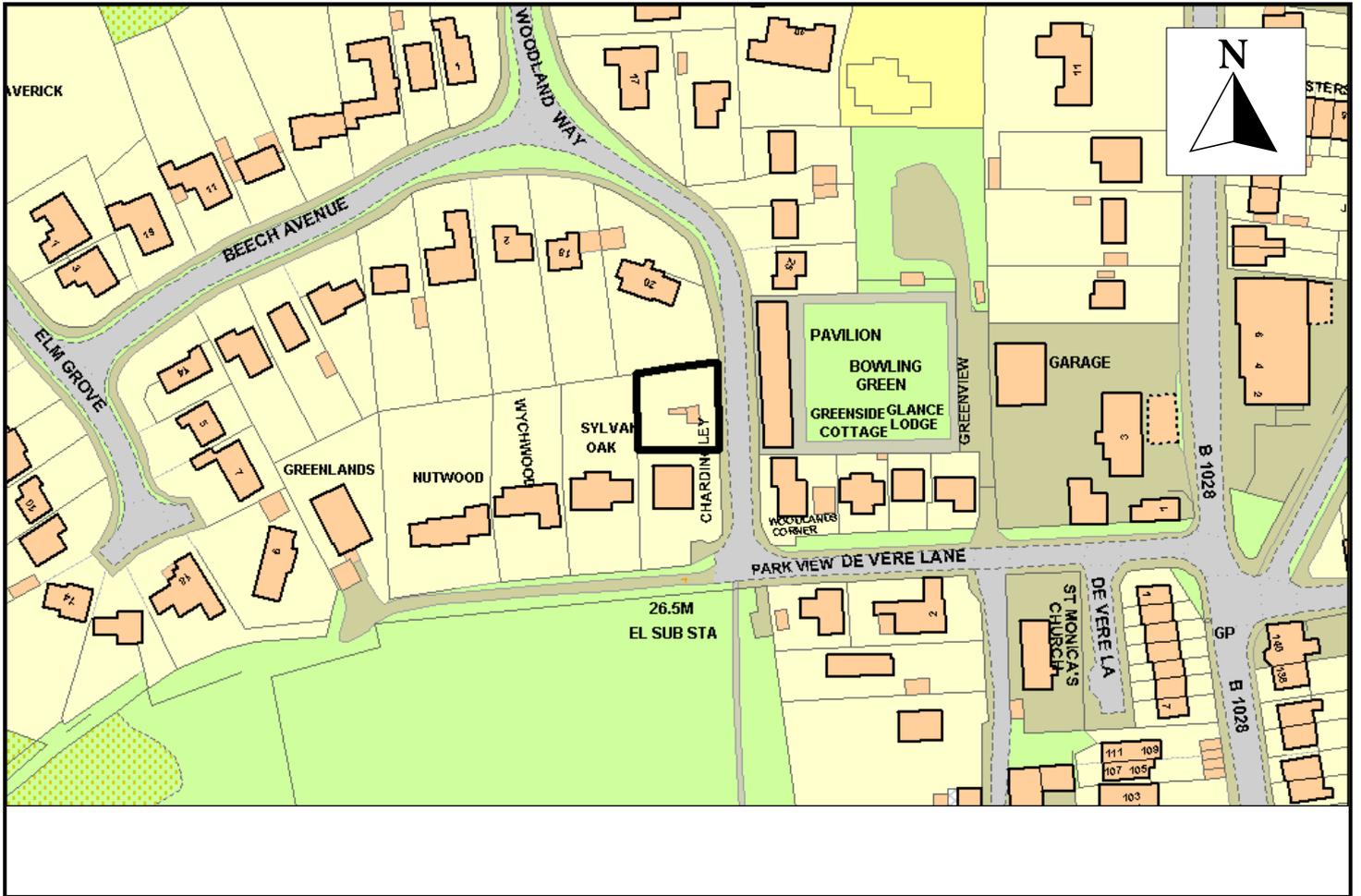
(5) In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority.

(6) An investigation and risk assessment must be undertaken in accordance with the requirements of the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and subject to the approval in writing of, the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

21.0 Positivity Statement

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



Application No: 130233

Location: Part garden of, Innisfree, De Vere Lane, Wivenhoe, Colchester CO7 9AS

Scale (approx): 1:1250

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7.4 Case Officer: Carl Allen

MINOR

Site: Innisfree, De Vere Lane, Wivenhoe, Colchester, CO7 9AS

Application No: 130233

Date Received: 8 February 2013

Applicant: Steve Norman

Development: Erection of a detached dwelling with associated parking facilities.

