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Item No: 7.2

Application: 190217

Applicant: Mr & Mrs Cherry

Agent: Mr Lee Scales

Proposal: Proposed new three bedroom bungalow on land to the rear of Homelea. Resubmission of 182077

Location: Homelea, Birch Street, Birch, Colchester, CO2 0NW

Ward: Marks Tey & Layer

Officer: James Ryan

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because of the level of objection generated from neighbours, the previous appeal decision and the input from the MP Priti Patel on behalf of one of the neighbours.

2.0 Synopsis

- 2.1 The key issues for consideration are the history of the site, the principle of development and the impact on highway safety.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site comprises a backland plot to the rear of Homelea. Homelea is an end of terrace dwelling that fronts Birch Street. It has a modest garden and then a larger piece of land beyond that. This comprises the site area and is severed from the garden of Homelea by an access track.
- 3.2 This access track for the access to the rear of the terrace beyond Homelea. It also serves the new parking area and bungalow that is nearing completion. This was recently approved under application 171984.

4.0 Description of the Proposal

- 4.1 Proposed new three bedroom bungalow on land to the rear of Homelea.

5.0 Land Use Allocation

- 5.1 The site is within the settlement boundary but has no other allocation.

6.0 Relevant Planning History

- 6.1 The planning history most relevant to this scheme is the application for a dwelling O/COL/04/2184 which was refused by the Council and refused at appeal (ref APP/A1530/A/05/1177116) on 22/11/04.
- 6.2 On the 31/1/19, application 182077 for a new dwelling was withdrawn as the notices had been incorrectly served.
- 6.3 It is also important to note that on the plot to the north a new bungalow has recently been constructed. That was approved via application 171984 on 13/09/17. This represents a material change in circumstances following the appeal referred to at paragraph 6.1 above.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is generally in conformity with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
 - SD2 - Delivering Facilities and Infrastructure
 - H1 - Housing Delivery
 - H2 - Housing Density
 - H3 - Housing Diversity
 - UR2 - Built Design and Character
 - PR1 - Open Space
 - PR2 - People-friendly Streets
 - TA1 - Accessibility and Changing Travel Behaviour
 - TA2 - Walking and Cycling
 - TA3 - Public Transport
 - TA4 - Roads and Traffic
 - TA5 - Parking
 - ENV1 - Environment
 - ENV2 - Rural Communities
 - ER1 - Energy, Resources, Waste, Water and Recycling
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
- DP1 Design and Amenity
 - DP2 Health Assessments
 - DP3 Planning Obligations and the Community Infrastructure Levy
 - DP12 Dwelling Standards
 - DP14 Historic Environment Assets
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - DP17 Accessibility and Access
 - DP19 Parking Standards
 - DP20 Flood Risk and Management of Surface Water Drainage
 - DP21 Nature Conservation and Protected Lanes
 - DP25 Renewable Energy

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

N/A

- 7.5 The site is not in an area with a neighbourhood plan.

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

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Backland and Infill
- Affordable Housing
- Community Facilities
- Open Space, Sport and Recreation
- Planning for Broadband 2016
- Managing Archaeology in Development.
- Developing a Landscape for the Future
- ECC's Development & Public Rights of Way
- Planning Out Crime
- Air Quality Management Guidance Note, Areas & Order

Submission Colchester Borough Local Plan 2017-2033

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

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

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

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

8.0 Consultations

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

8.2 ECC Highways

Originally objected. Withdrew their objection following amendments and recommended conditions:

AMENDED PLANS DATED 04 MARCH 2019 NUMBERED PA-002 REV H.

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

1 The development shall not be occupied until such time as the car parking and turning areas for both dwellings, has been provided in accord with the details shown in Drawing Numbered PA-002 REV H. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

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

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

3. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The amended drawing demonstrates an aisle width of 6.0m enabling a workable manoeuvring space for cars to ingress and egress the car

parking spaces for the new dwelling and the second car parking space for the donor dwelling is shown at 3.4m which provides sufficient circulatory space for pedestrians and for car doors to be opened fully.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

8.3 Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE – European designated sites¹

It has been identified that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester Borough Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

8.4 Tree Officer

Trees can be protected via condition.

8.5 Landscape Officer

No objection to the scheme, the following condition(s) is/are recommended.

Z00 – No part of the development shall be occupied until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing trees, shrubs and hedgerows on the site, proposed planting, details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development 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.

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.

