

# Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,  
Colchester, CO1 1PJ  
Thursday, 02 February 2023 at 18:00**

**The Planning Committee** deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

## Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. At Planning Committee meetings, other than in exceptional circumstances, only one person is permitted to speak in support of an application and one person in opposition to an application. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

<https://colchester.cmis.uk.com/colchester/HaveYourSay/HYSPlanning.aspx>.

## Audio Recording, Streaming, Mobile phones and other devices

The Council audio records and streams public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

## Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

## Facilities

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

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Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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[www.colchester.gov.uk](http://www.colchester.gov.uk)

**COLCHESTER CITY COUNCIL**  
**Planning Committee**  
**Thursday, 02 February 2023 at 18:00**

**The Planning Committee Members are:**

Cllr Lilley  
Cllr Barton  
Cllr Chapman  
Cllr Chuah  
Cllr Mannion  
Cllr MacLean  
Cllr McCarthy  
Cllr Pearson  
Cllr Tate  
Cllr Warnes

Chair  
Deputy Chair

**The Planning Committee Substitute Members are:**

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

**Councillors:**

Tracy Arnold	Catherine Bickersteth	Molly Bloomfield	Michelle Burrows	Roger Buston
Mark Cory	Pam Cox	Adam Fox	Mark Goacher	Jeremy Hagon
Dave Harris	Mike Hogg	Richard Kirkby-Taylor	Jocelyn Law	Darius Laws
Sue Lissimore	Andrea Luxford Vaughan	Patricia Moore	Sam McLean	Kayleigh Rippingale
Lesley Scott-Boutell Tim Young	Paul Smith	Dennis Willetts	Barbara Wood	Julie Young

# **AGENDA**

## **THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING**

### **(Part A - open to the public)**

**Please note that Agenda items 1 to 2 are normally dealt with briefly.**

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 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.

#### **Live Broadcast**

Please follow this link to watch the meeting live on YouTube:

[\(107\) ColchesterCBC - YouTube](#)

#### **1 Welcome and Announcements**

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves.

#### **2 Substitutions**

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

#### **3 Declarations of Interest**

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other registerable interest or non-registerable interest.

#### **4 Urgent Items**

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

#### **5 Have Your Say(Hybrid Planning Meetings)**

At meetings of the Planning Committee, members of the public may make representations to the Committee members. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Council via Zoom. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make representations in support of each planning application. Each

representation may be no longer than three minutes(500 words). Members of the public wishing to address the Committee either in person or remotely need to register their wish to address the meeting by e-mailing [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk) by 12.00 noon on the working day before the meeting date. In addition for those who wish to address the committee online we advise that a written copy of the representation be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each

## **6 Minutes of Previous Meeting**

The Councillors will be invited to confirm that the minutes of the meeting held on 8 December 2022 are a correct record.

### **2022-12-08 CBC Planning Committee Minutes**

7 - 8

## **7 Planning Applications**

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

- |     |   |           |
|-----|---|-----------|
| 7.1 | <b>213086 Land South of Copford Village Hall, School Road, Copford, Colchester</b>                                | 9 - 34    |
|     | A proposed rural exceptions site of seven homes (resubmission of 201984).   |           |
| 7.2 | <b>222261 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP</b>                                   | 35 - 56   |
|     | New Dwelling.   |           |
| 7.3 | <b>222262 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP</b>                                   | 57 - 78   |
|     | Change of Use for a Educational Centre and Welfare Facility building and Two Client & Student Accommodation pods. |           |
| 7.4 | <b>222971 Land Adjacent To, 3 Highfield Drive, Colchester, CO3 3QA</b>  | 79 - 96   |
|     | Creation of a three bedroom detached house.   |           |
| 7.5 | <b>222779 71 Byron Avenue, Colchester, Essex, CO3 4HQ</b>   | 97 - 104  |
|     | Application for a lawful development certificate for proposed 4 metre single storey rear extension.               |           |
| 7.6 | <b>222736 Nero Court, Napier Road, Colchester, CO2 7NR</b>  | 105 - 114 |
|     | Interpretation panel on a post. 1m squared maximum size.  |           |

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

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

**Part B**  
**(not open to the public including the press)**

## PLANNING COMMITTEE

### 8 December 2022

<i>Present:-</i>	Councillors Lilley (Chair) Barton (Vice Chair), Chapman, Chuah, J. MacLean, Mannion, McCarthy, Moore, Kirkby-Taylor, and Warnes
<i>Substitute Member:-</i>	Councillor Moore substituted for Councillor Tate Councillor Kirkby-Taylor substituted for Councillor Nissen
<i>Also in Attendance:-</i>	

#### 957. Minutes

The Minutes of the meeting held on the 17 November 2022 were confirmed as a true record subject to correcting the attendance of the meeting.

#### 958. 221868 Colchester Crematorium, Mersea Road, Colchester, CO2 8RU

The Committee considered an application to vary condition 2 of planning permission (183133). The application was referred to the Planning Committee as the applicant was Colchester Borough Council.

The Committee had before it a report and amendment sheet in which all information was set out.

*RESOLVED (UNANIMOUSLY)* that the application be approved subject to the conditions and informatives set out in the report and the amendment sheet.

Following the determination of the application the Chair surveyed the Committee's opinion on whether Members would consider an amendment to the scheme of delegation for Council owned applications where there were no objections to be approved by officers.

The Democratic Services Officer advised the Committee that this could not be decided at the meeting but that Officers could research what the advice of the Planning Advisory Service was and what other Councils delegation schemes detailed on Council applications and inform the Committee of examples of this and best practice.







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

- 1.1 This application is referred to the Planning Committee because it is considered expedient for the purposes of transparency, for this application to be considered in a public forum.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of a rural exception scheme on this site, the design and layout, impacts upon ecology, highways, flood risk and landscape. Matters of contamination, amenity, and archaeology are also considered, along with other material planning considerations.
- 2.2 The proposed development has been assessed in line with both the adopted Local Plan (Sections 1 and 2) and the emerging Copford Neighbourhood Plan (which currently attracts limited weight), with the benefit of consultation responses and representations from third parties. Consideration of the planning benefits of the proposed development has resulted in a balanced judgement which concludes that the benefits of the scheme, in particular the affordable housing provision outweigh any adverse impacts identified and the application is subsequently recommended for approval subject to a number of planning conditions, together with a s106 agreement securing developer contributions/obligations.

## **3.0 Site Description and Context**

- 3.1 The application site is located to the eastern side of School Road, Copford and comprises a part of an arable field between Copford Village Hall and 97 School Road, the southern end of a terrace of houses. Opposite the application site to the west of the site are residential properties and to the east is open countryside.
- 3.2 The published Housing Needs Survey for Copford and Easthorpe identifies a need for 8 affordable dwellings to meet the local affordable housing needs. The quantum of affordable homes (5) shown on the submitted plans therefore not does fully meet the identified local affordable housing need, however a substantial portion of the identified need is accommodated. As the application proposes to contribute towards the identified local affordable housing need for Copford consultation has been undertaken with the Parish Council to ensure that the Parish is supportive of the principle of the scheme, in line with Local Plan Section 2 Policy DM8. The comments from the Parish Council are provided at 9.1

## **4.0 Description of the Proposal**

- 4.1 A proposed rural exceptions site of five affordable dwellings and two open market dwellings.