Ward: Wivenhoe Quay

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Cllr Liddy has called in the application due to amount of local interest, both support and objection.

2.0 Synopsis

2.1 The key issues explored below are the impact of the proposal on the residential amenity and the character of the area. Whilst the proposal is considered not to have any overshadowing or overlooking concerns the proposal is considered to have a much smaller plot than the other dwellings/plots that it most relates to, appearing cramped and out of character with this area. As such refusal is recommended.

3.0 Site Description and Context

3.1 Innisfree (formerly Chardingley) is a detached bungalow on a corner plot. To the east is Woodland Way whilst to the south is De Vere Lane. To the north is the rear garden of Innisfree which runs along Woodland Way. In this garden is a detached garage and a greenhouse with the remaining garden consisting of lawn. The garden boundary to Woodlands Way consists of Heras style fencing. In the south-west corner of the application site is a young Fastigiatae Oak tree that was planted to replace a Holm Oak that was covered by a Tree Preservation Order. Outside the site but immediately on the other side of the north-west corner is a collection of trees covered by a Tree Preservation Order. The immediate neighbours are 'Sylvan Oak' to the west of Innisfree and 20 Woodland Way to the north.

4.0 Description of the Proposal

- 4.1 The proposal is to subdivide the garden of Innisfree and to erect a single, chalet style dwelling with two dormer windows in the front elevation and one dormer window in the rear elevation. The existing detached garage would be demolished. The dwelling would have two bedrooms and the rear dormer window would serve a bathroom. The dwelling would measure 12m long, 7.5m wide and 6.5m high. Materials would be red facing brick and roof tiles. There would be a new access formed onto Woodland Way and off-street parking for two vehicles provided. The plot would be approximately 20m by 21.5m with the resulting plot of Innisfree becoming 30m by 21.5m. A new 1.8m high fence would be erected between the plot and Innisfree, whilst a picket fence and hedging would be provided to the front elevation with the highway.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 091158 - a new one and a half storey house. Withdrawn.
- 6.2 100553 - new one and a half storey house with vehicular access (resubmission). The application was refused for 'appearing unduly cramped and incongruous in its setting and out of character with the adjoining development to which the site relates...detrimental to the visual amenity'. The refusal was Appealed and the appeal was dismissed.

7.0 Principal Policies

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP14 Historic Environment Assets
DP19 Parking Standards

7.4 Further to the above, the adopted Site Allocations (2010) policies set out below should also be taken into account in the decision making process:

n/a

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

Backland and Infill
Vehicle Parking Standards
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

8.1 The Highway Authority has no objection subject to a condition requiring a travel information pack to be provided to the occupier.

8.2 Environmental Control has no objection subject to a condition regarding soil gas investigation.

8.3 The Landscape Officer has no objection subject to conditions regarding landscaping.

8.4 The Arboricultural Officer has not raised any objection to the proposal.

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

9.0 Parish Council Response

9.1 The Parish Council have stated that the amended development as proposed still remains overbearing to the streetscape. Also all the other issues raised on the earlier application are still of concern. Clauses 3.2, 3.6, 5.4 and 6.3 of CBC's SPD 'Backland and Infill Development'. Access to the drive is also a concern due to the road being used for the school run.

10.0 Representations

10.1 22 support and 7 objections.

10.2 Objections are based on:

- Puzzled at the 3rd attempt to develop unsuitable location
- Proposal is materially the same as previous refusals
- Refer to the Planning Inspector's comments at the Appeal
- Poor attempt to overcome Appeal decision
- Splitting the back garden would be out of character with the area
- Plot is too small for the area appearing cramped
- Area is characterised by large homes on large plots with pattern of gardens backing onto each other
- Plots on the west side of De Vere Lane have an area of 1,000 sq m, the application site would be 462 sq m and Innisfree would be 500 sq m
- Innisfree would have a much reduced garden which would be out of character with the area.
- Proposed dwelling would be smaller than others in the area. Plot would have less depth and width and would be closer to the road than other dwellings.
- Would be out of scale with near-by properties, would appear cramped in relation to plot size.
- There would be little opportunity for soft landscaping
- Would detract from pleasing character of this side of Woodland Way
- Dismayed that in 2008 a TPO Holm Oak was removed from the garden without permission
- National Planning Policy Framework (NPPF) is clear gardens do not constitute Previously Developed Land.
- NPPF gives a presumption against 'garden grabbing'
- Letters of support are from residents whose amenity will not be affected by the development
- Current scheme is worse than the previous application
- Would be very close to their dwelling and the proposal would look into their rear windows and rear garden
- Vehicle lights would shine into the garden at night
- Applicants have tried to get an advantage by already clearing and fencing the plot. This has harmed the character of the area.
- The new access would diminish the character of the area
- New access would be a danger to road users and pedestrians
- East side of De Vere Lane has smaller dwellings, a church and a garage and is a different 'place'
- Lack of garaging means parking spaces would take up potential landscaping areas
- TPO tree is close to the proposal and may not survive. As the tree grows it will cast shadows to the dwelling and would lead to pressure to prune
- Contrary to Policies H2, UR2, DP1 and the Backland SPD.
- Area becoming spoilt by poorly designed homes not in keeping with the area
- Area is semi-rural with low density housing.