Recommended informative:

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B (this available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link).'

8.6 Environmental Protection

Should planning permission be granted Environmental Protection wish to make the following comments:-

ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

8.7 **Contaminated Land Officer**

A condition and an informative requested.

9.0 **Parish Council Response**

9.1 The Parish Council's response was awaited at the time of drafting this report.

10.0 Representations from Notified Parties

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

10.2 Neighbour Objection Comments

This scheme has generated a number of objections, more than one of which come from the residents of 'Kennan'. An objection was also received from Orchard House and a further objection from the neighbours who have built the new backland bungalow next door.

The representations were very detailed and all have been carefully considered. Two of the emails transpose a letter received from a planning consultant in relation to the previous application that was withdrawn. They can be read in full on the website, however in summary they objected to the scheme on the following basis:

- >The previous scheme was refused by the Council and refused by PINS at appeal.
- >This scheme is invalid.
- >The scheme is demonstrably harmful to highway safety.
- >Not enough space for vehicular maneuvering.
- >The scheme will cause material harm to our neighbouring amenity
- >The applicants don't own the land they claim to.
- >The applicants don't own the access track.
- >We want this scheme refused.
- >There was asbestos in the old garage.
- >This intensification of use is unacceptable.
- >ECC Highways say this should be refused.
- >Fails to comply with a number of Development Plan policies.
- >Fails to comply with the NPPF.
- >Whilst this kind of intensification used to be acceptable, since 2010 infilling such as this 'garden grabbing' has become unacceptable.
- >The higher density of this development is unacceptable.
- >Scheme will cause further light, sound and noise pollution and will cause overlooking/loss of privacy.
- >The open aspect of the neighbourhood is being eroded.
- >How are the services going to go in – over who's land?
- >I don't object to a new bungalow as I have constructed one next door myself.
- >The neighbours who support the scheme are wrong, they have too many cars and they turn on my drive without permission.

8.3 Neighbour Support Comment

One letter of support was also received which stated:

I have supported the application and do not find parking in the local area to be an issue. There is a housing shortage in this area and small developments such as these should be supported.

11.0 Parking Provision

11.1 As amended the scheme accords with the parking standards. Full details will be set out in the relevant section below.

12.0 Open Space Provisions

12.1 This proposal does not generate any public open space requirement. It will provide a private amenity area to the rear of over 100m² which accords with the requirement set out in relevant adopted policy DP16.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

15.1 The main issues in this case are:

The Principle

15.2 The appeal decision referenced above was concerned with an all matters reserved submission. The Inspector was satisfied with all relevant matters apart from potential issues with the access. The definition of previously developed land has changed since the appeal decision so the Inspector's sentiments in terms of the positive reuse of previously developed land are not held to carry significant weight in the determination of this application.

15.3 There have been other changes in circumstances since the appeal and these do add weight to the recommendation of approval of this scheme. The Backland and Infill Development SPD was adopted in 2010 and this provides guidance that is relevant to applications such as this. At para 3.3 the SPD requires that backland and infill development:

- Respects and reflects the character of the area and the existing street scene;
- Comprehensive development is planned;
- Safe and attractive residential layouts are promoted;
- Local distinctiveness and identity are promoted;
- Environmental impacts are minimised..

- 15.4 In addition to the highway matters which are dealt with in the relevant section below, since the appeal the Council has allowed backland development (as per approval 171984) close to this site. It could not now be argued that backland development is out of character in this part of Birch Village. The development planned is comprehensive and does not land lock any other potentially developable sites. The bungalow proposed is acceptable in design terms as will be detailed in the relevant section below. It is also held that the Environmental Impact of the scheme has been minimised to within tolerable levels. The bungalow is of a reasonable size that will sit comfortably in this context and has policy compliant parking and amenity space provision.
- 15.5 Whilst essentially tandem development in nature, the proposal utilises an existing access way and it is therefore held that this scheme cannot be held to be materially harmful in that respect given that the proposed access is already potentially used for access by a number of properties. These vehicles would pass close to the objector's property 'Kennan'. The scheme therefore complies with the sentiments of the 'Backland and Infill' SPD in the opinion of officers.