## **5.0 Land Use Allocation**

5.1 Countryside/arable field.

## **6.0 Relevant Planning History**

6.1 A previous application 201984 has been submitted for a Rural Exception Scheme, which was subsequently withdrawn.

## **7.0 Principal Policies**

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

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

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

### **7.3 Local Plan 2017-2033 Section 2**

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG7 Infrastructure Delivery and Impact Mitigation
- SG8 Neighbourhood Plan
- ENV1 Environment
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- OV1 Development in Other Villages
- OV2 Countryside
- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM4 Sports Provision
- DM8 Affordable Housing
- DM9 Development Density

- DM10 Housing Diversity
  - DM12 Housing Standards
  - DM15 Design and Amenity
  - DM16 Historic Environment
  - DM19 Private Amenity Space
  - DM20 Promoting Sustainable Transport and Changing Travel Behaviour
  - DM21 Sustainable Access to development
  - DM22 Parking
  - DM23 Flood Risk and Water Management
  - DM24 Sustainable Urban Drainage Systems
  - DM25 Renewable Energy, Water Waste and Recycling
- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process:
- SS4 Copford
- 7.5 There is an emerging Neighbourhood Plan for Copford. This is currently at examination and therefore limited weight is attached to this. If the Examiner’s Report concludes the Copford Neighbourhood Plan can proceed to referendum then further weight can be attached.
- 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
  - Sustainable Construction

## **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 Landscape Advisor

In support and addition to the policy/policies and guidance detailed in 3.1 below, the following point(s) should be taken into consideration. This to avoid potential harm to the existing and future character/amenity of the site and its environs that might occur through agreement of the currently proposed scheme, as it is considered it would not adequately conserve/enhance/restore the landscape of the site for the betterment of its wider setting:

The site lies outside the settlement boundary and is unallocated, it is therefore subject to Core Policy ENV1. The requirements of policy ENV1 is largely in accordance with paragraph 170 of the NPPF and therefore weight can be given to this policy. ENV1 requires that 'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be ... controlled to conserve the environmental assets and open character of the Borough'. The issue of open character is important as it confirms the importance of the unbuilt countryside as a resource in its own right, irrespective of quality or value.

The site lies within Colchester Borough Landscape Character Assessment Area B2, the Easthorpe Farmland Plateau (CBLCA B2), this describes the character of the landscape in detail and identifies characteristic(s) of the Area shared by the site as 'Settlement pattern consists of small villages and hamlets with scattered farmsteads amongst predominantly arable agricultural land'. It goes on to set landscape strategy objective(s) to 'conserve and enhance' the landscape character of the Area. Finally, it gives landscape planning guideline(s) to 'Conserve the mostly rural character of the area'.

Contrary to the findings of the Landscape & Visual Statement (LVS) the proposal would appear to run contrary to Core Policy ENV1. This as it potentially does not conserve the character of CBLCA B2 in that it fails to 'Conserve the mostly rural character of the area' through the removal of a very visually prominent section of arable field which forms part of the framework of agricultural farmland within which the settlement of Copford sits, and its replacement with urban development. This loss of characteristic 'arable land' is a factor which it would appear, on the face of it, cannot be mitigated against as, although the LVS has guided the proposed scheme so that it is fairly sensitive to 'the mostly rural character of the area', development by its nature changes rather than conserves fully intact that 'rural character'.

### 8.3 Contaminated Land Officer

Please note that Environmental Protection would expect any such application to be supported by the minimum of a 'Phase 1' Desk Study and initial assessment of contamination risks.

### 8.4 Environmental Protection – Recommended the following conditions:

- Construction method statement
- Limits to hours of work
- EV charging points

### 8.5 Urban Designer

These comments are offered notwithstanding the acceptability of the principle of development, which is dependent on wider planning factors.

The application site provides a broadly appropriate opportunity for infill development that reflects the existing ribbon development within the sites immediate context. The proposed layout reflects this characteristic of the surrounding area and mitigates parking prominence by locating parking to the

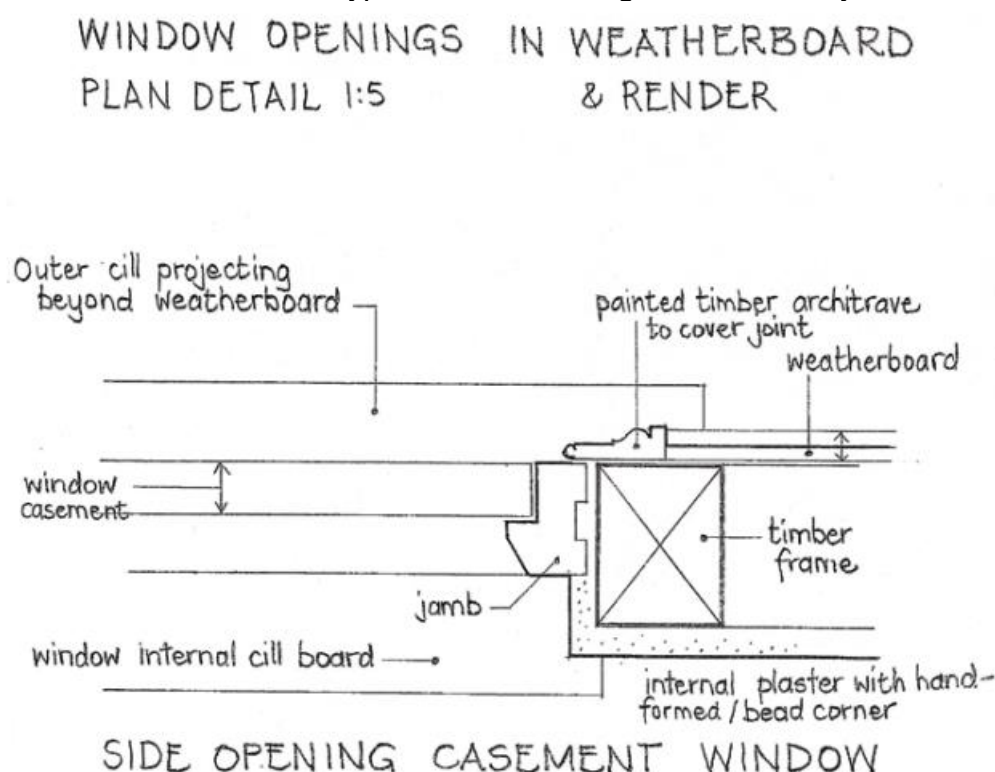
rear of the site. The proposed built environment adopts a relatively vernacular form. However, the buildings lack substantive detailing and the placement, size, shape and proportions of fenestration are applied inconsistently, resulting in an incohesive appearance. Built environment surrounding the site is somewhat eclectic and as such the lack of architectural quality has a modest impact on the character and quality of the area. There is a lack of detail pertaining to the proposed materials, landscaping and the schemes sustainability credentials, all of which could provide a mechanism for enhancing the proposal.