10.3 Support is based on:

- Design in keeping with Innisfree
- A proven need for dwellings this size in Wivenhoe
- Already have 2 similar in-fill homes in De Vere Lane
- In keeping with the local area
- Good use of land
- Tidies up the site
- Such property is in demand from first time buyers and the elderly
- Guards the privacy of neighbours
- Echoes the architecture of adjoining property
- Harmonises with surroundings
- De Vere Lane and Woodlands Way already support a number of dwellings in gardens and this is a reasonable way to provide housing
- Plot size is adequate
- Live in a property built by the developer and are very happy with it
- Would add to the neighbourhood
- Dwelling would blend in
- Would improve appearance of that part of the road
- This is on a larger plot, is single storey and has a larger road frontage than the previous application
- Avoids building on a Greenfield site
- A well considered proposal
- Makes good use of existing infrastructure
- Adds character and charm to the area
- Size in keeping with other plots in the area
- Would attract young families to the area
- Add more affordable housing to the market
- Support the small neighbourhood community
- Wivenhoe needs more housing and this must be built on brownfield sites and under used town plots
- Reference is made to the 'Nutwood Development' of 97/0947 and comment that Why shouldn't these large houses have a small dwelling erected near by
- No privacy issues as opposite a bowls club
- Wivenhoe needs more 2 bed dwellings.

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

11.0 Parking Provision

11.1 Two off-street parking spaces would be provided.

12.0 Open Space Provisions

12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

- 15.1 The dwellings on the western side of Woodland Way (including Innisfree, Sylvan Oak, Wychwood, 20, 18 etc) are characterised by large dwellings set on large plots. Some of these plots tend to include large well established trees (some covered by TPOs) and these go some way to giving this side of the road a different identity to that of the eastern side which consists of a pavilion to a bowling green (which has quite a harsh appearance and is close to the highway) and small bungalows on small plots (such as Woodland Corner). The previous refused scheme of 100553 – which was dismissed at Appeal – was for a plot measuring 12m by 21.5m, whereas the current proposal has increased the plot size to 20m by 21.5m. Whilst the length of the plot has increased by 8m the remaining plot at Innisfree has consequently reduced in size and would be deprived of a decently-sized private rear garden. Other plots on the western side of Woodland Way tend to measure around 50m long and 20m wide. The area of the proposed dwelling has also increased from the previous 58.5 sq m to 90 sq m and would be 2.5m closer to the highway of Woodland Way than Innisfree. Given these factors the proposal would appear alien to the area that it would most relate to, and as such would be out of scale and character with the adjacent plots. The proposal would therefore be contrary to the Council’s adopted SPD ‘Backland and Infill’, which requires new plots to be of a similar size to the existing plots in the immediate vicinity. The applicant puts forward the argument that the proposed plot size is comparable to the plot sizes on the eastern side of Woodland Way. As already discussed it is considered that the properties on the western side have a different character to those on the eastern side of Woodland Way, indeed the Planning Inspector in the Appeal recognised this and concluded that ‘the new development would not be in keeping with the surroundings and detract from the pleasing character of this side of Woodland Way’. With this consideration the proposal remains out of character with the part of Woodland Way to which it most relates, and is contrary to Policies UR2, DP1 and SPD ‘Backland and Infill’.
- 15.2 The design of the dwelling is somewhat unsatisfactory with the dormer windows quite dominant on the side elevations and these would be able to be seen from neighbouring dwellings as well as from the highway. This, along with the small plot size (and resulting reduced plot size of Innisfree) and the incongruous relationship to the neighbouring dwelling on the western side of Woodland Way is considered to comprise poor design and layout, contrary to the Council’s policies of UR2 and DP1.
- 15.3 The site is well located in the settlement of Wivenhoe, being close to the train station, bus stops and shops and is considered to be in a sustainable location. However, this alone is not a reason to grant planning permission and the proposal has to be considered to how it relates to its context and its impact on the character of the area, which have been previously discussed.