Highway Matters:

- 15.6 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan Policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD. This is held to be the key issue following the appeal.
- 15.7 In the case of the previous appeal the Inspector found the scheme could potentially harm highway safety. In short due to the lack of certainty about the access way (that was not red-lined), the Inspector concluded there could be harmful on street parking at paragraph 8:
8. Birch Street is the main road through the village. In the vicinity of the entrance to the private drive it is narrow with a broken hazard centreline but subject to a 30mph speed limit. There is a narrow footway on one side of Birch Street adjacent to the private access. Otherwise pedestrians must walk in the road and there is no street lighting. The visibility splay where the private access joins Birch Street is substandard in terms of that recommended in Places, Streets and Movement. This is particularly the case to the north of the access where the nearby shop and post office attracts on-street car parking that further reduces intervisibility between southbound traffic on Birch Street and vehicles emerging from the private drive. The on-street parking limits the effective carriageway width of Birch Street so that two vehicles cannot pass. However, as parking takes place on the northbound side of the road, the parked cars are in my view less effective in slowing southbound traffic. If it were the case that private highway rights did not exist over the drive and therefore any vehicles had to be parked off site this would be most likely to occur on Birch Street in the vicinity of the access junction. This would contribute further to the problem of visibility from the private drive for existing users.

- 15.8 In this instance the Highway Authority no longer object to the scheme. In 2004 there were no adopted parking standards but since 2008 standards have been formally adopted. The scheme provides parking spaces for both the donor dwelling and the new dwelling and is therefore policy compliant. This proposal has been discussed with the Highway Authority and amendments to the parking areas have been agreed. This will require the widening of the parking space to the rear of the donor dwelling 'Homelea' (the parking space at the bottom of the private amenity space) by moving the rear garden fence. The amended drawing demonstrates an aisle width of 6.0m enabling a workable manoeuvring space for cars to ingress and egress the car parking spaces for the new dwelling and the second car parking space for the donor dwelling is shown at 3.4m which provides sufficient circulatory space for pedestrians and for car doors to be opened fully. Following the amendment the Highway Authority do not consider the access to be dangerous and are satisfied with the proposed parking arrangements. They would not now support a refusal on highway safety grounds.
- 15.9 Further to this there have been other highway related changes in circumstance since the last appeal. The shop that the Inspector noted would cause short term parking in para 8 of the appeal decision has since closed and has been demolished as part of application 171984. Consequently, the short term parking for the shop on Birch Street that the Inspector noted will no longer take place. It is also noted that once laid out there will be more parking for the neighbours (condition 10 of 171984) which would help take more parked cars off of the highway as apt of the development permitted on the neighbouring backland site.
- 15.10 The backland dwelling approved via application 171984 takes its access from the same access point as is intended to be used to serve this application. In fact, this arrangement was favoured over another existing access point further to the north which was conditioned to be blocked via condition 5 of 171984; as it was very narrow. This permission also required highway junction improvement works (condition 6), no unbound materials within the first 6m of the junction (condition 8) and the layout out and surfacing of the six parking spaces for the new bungalow, donor dwelling and neighbours (condition 10). These conditions do not appear to have been complied with to date; but presumably will be prior to occupation as required by the conditions. In short, the shared access way is conditioned to be significantly improved prior to occupation but this has not occurred yet.
- 15.11 It is considered that it would be unreasonable for the Council to have accepted the intensification of this access point for the bungalow approved via 171987 but not allow one more bungalow to take access from this access as the further intensification of use is not considered materially harmful.. The site would be sterilised if that was the case as there are no other access points physically available to provide vehicular access.

- 15.12 There has also been a material change in policy context since the last appeal and the revised 2019 NPPF has the strongest steer yet that the government is committed to delivering new homes. This scheme would provide a small but helpful boost to the Council's 'windfall' housing numbers.
- 15.13 The first and third suggested conditions from the Highway Authority meet the tests set out in the PPG and will therefore be imposed if this development is approved. The second suggested condition, which requires provision for bike parking does not meet the tests. Whilst useful, it is not essential for the development to go ahead. The development is within the settlement limits where development is held to be sustainably located. In this instance, bike parking for a single dwelling does not meet the test of 'necessary' as required by the PPG.