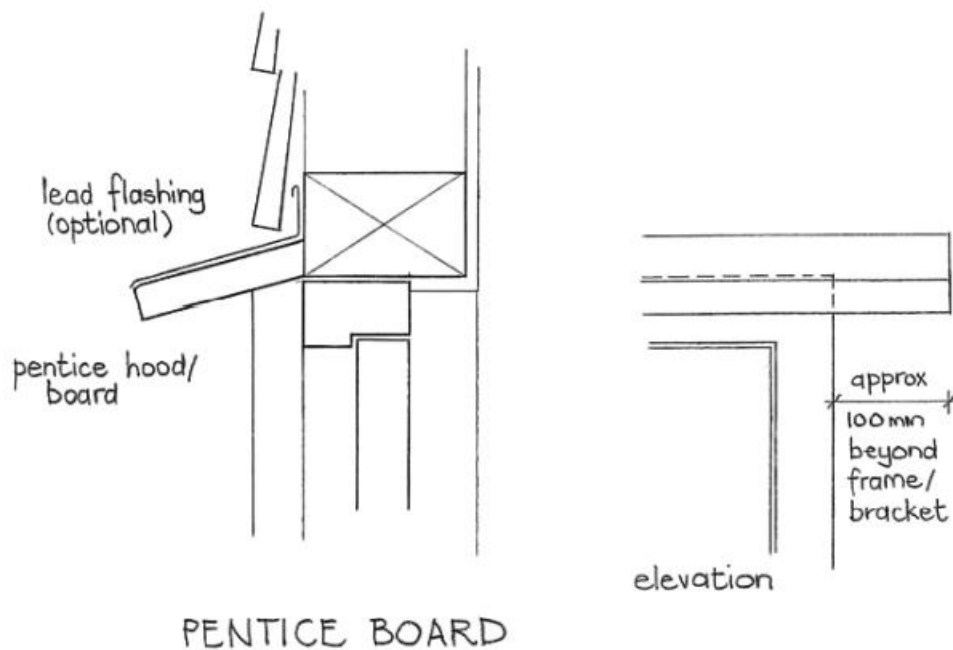
The proposed scheme is certainly not beautiful in the context of the NPPF, however any resulting harm is modest and would need to be balanced against the schemes wider planning merits.

*Officer comment: These comments were provided in relation to the initial drawings submitted, since then plans have been revised to address some of these comments.*

#### 8.6 Heritage Officer (revised)

The revised drawings broadly reflect my design advice given previously. I note that the external cladding material has also been changed to timber weatherboard. In order to protect the joinery, which should be fitted flush with the leading edge of the cladding to reflect the local vernacular, pentice boards will be needed to be fitted above both windows and doors. Since the design team is not local I offer a typical detail drawing below to clarify what is required:





See Plinth & Lead Flashings for details in render

Further details can be found at [www.placeservices.co.uk](http://www.placeservices.co.uk) under their historic buildings guidance.

#### 8.7 Archaeological Advisor

I've looked at the previous correspondence with Rik Hoggett (previous Consultant Archaeological Advisor), and these foundation designs provided by the applicant, and in this case I'm happy to go with Rik's recommendation of a standard archaeological condition on consent to provide for archaeological monitoring of groundworks during construction.

#### 8.8 Highway Officer – recommends the following conditions

- Appropriate access and splays
- No unbound materials
- Refuse collection point
- Details of necessary bridging/piping
- Vehicle and cycle parking to be provided
- Construction management plan
- Footway to be provided
- Travel information packs to be provided
- Speed reduction measures (to be provided by s106 agreement)
- Boundary hedges to be planted behind splays

#### 8.9 Minerals and Waste

The Mineral Planning Authority has no comment to make in relation to this application as the area of the proposed development site located within the sand and gravel Mineral Safeguarding Area is below the minimum Minerals Local Plan 2014: Policy S8 threshold of 5ha.

#### 8.10 Natural England

Consider RAMS to mitigate off site impacts and conduct an HRA/AA.

#### 8.11 North East Essex Badger Group

Having read through the Ecology Report, we confirm that there are no badger setts at the moment on this land. However, there are several located around the site and it should be noted that badgers do forage on this field. Should unfortunately the development go ahead then we would suggest that once work commences, open excavations are covered at night to avoid any foraging badgers becoming trapped.

### 9.0 **Parish Council Response**

#### 9.1 The Parish Council have stated that:

Copford with Easthorpe Parish Council supports the provision of affordable homes in Copford but wish to be assured that this land remains in perpetuity as affordable housing for Copford residents. A request was made for covenants to be in place to ensure no development can take place behind the proposed development, as was agreed by the applicant. Strong ecological protection is in place for surrounding area and of Pits Wood and any alternative sites are considered. A further request was made that the design reflects the character of the road.

### 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. 53 objections and 9 letters of support have been received. Letters from Rt Hon. Priti Patel MP setting out the concerns of residents who wrote to her were also received.

10.2 Some of the comments are very detailed and it is beyond the scope of this report to set them all out in full. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- No requirement for additional housing in Copford due to the Local Plan and emerging Neighbourhood Plan
- No evidence of local community support
- Existing parking and traffic concerns which the scheme will only heighten
- Lack of existing infrastructure
- Loss of views
- Loss of countryside
- Loss of arable field
- Harmful impact upon ecology and vegetation
- The proposed design is harmful and out of keeping with the area
- Creates possibility of additional development in the future
- Existing local septic tanks and sewer system are overloaded
- New builds should be on brownfield
- Copford has taken on its fair share of new houses
- New homes should not be built in the countryside



- Impact upon highway and pedestrian safety
- Too close to a school
- Harmful impact upon climate change
- Harmful impact upon the school crossing
- Lack of cycle parking
- Housing Needs Survey is out of date

## 11.0 Parking Provision

11.1 The proposal provides additional car parking which exceeds the minimum requirements. There is sufficient space on site for all dwellings to have off street parking in accordance with the adopted standards.

## 12.0 Accessibility

12.1 In this instance, the affordable housing will be required to meet the enhanced accessibility standard of Part M4 cat 2 (Building Regulations 2015) in lieu of lifetime homes, in accordance with the requirements in Local Plan Policy DM12. The Council further request 5% (1 dwellings) for both options is designed to meet Part M4 Cat (3) (2) (a) or Part M4 Cat 3 (2) (b). This is being secured by the S106 agreement.

## 13.0 Open Space Provisions

13.1 The proposal is not classified as major development and therefore provision of on-site open space is not required, a financial contribution towards the Copford Parish playground is proposed and is secured under the S106 agreement.

## 14.0 Air Quality

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

## 15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team. However, a package of contributions is proposed following discussions which are to be secured via a legal agreement, these are as follows:

- **Community – £13,953.77:** Refurbishment and/ or extension / new build to Copford Village Hall, creating a community hub space for parish council, residents, police, NHS etc. Full costs yet to be gained. Provision of village hall parking facility on site proposed as a non-pecuniary contribution through obligation in agreement.
- **Parks and Recreation - £50,611.77:** Copford Parish Council Playground refurbishment and improvements. Colchester Orbital – Route and Information Signage

- **Highways:** A ) Prior to the occupation of any of the proposed dwellings the footway across the entire sites frontage shall be extended to a minimum of 2.0m in width from the southern site boundary to the access to the adjacent Village Hall and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway to the specifications of the Highway Authority.  
B) No occupation of the development shall take place until a £15,000.00p index-linked contribution plus an Essex County Council S106 agreement monitoring fee towards speed reduction measures such as but not limited to, village gateway signage aimed at encouraging vehicle speed reduction on the approaches to and throughout School Road and in the vicinity of the proposed development site has been provided, details shall be agreed with the Local Planning Authority prior to commencement of the development. Works conditioned and delivered either as part of the site or by a s278 / s106 Agreement.
- **Housing:** The tenure mix should be no less than 80% affordable rent and no more than 20% shared ownership for the 5 Affordable homes. The affordable housing should meet the enhanced accessibility standard of Part M4 cat 2 (Building Regulations 2015) in lieu of lifetime homes, in accordance with the requirements in DP12 (Development Policies 2014). Council would request 5% (1 dwellings) for both options is designed to meet Part M4 Cat (3) (2) (a) or Part M4 Cat 3 (2) (b). The affordable houses are proposed to be retained for local ownership and rental only.
- **Archaeology - £15,153.00:** For museum quality display case, design and display material for enhancement of the Colchester HER, to integrate the information from the archaeological records.
- **RAMS - 7 x £131.71:** To comply with the Conservation of Habitats and Species Regulations 2017