- 15.4 Two off-street parking places would be provided on the driveway. It is noted that there would be no manoeuvring area provided on the site and that vehicles would have to either reverse into the drive, or reverse out. Highways have not raised an objection to this.
- 15.5 Comments have been made that the proposal would tidy up the site, however the site is not considered to be an untidy site. The site has become more exposed in the street scene due to the hedge being removed and heras style fencing being erected along the highway boundary. This fencing style is usually associated with securing building plots during the construction phase. The fencing is over 1m high, fronting a highway and would require planning permission if the applicant wanted to retain the fence should this application be refused. Should an application be made to retain this fence as a permanent boundary solution then approval would unlikely, given the harsh appearance of the fence. Therefore this application should not be seen as a way to improve the appearance of the site.
- 15.6 Concern has been raised that the proposed dwelling would result in the loss of amenity. As a bungalow approximately 10m from the nearest neighbour there would be no shadows cast to neighbouring windows. Regarding overlooking, the rear dormer window would serve a bathroom and would be obscure glazed and would not have any opportunity to overlook. The front dormers would overlook the highway and the pavilion of the bowls club and as such does not raise any overlooking issues. Ground floor windows would not have any real chance to overlook in to neighbours dwellings or gardens given the height of the boundary fence and the existing planting in neighbours gardens. A neighbour has commented that car lights accessing the drive would shine into their garden at night. However, the boundary fencing and landscaping would stop most of the light from entering the neighbours garden, so any light to the garden would be much reduced. With these considerations the proposal would not have any detrimental amenity impacts.
- 15.7 Within the application plot there is a young Fastigiate Oak tree that was planted to replace a removed Holm Oak that was covered by a Tree Preservation Order. The Council's arboriculturist is satisfied that the proposed dwelling would not have a negative impact upon the trees long term viability.
- 15.8 A comment has been made that the proposal would add an affordable dwelling to the market. The proposal is not for an affordable dwelling and it would be an open market dwelling.

16.0 Conclusion

- 16.1 It is considered that although the proposed dwelling would not result in any amenity issues such as overlooking or overshadowing, the proposed dwelling would be on a much smaller plot than other dwellings on the western side of Woodlands Way – which is the area that the site is most related to, and would be out of keeping with this area, by appearing cramped and incongruous with the other dwellings on the western side of Woodlands Way. In addition, the host dwelling would be deprived on a decently-sized private rear garden.