Land Ownership

- 15.14 Land Ownership is not a planning matter. The applicants accept that they did not correctly serve notice on other owners of the access track and therefore withdrew the first application. They do appear to have correctly served notice this time.
- 15.15 The neighbours claim that the applicants do not have a right of access and this has been carefully considered but ultimately this is a civil matter. The applicants have provided a copy of their Land Registry Certificate.
- 15.16 In the previous appeal, the land in question was entirely isolated (symptomatic of the fact the plot was actually originally linked to Orchard House):
- it was agreed by the principal parties that the only feasible option is via a private drive that passes between two dwellings on Birch Street to the land to the rear, including the appeal site. The drive was not included within the red line on the application drawing and as a result the appeal site does not have a boundary with the public highway. The appellant has indicated that there are private highway rights from the appeal site over the access drive. I have seen no documentary evidence of this and the appellant does not know who owns the access. In the absence of such evidence I am unable to establish that a safe means of access to the public highway is achievable.
- 15.17 In this instance, the applicants have indicated a red lined area to the public highway and are claiming ownership/control of that land to provide vehicular access. In terms of evidence, the applicants have now provided full Title documents showing ownership of the whole site and access rights over the access way. This is considered to be sufficient to address this issue. The access arrangements are therefore now considered satisfactory.

Flood Risk and Drainage:

- 15.18 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.
- 15.19 The site is located in a Flood Zone 1, which means that the flood risk from rivers or the sea is very low. Environment Agency advice is that the very low risk means that each year the site has a chance of flooding of less than 0.1% (taking into account the effect of any flood defences in the area). Flooding from surface water is difficult to predict as rainfall location and volume are difficult to forecast.
- 15.20 Given the very low risks of flooding, the proposal is not considered to be susceptible to flooding and it is also unlikely to increase the risk of flooding elsewhere; a good proportion of the site would remain undeveloped and entirely permeable.

Biodiversity

- 15.21 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 15.22 As during the course of application 182077 (subsequently withdrawn) it was alleged that protected species (Hazel Dormouse) had been seen on site, a Preliminary Ecological Appraisal Including a Protected Species Assessment was carried out and has been submitted with the application. This concluded the site is of low ecological value. It suggests mitigation measures which will be conditioned.

RAMS

- 15.23 In line with Natural England's Advice, the LPA has carried out an Appropriate Assessment and it concluded that subject to the financial payment of £122.30 towards the RAMS fund, the off-site in combination impacts on coastal designations SPA and SAC's will be satisfactory mitigated. This has been paid via the Council's online portal.

Trees and Landscaping:

- 15.24 Core Strategy Policy UR2 and Development Policy DP1 require development proposals to be high quality, respecting and enhancing the characteristics of the site and providing appropriate landscaping.
- 15.25 The principle matter to consider is the impact on the limited tree cover on site and more importantly off-site to the rear. This has been discussed with the Arboricultural Officer who has agreed that these trees can be protected by condition.

Design and Amenity:

- 15.26 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. In terms of housing density, Core Strategy Policy H1 is relevant in that it requires efficient use of land, whilst still relating to the context of the site. Core Strategy Policy H3 seeks to secure a range of housing types across the Borough. Despite this proposal only providing a three bedroom house, this is considered to be appropriate in that it responds to the characteristics of the area. As backland development, the Backland and Infill SPD is also very important.
- 15.27 Whilst this scheme is of a form of development that is somewhat contrived, following the approval 171984 it could not be argued that it is 'out of character'. Residential development to the rear (and a large six space car parking area) has been previously allowed on the neighbouring plot realistically only leaving this plot for potential development.
- 15.28 During the course of this application, as noted above to ensure policy compliant levels of parking for both the dwelling and the donor, the dwelling was shifted back slightly. To ensure it did not completely fill the plot to the detriment of the neighbour at Kennan the depth of the bungalow has also been reduced from 16.7m to 14.67m.
- 15.29 During the consideration of the subsequently withdrawn application it was considered that the roof pitch was steeper and the ridge higher than it needed to be and could potentially be reduced. This amendment reduced the ridge height from 5.31m to 4.8m which is a small but useful reduction. It is held that as amended the bungalow proposed is as realistically low profile as possible and is of a depth that is as small as the applicants are willing to make it.
- 15.30 Due to the slack roof pitch and the single storey nature of the proposed dwelling, it is not held that this scheme will have a materially harmful impact on the surrounding neighbours in terms of overshadowing, loss of light, oppressiveness or overlooking.

15.31 The bungalow is very simple in design terms with a hipped roof and a bay window feature on the front elevation. It is held to sit quietly in the streetscene. As it sits in a back land position, it will have limited visual prominence and will therefore have a neutral impact in the road with little wider presence in the immediate neighbourhood.