## 16.0 Report

### Principle

- 16.1 The site is located outside of the Copford settlement boundary as defined by Policy SS4 Local Plan Section 2. The site area is therefore classed as 'countryside'. Development in the countryside, outside settlement boundaries, is permitted by the adopted Local Plan - but only in certain circumstances. Paragraphs 77 and 78 of the NPPF (2021) set out the government's approach to rural housing provision in the form of rural exception sites. Paragraph 77 notes that: 'local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs and consider whether allowing some market housing on these sites would help to facilitate this'. Paragraph 78 notes that such rural housing should be located where it will enhance or maintain the vitality of rural communities.

Therefore, the principle of development for 7 of the dwellings as a rural exception site is acceptable subject to meeting affordable housing requirements and site specific criteria as set out in the adopted Local Plan.

16.2 In line with the NPPF, Section 2 Policy DM8 allows land outside (but adjacent to) settlement boundaries to be released for affordable housing provision. The rural exception requirements in Policy DM8 are set out below:

16.3 *Affordable housing development in villages will be supported on rural exception sites adjacent or continuous to village settlement boundaries or where it will enhance or maintain the vitality of rural communities, provided a local need is demonstrated by the Parish Council on behalf of their residents, based on evidence gained from an approved local housing needs survey. A proportion of market housing which facilitates the provision of significant additional affordable housing may be appropriate on rural exception sites. Information to demonstrate that the market housing is essential to cross-subsidise the delivery of the affordable housing and that the development would not be viable without this cross-subsidy will be required. At the scheme level, the number of open market units on the rural exception site will be strictly limited to only the number of units required to facilitate the provision of significant affordable housing units on a rural exception site. The number of affordable units and total floorspace on a site should always be greater than the number of open market units or floorspace. The actual number will be determined on local circumstances, evidence of local need and the overall viability of the scheme.*

16.4 This is echoed within Policy OV2 which states:

16.5 *Small scale rural exception sites needed to meet local affordable housing needs will be considered favourably on appropriate sites provided a local need is demonstrated by the Parish Council on behalf of their residents, based on evidence gained from an approved local housing needs survey. Where there is an identified need for certain types of housing, schemes must demonstrate how these needs have been met.*

16.6 The rural exception site (RES) consists of seven properties, of which five are affordable and two are market sale. The affordable homes will be subject to a local lettings policy to be secured by a S106 Agreement, these will only be let to housing register applicants with a local connection or purchased with a local connection, which is protected in perpetuity by the S106 agreement. As can be seen from the representation from the Parish Council, this approach is supported by the Parish. The details of the viability report submitted in support of the scheme does conclude that two market dwellings are required in order to ensure the RES remains viable. The cross-subsidy of open market dwellings remains a smaller proportion of the affordable units. The provision of two open market dwellings would allow delivery of five additional affordable homes and make a greater contribution to meeting local housing needs for affordable housing in accordance with the policy objectives.

16.7 Given the above, the scheme on balance is considered to meet the rural housing scheme requirements as set out in Policies DM8 and OV2.

16.8 Overall, it is therefore considered that the proposed development complies with policies DM8 and OV2 regarding RES development in the countryside. An assessment of policy requirement to “*demonstrate that the scheme respects the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity*” of OV2 is made in the proceeding sections of this report.

16.9 As such, given the local need for affordable housing identified through the Housing Needs Survey, showing a need for eight affordable homes to meet the need arising from Copford, and the challenges regarding the delivery of affordable homes within the City, it is considered that the principle of development for a rural exception scheme is acceptable. The proposal would accord with the NPPF and policies DM8 and OV2 of the adopted Local Plan, subject to all other material considerations being assessed and considered acceptable.

### Highway Implications

16.10 Policies DM15, DM20, DM21, and DM22 together seeks to make the best use of the existing highway network, manages demand for road traffic and parking, and provides particular emphasis on enhancing accessibility for sustainable modes of transport.

16.11 In this instance, access is proposed from London Road dissecting the center of the site with the proposed affordable housing units to the north of the access road and the open market units located to the south of the access point. It is acknowledged that a number of objections were received in relation to the impact upon the highway network, impacts upon pedestrian users of the pavement including school children and perceived lack of capacity. Such objections have been very carefully reviewed.

16.12 It is noted that many of the objections that have been received in relation to the proposed development have identified the perceived inadequacy of the local highway network and the problems experienced by motorists at present. A number of objections have highlighted concerns in relation to Copford Primary School, in particular with the school crossing, school pick up and drop off times which contribute to the perceived inadequacy of the local highway network. The concern is that the proposed development would exacerbate current problems and also create highway safety issues. These views are fully acknowledged and appreciated.

16.13 Notwithstanding these concerns the Highway Authority has advised in its consultation response (available to view on file) that the existing highway infrastructure provision would be sufficient to cater for both the existing traffic and that likely to be generated by the development. The Authority’s recommendation includes a conditions that ensure sufficient visibility splays are provided and provision of traffic calming measures. The proposed traffic calming measures include a £15,000.00p index-linked contribution plus an Essex County Council S106 agreement monitoring fee towards speed reduction measures such as but not limited to, village gateway signage aimed at encouraging vehicle

speed reduction on the approaches to and throughout School Road and in the vicinity of the proposed development site has been provided.

- 16.14 Objections have been received that concern traffic impact and cycle infrastructure (specifically LTN 1/20 guidance). Cycle parking can be controlled via a planning condition. It is not possible to improve the wider cycle path network under this application given it is not a major application and therefore does not meet the criteria to request funding. In addition, this is not considered necessary or reasonable to mitigate the impact of this minor development.
- 16.15 In terms of traffic impact, paragraph 111 of the NPPF states that 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. Given that the Highway Authority have no objections to the proposed development in terms of transport and highway impact, and that a range of mitigatory measures can be secured, it is concluded that it cannot be demonstrated that the proposed development would have an unacceptable or severe impact on the road network. A refusal on these grounds is not considered to be justified or sustainable at appeal.

## **Design and Layout**

- 16.16 The National Planning Policy Framework (2021) sets out government's planning policies for England and how these are expected to be applied. The framework sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, going on to state that 'good design is a key aspect of sustainable development'. The framework also states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. The framework is supported by a collection of planning practice guidance which includes a National Design Guide. This document seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice.
- 16.17 At a local level these policies are carried through and adopted as part of the Colchester City Council Local Plan Section 1 and 2. Relevant policies include policies SP7 and DM15, which seek to secure high quality and inclusive design in all developments and avoid unacceptable impacts on amenity. These policies are supported by more detailed guidance provided supplementary planning documents such as the Essex Design Guide.
- 16.18 In terms of housing density and diversity, policy DM12 require developments to make efficient use of land and relate to their context. A range of housing types and tenures across the City is sought in order to create inclusive and sustainable communities. Policy DM10 also requires a range of housing types and tenures for the same reason. Policy OV2 requires residential development proposals in the countryside, outside defined settlement boundaries, will need to demonstrate that the scheme respects the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity.