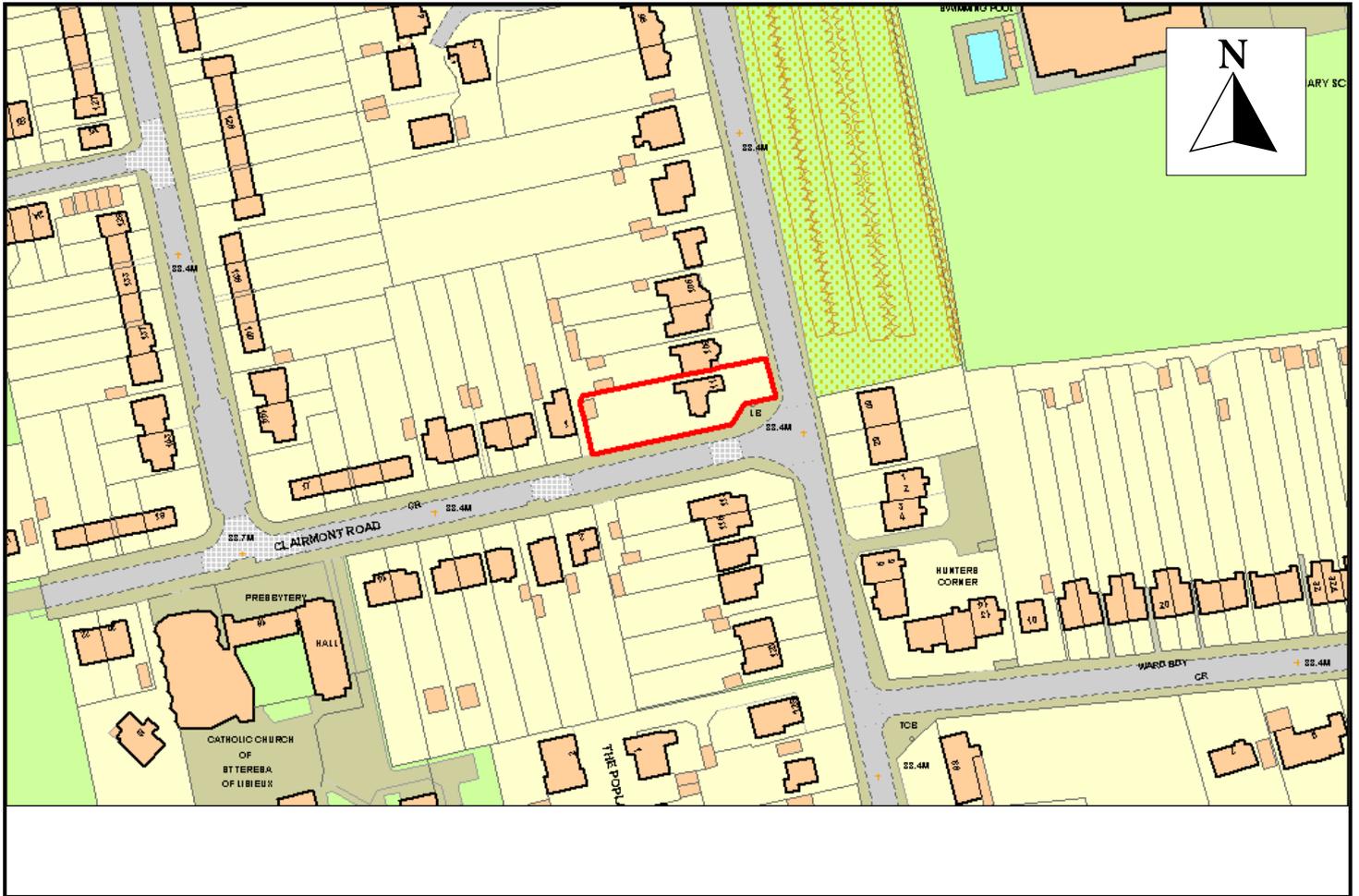
17.0 Recommendation

REFUSE planning permission for the reasons set out below.

The proposal for a detached dwelling in the rear garden of Innisfree is unacceptable due to the proposed dwelling (and the resulting plot for Innisfree) having much smaller plots than other dwellings on the western side of Woodland Way, to which the site most relates to. The proposed dwelling would be out of keeping with the existing pattern of development in the western side of Woodland Way, would appear cramped in comparison to these dwellings by virtue of the smaller plot size and layout, would be incongruous with the other dwellings on the western side of Woodland Way and as such the proposal constitutes poor design. Policies DP1 (Design and Amenity) of the Colchester Borough Council's Local Development Framework Development Policies (adopted October 2010) and Policy UR2 (Built Design and Character) of the Council's Core Strategy (adopted December 2008) supports development that is well designed and respects or enhances the surrounding area. In this regard the proposal is contrary to DP1 and UR2 in that it fails to meet the policy criteria. The proposal is also contrary to the Council's adopted Supplementary Planning Document 'Backland and Infill', which requires new plots to be of a similar size to the existing plots in the immediate vicinity.

18.0 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.



Application No: 130448

Location: 111 Straight Road, Colchester, CO3 9BZ

Scale (approx): 1:1250

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7.5 Case Officer: Mark Russell

Due Date: 06/05/2013

HOUSEHOLDER

Site: 111 Straight Road, Colchester, CO3 9BZ

Application No: 130448

Date Received: 11 March 2013

Agent: Mr Ian Johnson, Duncan Clark & Beckett

Applicant: Mr & Mrs Lowe

Development: Two storey rear extension to create new family room and two bedrooms

Ward: Lexden

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 Lewis for the following reasons: 'Neighbours at 109 Lexden Road are concerned that the extension will have a serious effect on their amenity. I consider the proposed extension will be over bearing and will result in a loss of light to their patio.'

2.0 Synopsis

2.1 The key issues explored below are those relating to design and residential amenity. The objections by the neighbouring property are looked at in detail and it is concluded that the effect on amenity is at an acceptable level. The design is also held to be acceptable, and approval is then recommended.

3.0 Site Description and Context

3.1 111 Straight Road is a detached 1930s house on the corner of Straight Road and Clairmont Road in Lexden ward. Surrounding properties are largely of the same period and design, although there is some variety.