15.32 It is accepted that as Kennan sits forward of the proposed building there will be some additional disruption from the comings and goings of a new residential dwelling to these neighbours in particular. This has been very carefully considered. The access way is existing and is used by a number of vehicles already. It's use will intensify when the new bungalow that is now constructed is occupied. A garage is already located on site and that also has the potential to generate car movements; including manoeuvring. The level of intensification of disturbance (and potentially pollution from cars) is not held to be harmful to the point that warrants a refusal of a single dwelling. Space has intentionally been left on the frontage for a high quality landscaping scheme to help screen the cars in the parking area from the neighbours at Kennan. It is recommended that this is secured by condition.

Contamination:

15.33 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. The land is considered to be suitable for the proposed use subject to a condition for the appropriate process in the event that unexpected contamination is encountered.

Archaeology:

15.34 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. In this case, the site is not in an area of high archaeological potential or a conservation area, is not part of, or part of the setting of, a historic park or garden or listed building. The proposal is considered to be acceptable on this basis and no further works needed in that regard. There is no identifiable impact on heritage assets.

Accessibility:

15.35 Development Plan Policy DP17 requires all development to maintain access for all users. As a bungalow it is held that this proposal will be sufficiently accessible for wheelchair users and any amendments that may be needed to make the internal arrangements wholly accessible could be made without needing planning permission as a building control matter. A small ramp may be needed to cross the threshold taking finished floor level into consideration but this could be dealt with via the planning process should the need arise.

16.0 Conclusion

- 16.1 To summarise, this scheme has been given very careful consideration in light of the neighbour's representations, potential impacts on amenity and whether the proposed access arrangements are satisfactory; in the light of the site history. On balance, the proposal for a single, modest bungalow as amended, is held to be acceptable. The ownership of land is not a planning matter and the applicant has demonstrated that on-site parking in accordance with the adopted standards can be made available for both the dwelling and the donor dwelling. The scheme is not therefore held to be materially harmful to highway safety or amenity and is acceptable in all other regards. It therefore complies with the revised National Planning Policy Framework and the Development Plan.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. Standard Time Limit

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

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

2. Development in Accordance with the Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PA002 Rev H, PA003 Rev D and PA004 Rev D.

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

3. Approval of Materials

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

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

4. Working Times

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

5. Landscaping Scheme

No part of the development shall be occupied until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing trees, shrubs and hedgerows on the site, proposed planting, details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development 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.

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.

6. Unexpected Contamination

In the event that any land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of a demolished garage with the potential to have contained asbestos and where there could be residual contamination.

7. Provision of Parking as shown on plans

The development shall not be occupied until such time as the car parking and turning areas for both dwellings (ie the new dwelling and the donor dwelling), has been provided in accord with the details shown in Drawing Numbered PA-002 REV H. The car parking areas shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety. This will involve the widening of the rear parking space to the donor dwelling as agreed during the application phase.

8. Removal of Domestic PD

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) (England) Order 2015 (or the equivalent provisions of Any order revoking and re-enacting that Order), no external alterations (including rooflights) 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.

9. Tree Protection

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

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

10. Compliance with Ecology Report

No works shall take place except in complete accordance with the

recommendations section (section 5) of the Preliminary Ecological Appraisal Including a Protected Species Assessment by Skilled Ecology dated December 2018.

Reason: To ensure that the recommendations section of the submitted Preliminary Ecological Appraisal Including a Protected Species Assessment are complied with in the interests of ecology and biodiversity.

11. CMS

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

18.1 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

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

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

4. 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 Protection 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 Protection.

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 Holidays.
- 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 Protection). 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.
- 5) All necessary measures shall be taken to minimise dust, including damping down and the use of barriers.

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

- 1) 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.
- 2) 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

- 1) 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.

5. Highways Informative: The amended drawing demonstrates an aisle width of 6.0m enabling a workable manoeuvring space for cars to ingress and egress the car parking spaces for the new dwelling and the second car parking space for the donor dwelling is shown at 3.4m which provides sufficient circulatory space for pedestrians and for car doors to be opened fully.

6 Highways Informative: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details

shall be agreed before the commencement of works.

7 Contaminated Land Informative – Asbestos-Containing Material

The applicant is advised that the site to which this planning permission relates is reported as being on or in the vicinity of land where a garage thought to contain asbestos material was located but has now been demolished.

Prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Further guidance can be found in the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

Reason - The site lies on or adjacent to land with previously potentially contaminative uses and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from the former use of land in this locality.