- 16.19 The proposed development has been carefully considered in consultation with CCC Urban Design and Heritage Officer, who considered the original design and layout to have shortcomings but these could be overcome and any design harm would be modest. In light of these comments, the scheme has been amended to ensure the dwellings are constructed of natural timber and slate (to be controlled via planning condition) to help ensure the scheme integrates into the street scene a little more successfully than the originally submitted scheme. It is also acknowledged the Landscape Advisor found the scheme to be harmful to the landscape setting. In order to address these concerns, conditions in relation to the soft and hard landscaping have been proposed along with additional landscaping to the boundaries in order to soften the proposal into the area.
- 16.20 The proposed parking court would not be unduly conspicuous and the access road could have a surface treatment more akin to a track to avoid undue prominence if required. While the parking court is very much an urban intervention and highlights the requirement of car reliance in this area, this is located to the rear of the site with any wider views from London Road well screened by the proposed development. The car parking court has been provided due to concerns of car parking capacity at the Village Hall and is proposed for Village Hall use/users. This is weighted in the planning balance section below.
- 16.21 A number of objections were received in relation to the design and layout of the proposal which have been carefully considered. The design and layout is arguably the weakest policy aspect of the scheme. The proposals would introduce dwellings at depth within the site, however the dwellings would be set back from the road and additional landscaping would be added to help mitigate any public views of the site and create a softer edge to the development. Whilst it is agreed the proposals would introduce some landscape harm to the immediate locality, the impacts on the character of the settlement as a whole would be modest. The Landscape Advisor (while noting the landscape harm) does note; *“the LVS has guided the proposed scheme so that it is fairly sensitive to ‘the mostly rural character of the area’, development by its nature changes rather than conserves fully intact that ‘rural character’”*. Any identified landscape harm would be outweighed by the benefits of the scheme which would secure the delivery of much needed affordable housing within the City and specifically affordable housing to meet the identified needs. Overall, it is considered that the proposed development has demonstrated that a scheme could be accommodated that would accord with the Local Plan, albeit on balance.

## **Residential amenity**

- 16.22 Local Plan Policy DM15 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. The proposals have been assessed in consultation with CCC's Environmental Protection Team with regard to any potential land contamination and amenity impacts, who had no objections subject to conditions controlling, construction times and deliveries, submission of a Construction Environmental

Management Plan (CEMP) and electric vehicle (EV) charging points. The Contaminated Land Officer has recommended a Phase 1 Contaminated Land Report be submitted in support of the application. Once received, this will be reviewed and appropriate contamination conditions applied as recommended by the Contaminated Land Officer. Appropriately worded conditions and informatives will be added to the decision notice in this regard.

- 16.23 The revised layout of the proposal is considered to be acceptable, the design and layout of dwellings could be achieved without causing any significant detrimental impacts on the amenity of the adjoining neighbours and that any future occupiers of the proposed development would enjoy a policy acceptable level of residential amenity. There is considered to be sufficient separation distance and orientation achievable to avoid any significant overbearing, overlooking or loss of light or daylight issues.

### **Amenity Space Provision**

- 16.24 Policy DM19 requires new residential development to provide easy access to private amenity space, this policy also sets out the minimum garden sizes required for new residential development. It is clear from the layout that all dwelling can be provided with gardens in excess of the minimum stands as set out in the Local Plan.

### **Ecology**

- 16.25 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. Local Plan Policy ENV1 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.
- 16.26 The applicant's submitted Preliminary Ecological Appraisal (PEA) considered the site to be negligible in ecological habitat for bats, great crested newts, dormice and badgers. There is suitable habitat for hedgehogs and birds but recommends the provision specific mitigation and enhancement recommendations, and should members be minded to recommend approval of the application, these measures and biodiversity enhancements would be secured by way of a planning condition. Overall, subject to conditions, the proposals are considered to accord with the requirements of Policies ENV1 of the Local Plan and the requirements of the NPPF (2021).

### **Impact on Heritage Assets/Archaeology**

- 16.27 The National Planning Policy Framework 2021 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (Para 199) and that any harm to, or loss of, the significance of a designated heritage asset (from

its alteration or destruction, or from development within its setting) should require clear and convincing justification (Para 200). The NPPF 2021 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (para 196). In this instance, the site is not located within a Conservation Area and is a generous distance away from the nearest Listed Building. The scheme is thus unlikely to impact upon the setting of designated heritage assets.

- 16.28 The proposals have also been assessed in consultation with CCC's Archaeologist who has identified that the site lies in an area of high archaeological potential. Whilst the Archaeology Team have not objected to the development proceeding in this location, it was recommended that the site should be subject to a programme of archaeological investigation. Should members recommend approval of the scheme, a condition would be attached to the decision notice in this regard.

## **RAMS**

- 16.29 A further requirement is that development proposals must not have an adverse effect on the integrity of habitat sites. Local Plan Policy ENV1 states that development proposals that have adverse effects on the integrity of habitats sites will not be supported. A Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has been completed as part of the plan in compliance with the Habitats Directive and Habitats Regulations. Further to Section 1 Policy SP2, contributions are required from qualifying residential development, within the Zones of Influence as defined in the adopted RAMS, towards mitigation measures identified in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The proposed development has been considered in line with Natural England guidance, which concludes that the whole of Colchester Borough is within the zone of influence for the East Coast RAMS and that, unless a financial contribution is secured (to fund avoidance and mitigation measures in line with the RAMS), the proposed development is likely to have a significant effect upon habitat sites through increased recreational pressure, when considered in-combination with other plans and projects. A contribution is included as part of the s106 requirements (see Section 15 of this report) and the proposed development is therefore considered to be in accordance with policy ENV1 and acceptable in respect of its impact upon habitat sites.

## **Flood Risk**

- 16.30 Policy DM23 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. This policy, along with policy DM24, to promote flood mitigation and defence measures as well as the use of appropriate sustainable urban drainage systems. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures 0.5 hectares and as such a FRA is not required to support the application. Given that the proposal is outside of any flood zone, the proposal is not considered to have a harmful impact upon surface water drainage within the locality.



## 17.0 Conclusion and Planning Balance

- 17.1 In terms of the **social role**, the proposal would comply with the policies in terms of principle of the RES and it is considered the scheme results in general conformity with the spatial strategy. The proposal provides very convincing benefits in terms of providing affordable housing which meets over half of the demonstrated need as shown in the Housing Need Survey. This weight should be further enhanced when considering the perennial lack of affordable housing in the City and should carry significant weight as a public benefit in this context. There are also wider social benefits for the locality which includes traffic calming measures within School Road. It is also noted that an expansion to the Village Hall car park is provided however this is considered to be neutral in the planning balance given the additional car movements a car park can create and the additional hard standing it would create on site.
- 17.2 In terms of the **economic role**, this scheme will be beneficial as new dwellings equal new residents who will use local and City wide facilities. The scheme will also generate new Council Tax receipts and the New Homes Bonus. The scheme would also result in construction employment, albeit this is temporary and there is no guarantee that these jobs would be provided for residents of Colchester.
- 17.3 In terms of the planning balance and the **environmental role** of sustainability it is accepted that the scheme will have a minor impact upon the landscape area, given the partial loss of an existing field. This harm is somewhat mitigated with the addition of suitable soft and hard landscaping (controlled via planning condition). Overall, the landscape harm is considered to be modest.
- 17.4 Summarising the above, it is officers' opinion that the planning balance tips convincingly in favour of an approval given the substantial weight attracted to the social benefits of additional affordable housing.