3.2 The house has two main aspects, with the deep front garden addressing Straight Road, but an open side aspect onto Clairmont Road containing parking and the pedestrian access. Formerly a Tree Preservation Order covered part of the side aspect, but this has since been lifted when the specimens had to be removed some years ago.

4.0 Description of the Proposal

4.1 The proposal is for a two-storey rear extension, double-piled and articulated, to provide two additional first floor bedrooms and a 'family room' at ground floor.

5.0 Land Use Allocation

5.1 Residential

6.0 Relevant Planning History

6.1 None relevant

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

DP1 Design and Amenity

7.4 Further to the above, the adopted Site Allocations (2010) policies set out below should also be taken into account in the decision making process:

n/a

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

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

8.0 Consultations

8.1 Museum Resources – response awaited

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

9.0 Parish Council Response

9.1 n/a

10.0 Representations

10.1 One objection has been received from the neighbouring property 109 Straight Road, this raised the following points:

1. The size and height of the proposed extension will have a dominant and over-bearing effect through its sheer bulk and mass.
2. The extension will make the area look very cramped and over-developed.
3. The extension will destroy our enjoyment of the house, patio and rear garden. It would rob our patio and garden area of natural light and there is potential for overshadowing.
4. It would also decrease to an unacceptable level the light to our two children's rooms. These rooms are used for play, study and rest. These rooms would be darkened and require permanent artificial light.
5. The development would substantially reduce the efficiency of the renewable energy panels and clash with government's commitment to renewables.
6. As designed the bathroom window would cause overlooking.

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

11.0 Parking Provision

11.1 The current provision is not altered

12.0 Open Space Provisions

12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

15.0 Report

Design

- 15.1 The double-piled solution to the rear is not an uncommon solution to reduce bulk from an extension. Materials are brick and render with clay plain tiles to match. The form, fenestration and choice of materials are held to be acceptable in this location.

Amenity

- 15.2 This breaks down into two distinct considerations: i) Privacy and ii) Loss of light/outlook.
- 15.3 On the first point, the current scenario is that the rear windows of 111 do not have much of a view into the garden of 109 Straight Road. The bedroom window is on the far side and its view is blocked by hedges and low trees. The near window is a bathroom, which has limited views when opened. The proposal would see two rear bedroom windows. The far side would have even less of a view of the neighbour's garden, but the near window would have some view of the rear section. It would, however, have the effect of preventing any casual overlooking from the existing bathroom window.
- 15.4 The newly positioned side window for the bathroom could cause overlooking if not dealt with carefully. It should, therefore, be conditioned to be obscured and limited opening.
- 15.5 Given that the garden, including the sitting out area, is already overlooked to some degree by other dwellings (107 and so on), then it cannot be held that privacy is lost. On balance it is considered that the overlooking situation would be no worse than now.
- 15.6 In terms of loss of light/outlook, the two-storey extension fails the test of breaching a 45 degree line from the main rear corner of the neighbouring dwelling. However, the area of 109 Straight Road that could suffer loss of light is in fact a single storey rear extension rather than a sitting out area. The roof is solid, rather than glazed, at the affected point (although there is a window further on, it is beyond the affected zone) and therefore it cannot be argued that there is a loss of light.
- 15.7 With regard to outlook, no windows suffer from a combined 45 degree plan and section loss of outlook.
- 15.8 Whilst it is acknowledged that the solar panels installed by the neighbouring property will now enjoy less light, this is not a sufficient reason for refusal.

16.0 Conclusion

- 16.1 In conclusion, the design and amenity issues are considered to be satisfactorily dealt with. There is not a net loss of privacy and not an unacceptable loss of outlook and light. Approval is, therefore, recommended.

17.0 Recommendation - APPROVE subject to the following conditions

18.0 Recommended Reasons for the Decision

18.1 The proposal accords with the relevant policies in the Statutory Development Plan (as set out above although it technically fails our “Extending your Home?” SPD). Having also had regard to all material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged planning importance. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely that the issues of loss of privacy and outlook/light are not unacceptable.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number (PA-10) unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Materials to Match

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

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

4 - Non-Standard Condition/Reason

The side-facing bathroom window hereby permitted shall, prior to any use, be obscured to a minimum of Pilkington level 3, and shall be of limited opening to be agreed in writing by the Local Planning Authority.

Reason: In the interests of residential privacy.

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the

necessary works should be made by initially telephoning 08456 037631.

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

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

21.0 Positivity Statement

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

AMENDMENT SHEET

Planning Committee
25 April 2013

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 130186 – Ilex Close, Colchester

1. The following objection has been received from Cllr Hazell:

My objection to this proposal is that there are too many houses proposed, making the development very dense.

Further, the parking provision whilst it conforms with guideline is unlikely to prove adequate.

Other objectors have cited the local primary schools as being over-subscribed, which is another serious concern.

2. The Agent has submitted a supplementary statement in response to the matters raised by the Council's Arboricultural Officer:

In response to the objections from the Tree Officer, (Liam McKarry) I would comment (paragraphs refer to those in the Tree Officer's memo dated 15/04/2013);

Paragraph 1.2. indicates that the tree officer considers that the tree removals are numerous and that 'Ideally the buildings should be reconfigured to allow the retention of these trees; however, if they are to be removed as part of the development process there is space within the area to install replacement trees'. I would sadly have to disagree with this assessment. The landscaping scheme which I developed tried to place as many trees as absolutely possible into the site as a whole. I had to consider the future growth potential of the trees and have tailored the species to the spaces. I really don't think that there are any significant practical spaces left on the site where additional trees could be installed without making it difficult to retain them to full maturity. For instance, the verge areas to the front of Block F give a maximum separation between any planting and the fronts of the properties of 4m - there are no trees which don't have a spread of around 2m radius min (Carpinus betulus Frans Fontaine springs to mind) - which would give only 2m to the front windows of the house - its not likely that these would be retained to full term for this reason)

Paragraph 1.3. comments on the likely inability to retain the Whitebeams (fully grown more or less) adjacent to the gable ends of Plots 10 and 17 because construction and liveability factors would prevent this.

I would agree with the tree officer to an extent - undoubtedly two of the trees will need to have their crowns reduced in order for scaffolding to be erected. This was clearly stated in Section 4.4 of the AIA document and whilst it will affect their shape and amenity to an extent, I don't think it will be significantly harmful to either. Undoubtedly the relationship of the trees to the properties and the proximity of the proposed works area not an ideal situation, but I consider that it is entirely 'doable' and have seen it done numbers of times with trees of this size and in this sort of relationship. The trees have been confined by existing street features such as kerbing and surfacing on the sides affected by the proposed works, and I would anticipate that whilst roots will be present in the areas of the new footings, these will be less extensive than if the trees were 'open grown' - effectively the roots will tend to concentrate along the grassed verge areas, therefore the root pruning and footings lining solution should retain the health of the trees reasonably well.

Similarly the secondary outlook from the gable ends (currently no windows, but secondary windows to potentially be conditioned would only be moderately affected, and liveability negligibly so) means that there is no appreciable overbearing or shading factors to consider on the houses, and the height and form of the trees is very moderate (they are really relatively small trees which have very little future growth potential because they have always been restricted by the available growth medium as well as their species type) so this factor is not overly significant. There will be some morning shading to the rear gardens, but none from mid-morning onwards. The situation is therefore somewhat different to the replacement planting proposals potentially indicated by the Tree Officer in Paragraph 1.2. in relation to what is / is not an acceptable proximity of trees to property. Also one must take into account the amenity value of the trees, which in this case is only 'moderate' and therefore I consider some works to retain them are an acceptable compromise.

If the trees were of other species or in other growth mediums, I would take a different view, but I don't consider that they are unviable either in terms of physically constructing the dwellings, or in liveability terms - one can see large numbers of similar relationships of buildings to trees of this sort throughout an urban area.

Paragraph 1.4. This indicates that the Tree Officer thinks that T13 is to be retained as it is not specifically included in the AIA document because, due to an omission, the document was not altered as well as the plans showing the tree to be removed when parking areas were altered. However, it is clearly shown to be removed on the plans (broken canopy outline) for the reasons that the Tree Officer states, and therefore we are in agreement on this point.

I trust that this is of assistance in explaining the reasoning behind the retentions / removals and replacements and would be happy to discuss any aspects further with the Tree Officer if it would help to come to a better scheme.

3. Amended Reason for Approval (reference to loss of trees added):

18.1 Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy DP1 or DP16 in terms of the loss of existing trees of amenity value and the garden size for three of the proposed dwellings. The proposal also does not fully comply with the requirements of the Essex Design Guide in terms of back to back distances between properties. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because the benefit that would be gained by the delivery of a significant number of affordable dwellings, as well as the improvements to the layout of existing development, would outweigh the level of visual harm caused by the loss of existing trees. Further, the proposed garden sizes would respect the character of the area, being of similar size to existing gardens, and the distances between properties with intervening features would restrict overlooking.