## 18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. Delegated authority to make non-material amendments to planning conditions as necessary. The Permission will also be subject to the following conditions, for which delegated authority is requested to add to and amend as necessary:

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

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

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

### **2. 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:

01C dated 18.11.2022

02C dated 18.11.2022

03C dated 18.11.2022

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

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

The external facing materials shall be natural larch and the external roofing materials shall be natural slate. 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. Highways**

Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 6.0m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety

### **5. Highways**

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

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

### **6. Highways**

Prior to the proposed access being brought into use, vehicular visibility splays of 90m by 2.4m by 90m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

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

## 7. Highways

Prior to first occupation of the proposed development, the communal recycling/bin/refuse collection point shall be provided as shown in the **Drawing Annotated "Site Plan"** and retained thereafter.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

## 8. Highways

Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and approved in writing by the Lead Local Flood Authority (Essex County Council)

Reason: To prevent or reduce the risk of flooding of the adjoining highway, in the interests of highway safety.

## 9. Highways

The development shall not be occupied until such time as the car parking and turning area, including visitor parking has been provided in accord with the details shown in **Drawing Annotated "Site Plan"**. 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.

## 10. Highways

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

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

## 11. CMP

No development shall take place, including any site clearance, ground works or works of demolition, until a Construction Management Plan (CMP) has been **submitted as a scaled drawing** to and approved in writing by, the local planning authority. The approved plans shall be adhered to throughout the construction period. The plans 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
- v. hours of deliveries and hours of work
- vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vii. measures to control the emission of dust and dirt during construction; and
- viii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

## **12. Highways**

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

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

## **13. Highways**

Prior to the occupation of any of the proposed dwellings the footway across the entire sites frontage shall be extended to a minimum of 2.0m in width from the southern site boundary to the access to the adjacent Village Hall and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development.

## **14. Highways**

No occupation of the development shall take place until a £15,000.00p index-linked contribution plus an Essex County Council S106 agreement monitoring fee towards speed reduction measures such as but not limited to, village gateway signage aimed at encouraging vehicle speed reduction on the approaches to and throughout School Road and in the vicinity of the proposed development site has been provided, details shall be agreed with the Local Planning Authority prior to commencement of the development.

Reason: To promote and encourage speed reduction and maintenance of the speed restrictions of transport.

## **15. Highways**

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

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

## **16. Landscaping**

Prior to the first occupation of the development, a landscape management plan detailing long term design objectives and management responsibilities for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

## **17. Landscaping**

No works shall take place above ground floor slab level until a scheme of hard and soft landscape works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also accurately identify positions and spread of all existing trees, shrubs and hedgerows on the site; proposed planting, including a native hedge to the eastern boundary of the site specified to be maintained in perpetuity at a minimum height of 2m and a hedge to the eastern boundary of the site specified to be maintained in perpetuity at a minimum height of 1m; details of any hard surface finishes and external works. The implementation of all the landscape works 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 hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, 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 relatively small scale of this development where there are areas to be laid out but there is insufficient detail within the submitted application.

## **18. Hours of working**

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.

## **19. Archaeology**

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

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

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The

development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Local Plan Policy DM16 and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

## **20. 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.

## **21. EV Charging points**

Prior to occupation, a scheme showing EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to the occupation of the dwellings in which the charging points serve.

Reason: To facilitate the uptake of low emission vehicles.

## **22. Street Name Signs**

Prior to the first occupation of any of the dwellings hereby approved street name signs shall have been installed at the junction of the new highway with the existing road network.

Reason: To ensure that visitors to the development can orientate themselves in the interests of highway safety.

## **23. Ecology**

The development shall be carried out in accordance with the submitted PRELIMINARY ECOLOGICAL APPRAISAL dated January 2020.

Reason: To ensure the development is undertaken in the interests of ecology.

## **24. Earthworks**

No works shall take place until details of all earthworks (including new services and foundation design) have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details. Reason: To ensure that any earthworks are acceptable in relation to their surroundings and to safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme.

## **25. Boundary treatments**

The development hereby permitted shall not come in to use until details of the provision, siting, design and materials of boundary treatments have been submitted to and agreed, in writing, by the Local Planning Authority. The approved details shall then be erected prior to the first occupation of the development and shall thereafter be retained in the approved form.

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

## **26. Permitted development rights**

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

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

## **27. 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 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (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.

## **28. No External Light Fixtures**

No external lighting fixtures shall be constructed, installed or illuminated at any time unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that there are no undesirable effects of light pollution

## 29. Windows

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

Reason: There is insufficient detail with regard to the architectural detailing of the scheme.

## 30. Contamination

Contamination conditions will be inserted once a suite of suggested conditions have been received from the Contaminated Land Officer once they have reviewed the Phase 1 report.

### 19.1 Informatives

19.1 The following informatives are also recommended:

#### 1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

#### 3. INS – Highways

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

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of



the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

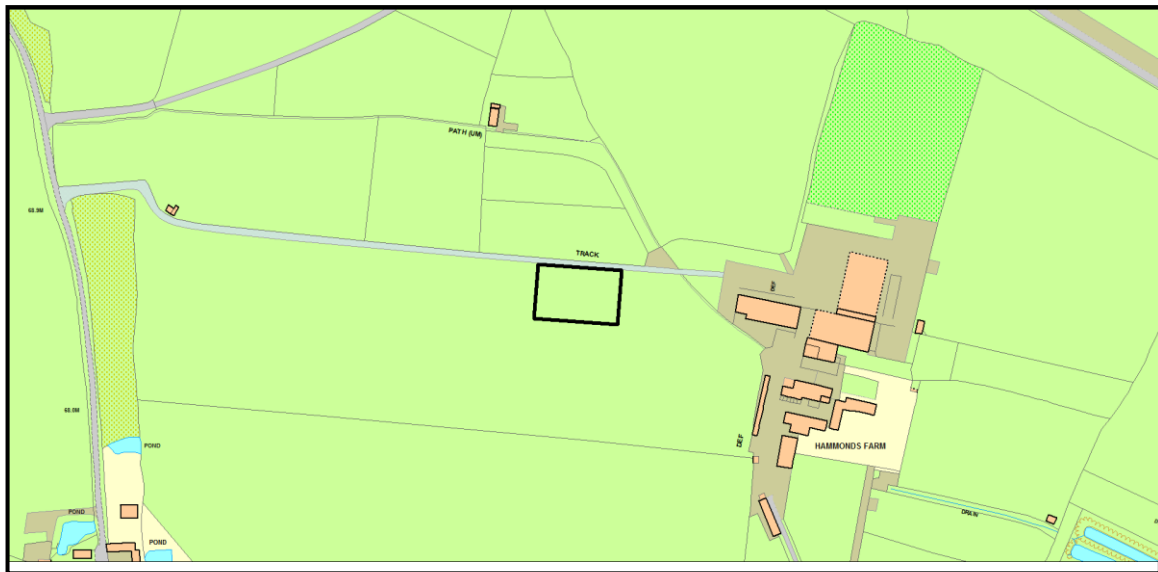
### **INS – Landscaping**

‘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: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169> under Landscape Consultancy by clicking the ‘read our guidance’ link)’

### **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 City Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.





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**Item No:** 7.2

**Application:** 222261

**Applicant:** Mrs Lisa Spence

**Agent:** Mrs Mandy Sexton

**Proposal:** New Dwelling

**Location:** Hushwing Farm, Mount Bures Road, Wakes Colne,  
Colchester, CO6 2AP

**Ward:** Rural North

**Officer:** Chris Harden

**Recommendation:** Authority to Approve subject to finalisation of a Unilateral Undertaking and a RAMs wildlife mitigation payment.