18.2 Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely that the development does not materially harm neighbours' amenities, is acceptable in highway safety terms, improves the appearance of the site and achieves new affordable housing units.

Further comments received from Agent:

“I write to confirm that Mary Hannington Development Director of The Guinness Partnership (South) and Tony Swinden Neighbourhoods Director of The Guinness Partnership (TGP) will be attending the Planning Committee on the 25th April 2013 to answer any questions the committee may wish to address regarding the above planning application, which proposes 100% affordable housing. This is in response to concerns raised by local residents of housing estates outside of the application site in respect of their experiences of a recent development at Oakapple Close.

We would like to point out that the proposal at Ilex Close is principally different to that at Oakapple Close in as much as the current proposal builds upon an existing community, subsequently providing a more balanced and integrated tenure mix. Experience of the Oakapple Close development can also be applied to the current proposal and will be implemented in conjunction with the Boroughs Housing Management team. As I am sure you are aware, affordable housing is desperately needed in the borough as the Council's housing figures confirm. The proposed development will be 100% affordable housing and will therefore deliver affordable houses to meet a significant identified shortfall in the borough.

Whilst writing we would also like to confirm that we concur with the officer's report and their recommendation for approval on the basis that the residential redevelopment of the site accords with the development plan, or where there are deficiencies identified, such as private amenity space and back to back distances there are only 3 plots (7% of the total development), which just fall short of standard but will not result in harm and this has been endorsed by officers'.

In respect of loss of trees or some of the open space on site, the Council's Senior Development Team has considered the proposal in this regard and no objection was raised (paragraph 15.11 of the committee report). Any perceived shortfall will not result in harm and there are material considerations that weigh in favour of the proposal, such as the improvement in the overall layout in terms of its security and utility of new areas of improved open space which will have new planting – we would refer you to the Urban Design Officer's comments in this respect.

Finally, the applicant's layout illustrates that there is the ability to provide parking in accordance with the Council's standards, which will be achieved through the submission of an amended parking plan as required by condition 13, and in addition, a long term parking solution providing 68 allocated parking spaces where non exits at present would also be secured for the existing 68 residents of Ilex Close.

Overall we therefore consider the proposals comply with policy provisions and will not result in any harm to acknowledged importance. This is supported by the Council's committee report. Further, the proposal will provide much needed affordable housing in a highly sustainable location, which will be delivered by one of the country's most reputable housing associations. For the foregoing reasons the proposal, in our opinion, is considered to be of considerable benefit to

Colchester and its residents and we hope you will support your officer's recommendation.

We hope the committee concur with this summary and we would be happy to answer any additional questions on the evening of the committee meeting, or as the committee consider necessary."

Correspondence has been received from the Environment Agency stating that they wish to comment on the proposals. However, comments have not yet been received. In the event that Environment Agency comments are not received prior to the committee meeting, the recommendation should be amended to the following:

17.1 APPROVE subject to no objection from the Environment Agency or Anglian Water and the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- *Development to be 100% affordable housing*
- *Landscape Management Plan*

On completion of the legal agreement, and subject to any additional conditions required by the Environment Agency and Anglian Water, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

7.2 130362 – Land adjacent to Marks Tey Hotel, London Road, Marks Tey

The Ward Member, Councillor Blundell made a representation that noted issues with the signage that faces the A12 and with the portable toilets that are being left on site.

In response: These issues will be covered by the non-standard condition 11 that requires the site to be cleared following a car boot sale. If Members consider it to be appropriate the words "including the signage facing the A12 and the portable toilets" can be inserted into the condition.

The Chairman of Marks Tey Parish Council, Nigel Fitch made a representation. This set out issues with car backing up onto the A12 on Wednesday the 17th of April as the site was left closed until 6am. It also set out how the complaints regarding the site have been grossly exaggerated. His son lives at number 5 Francis Court and has never experienced any issues with the site.

In response: As set out in the report, it is sensible to allow people onto the site prior to 6am as long as they do not start setting up until 6am and do not start trading until 7am. It is therefore not considered necessary to impose a condition to restrict this.

7.4 Innisfree, De Vere Lane, Wivenhoe

Add to point 15.7

'The comment from an objector that a TPO Holm Oak was removed in 2008 without consent is incorrect'.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

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

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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