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

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Sunnucks who states “This has been called in at the request of the Parish Council and the owners of a neighbouring property. Although the expansion of rural businesses should be supported there have to be serious questions about adding a dwelling to the site. The neighbours are complaining about noise, surface water run-off, human and animal liquid waste.”

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of the dwelling in this location, along with its location design, scale and form. Impact upon highway safety, residential amenity, vegetation and wildlife also need to be considered.
- 2.2 The application is subsequently recommended for approval subject to finalisation of the Unilateral Undertaking and RAMs wildlife mitigation payment. In conclusion, it is considered that there is an essential need to site the dwelling on the site to serve the existing, well established and viable equestrian business. The location, design, scale and form of the dwelling, which has been reduced from 5 bedrooms to 3, would respect the character of this part of the countryside and is well related to the existing complex. There are no highway safety, residential amenity, vegetation or wildlife concerns and the Public Footpath is not affected.

## **3.0 Site Description and Context**

- 3.1 The site lies within the countryside and was previously part of Hammonds Farm and formerly known as Meadow Green Farm. It is now called Hushwing Farm and has an approved equestrian use and lies adjacent to the remainder of Hammonds Farm.

## **4.0 Description of the Proposal**

- 4.1 The proposal is for the erection of a three bedroom dwelling to provide accommodation for the owners of the site who run the equestrian business at Hushwing Farm. It would be positioned on the Western side of the equestrian centre. It should be noted that the initial submission on this application comprised a 5 bedroom dwelling but this has been reduced to ensure the dwelling would be more commensurate with the current needs of the equestrian business. The owners would move out of the existing mobile caravans temporarily granted approval and into the new dwelling.
- 4.2 In support of the application for the permanent dwelling the applicant has made the following points.
- Applicant’s licence with the Colchester City Council Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, states that on site supervision is required and stipulates that 24h hour supervision is highly recommended to maintain a high standard of care for the horses.

- The business also has a number of competition horses at livery of high value (in excess of 25k each) and high in maintenance, similar to those in the racing industry. The nature of the high level of endurance required makes the need for 24 hour supervision essential.
- The risk of colic (a stomach impaction common in horses due to the extreme length of their intestines) is high in these types of horses. One bout already occurred. Episodes of this require the horse to be walked and lunged hourly until it clears, often through the night. Last bout lasted 3 days. This onsite care is one of the reasons the applicant attracts such a high level of livery. It is also why she is able to provide the provision of such quality horses for her training centre which is very different to the average riding school. This makes onsite accommodation essential for both her and staff to cover the applicant's absence, and annual leave of which we are all entitled.
- temporary mobile caravans planning approval discontinues in June 2023.
- anticipated that a future runner of the business would require a family dwelling.
- The present owners purchased the farm in June 2020 at the same time that planning was granted for a change of use to an equestrian school and livery stables. The equestrian business has been thriving whilst the owners have been living and working in two mobile caravans sited next to the stables.
- Demand for the equestrian services has been great and despite being hampered by Covid have been able to triple turnover since moving to the new site.
- Financial business details submitted showing increase in turnover, ongoing profits and three income streams from the equestrian business, fencing and agricultural business glamping and education centre to more than sufficiently support the development. Mortgage already approved.
- Viability of the business: Hemps Green Equestrian Ltd is a registered limited company, the accounts are available at Companies' House. The increase in turnover is significant which having been in Covid shows the need for this business and shows its sustainability even during the toughest of times.
- Lisa also runs her own livery business, Lisa Spence coaching and livery from Hushwing farm, which this year posted a significant increase on its profit. It also employs one full time member of staff.
- Since the move to Hushwing Farm and the ability to grow our business we are now able to host BHS assessments which are accredited by BHSQ, this is an awarding body recognised and regulated by the office of the qualifications and examinations regulator (Ofqual) in England, SQQ accreditation in Scotland, Qualifications Wales, Work Based Diplomas, Equestrian Tourism and Equestrian Coaching qualifications. We have been approved to run assessments to stage 4 level and are the only centre in the whole of East Anglia offering this provision.

There is an associated application (222262) for change of use for the addition of an education centre and welfare facility building and accommodation for client and student use. This application is also to be presented to the Committee and is recommended for approval.

## **5.0 Land Use Allocation**

### **5.1 Countryside/Equestrian**

## **6.0 Relevant Planning History**

- 6.1 200964 Change of use to equestrian school and livery stables. Complete the conversion of hay barn to stables – further alterations to proposed doors, openings and finishes of buildings now under construction and originally consented to under application no 120484. Build approved hay barn to store hay and machinery. Extend hardstanding and entrance track for access, turning and parking. New managed and lunge pen. Siting of temporary mobile home and office. Approved

172806

Extensions to existing building to form hay barn and rest facilities, creation of a manege, lunge pen and erection of horse walker for equine breeding unit following approval 120484 for a stud farm. Stationing of caravan/temporary accommodation for owners of the equine unit (AMENDED DESCRIPTION). Withdrawn.

120484

15/03/2012 -

Land at, Meadow Green Farm, Mount Bures Road, Wakes Colne Colchester CO6 2AP

Formation of a Stud Farm comprising a Change of Use of land and redundant livestock building to equestrian use, minor alterations to the building to form stabling, provision of manege, minor extension of existing access track and A mobile home was also given a temporary permission.

Approved After Appeal - 15/01/2013

090546

22/04/2009 - Full (8 Week Determination)

Land at Hammonds Farm, Hemps Green, Fordham Colchester CO6 3LS

Change of use of agricultural building into stables to include opening up of footpath route and provision of hardstanding.

Refuse - 16/06/2009

Appeal dismissed- not evidence of economic benefit. Might need dwelling.

## **7.0 Principal Policies**

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

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

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP5 Employment
- SP7 Place Shaping Principles

### **7.3 Local Plan 2017-2033 Section 2**

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG1 Colchester's Spatial Strategy  
SG2 Housing Delivery  
SG3 Economic Growth Provision  
SG4 Local Economic Areas  
SG7 Infrastructure Delivery and Impact Mitigation  
SG8 Neighbourhood Plan  
ENV1 Environment  
ENV3 Green Infrastructure  
ENV5 Pollution and Contaminated Land  
CC1 Climate Change  
OV1 Development in Other Villages  
OV2 Countryside  
DM1 Health and Wellbeing  
DM2 Community Facilities  
DM3 Education Provision  
DM4 Sports Provision  
DM5 Tourism, leisure, Culture and Heritage  
DM6 Economic Development in Rural Areas and the Countryside  
DM7 Agricultural Development and Diversification  
DM9 Development Density  
DM10 Housing Diversity

DM12 Housing Standards  
DM14 Rural Workers Dwellings  
DM15 Design and Amenity  
DM16 Historic Environment  
DM17 Retention of Open Space  
DM18 Provision of Open Space and Recreation Facilities  
DM19 Private Amenity Space  
DM20 Promoting Sustainable Transport and Changing Travel Behaviour  
DM21 Sustainable Access to development  
DM22 Parking

7.4 The Neighbourhood Plan: Not applicable.

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Cycling Delivery Strategy  
Managing Archaeology in Development.  
Developing a Landscape for the Future

## **8.0 Consultations**

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

8.2 Highways Authority states:

The Highway Authority does not object to the proposals as submitted.

Informative1: The public's rights and ease of passage over Public Footpath Nos.31 & 34 (Mount Bures) shall be maintained free and unobstructed at all times and there shall be no access for any construction activities from the footpath.

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

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

8.3 Environmental Protection recommend the following condition:

ZPE - Limits to Hours of Construction Deliveries/Worker Traffic



#### 8.4 Contaminated Land Officer states:

The above named report is acceptable for the purposes of the Environmental Protection team and the conclusions seem reasonable based upon the information provided.

Should planning permission be granted for this application, the following condition will apply:

Reporting of Unexpected Contamination

#### 8.5 Landscape officer has raised concerns about the initial 5 bedroom submission and made the following points:

- To help maintain this historic separation between the nucleated Goodwin's and Hammond's farmsteads, the nuclear form of the Hammond's Farm and the wider setting to the Grade II listed Goodwin's Farmhouse, the proposed units should be reorientated so as to face onto the farmyard, this to better help it visually read as part of and physically connect it to the historic farmstead.
- The scale of the proposed rural workers dwelling needs to be reduced considerably so that it demonstrably reads as subservient to Hammond's Farmhouse, which forms the historic focal point of Hammond's Farm. Both its form and the material proposed will need to be drawn from the farmyard buildings, of which it will need to read as a part, rather than competing with the farmhouse. This approach retaining not only the historic settlement pattern of Hammond's Farm, but also, by not introducing what might be read as another farmhouse, helping protect the landscape setting to the listed Goodwin's Farmhouse and its farmstead. It would thereby help protect landscape character and public amenity by maintaining the existing sense of undeveloped landscape and dominant rural character shared by the site and its immediate setting, this particularly important for users of the nearby/adjacent PRow network that the site would visually impact upon. A good example of such sensitive rural worker development that follows this approach, in the sense of building scale, style and form, can be seen to the south of Goodwin's Farm at Hemp's Green Barn
- The proposed planted-up bunding along the site's eastern boundary should be removed from the proposal as it is not a traditional landscape feature to the Rochfords Farmland Plateau and would block the proposed unit's connection to the farmyard which it serves. This eastern boundary should be left visually exposed and thereby connected to the farmyard, but as a domestic unit within the steading it should be subtly divided from it with post and rail fencing. The remaining boundaries to the sites northern, western, and southern boundaries should be enclosed to screen the development with native hedging and hedgerow trees, traditional enclosure to a rural workers unit, these set immediately behind the existing post and rail fencing.

- In conclusion; taking into account all relevant considerations and for the reasons set out above, this application cannot currently be supported on landscape grounds as it may cause harm to its landscape setting. To fully consider the proposals and mitigate the envisaged harm, the above point(s) will need to be satisfactorily addressed.

*Officer comment: The proposed dwelling has since been reduced in scale in response to these comments.*

8.6 Natural England: Standard advice and Habitats Regulation Assessment required.

8.7 The Ramblers state: “Make a general observation  
Comment: The routes of Public Rights of Way 31 (clearly shown on the plans) and 34 (not so obvious) should remain open and safe to use during and after any works. It is understood that dogs and washing lines adjacent to the caravans have unnerved some footpath users and this application is seen as a good time to address this.”

## 9.0 Parish Council Response

9.1 Mount Bures Parish Council “ Make a general observation:

The Parish Council has no difficulty with the applicants wishing to develop their business including the proposed education and welfare centre.

However, the proposed new building for the centre is very close to the boundary with Hammonds Farm (Mount Bures) with possible noise and other impacts and it is not clear from the documentation why it needs to be in this position although we accept there might be good business needs. This should be sited where it will have least impact on neighbouring properties while meeting business needs, and additional screening should be considered to mitigate any adverse impact.

The move to providing overnight accommodation for students and staff (beyond what is needed to look after the horses) is a very significant development. The Parish Council would have thought that in terms of the economic benefit to the wider community it would be preferable if students and staff were using accommodation in the wider locality, which would also avoid more buildings/caravans/glamping pods in the countryside affecting the amenity of local residents and those walking along footpaths across the area. If there are concerns that insufficient accommodation is currently available within a reasonable distance then the Parish Council could only support accommodation on site if it is temporary or time limited allowing regular review against the availability of hotel, bed and breakfast and rented accommodation nearby.

Objection under DM14 that whilst recognising the need for a worker to be permanently on site the size and design of the proposed dwelling is not necessarily ‘commensurate with the needs of the business’.

The Parish Council are not in favour of new dwellings in the countryside, which are against Colchester Borough Council's development policies. The exemption for rural workers' dwellings is intended to apply where the nature and demands of the role require a worker to be permanently on site. We accept that looking after the horses may require a presence on site overnight but the Parish Council find it difficult to see how this requires a 5-bedroom two-story house.

A single storey building would be far less intrusive and less damaging to the local surroundings. The Parish Council would object to the scale of the building proposed.

The Parish Council would like to suggest that any permanent staff accommodation could be included within the development of the new dwelling. (i.e an annex perhaps?)

The Parish Council is also concerned about the retention of the caravans, which are generally an eyesore.

If the house is needed because people have to be on site overnight it is difficult to see why caravans should also be needed for the same purposes.

However, the Parish Council accept that there may be good temporary reasons why they are needed so would be content to support a further temporary extension but not permanent retention.

Finally, while we have been very understanding about the impact of the caravans on the use of Footpath 34 while the business has been establishing, if the caravans are to be retained in their current positions and a new dwelling built then all current fences and gates impeding the passage of members of the public along the correct line of Footpath 34 must be removed. (And the Parish Council would like to note that the line of Footpath 34 has not been clearly marked on the plans and no mention has been made of this in the documents submitted.)"

*Officer comment: The proposed dwelling has since been reduced in scale in response to these comments.*

## 9.2 Wakes Colne Parish Council "Make a general observation:

- Wakes Colne Parish Council has requested that this application be determined by the CBC Planning Committee rather than through Officers delegated powers.
- The application site is beyond the village settlement boundary.
- Policy DM6 (C) Replacement buildings will only be supported where the existing development is visually intrusive or otherwise inappropriate in its context and a substantial improvement in the landscape and surroundings will be secured through replacement. New buildings should not significantly increase the scale, height and built form of the original building.
- Specific business needs for a new dwelling should be adequately demonstrated.
- Suitable provisions should be addressed to mitigate any detrimental effects to both adjoining neighbours and the wider countryside setting.

- Any planning consent for a new dwelling should contain an occupancy condition allied to the business.

## **10.0 Representations from Notified Parties**

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

10.2 4 letters of objection have been received which make the following points:

- Proposed development does not satisfy the three limbs of sustainable development.
- Site lies outside of any defined settlement boundary.
- Applicants have failed to provide any evidence as to how the proposal will respect "the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity" in accordance with Policy OV2.
- The Applicants have provided no evidence as to why there is an essential need for a permanent dwelling. The Applicants have therefore failed to satisfy Policy DM14 (i).
- Dwelling is excessive for the requirements of any business. The Applicants have therefore failed to satisfy Policy DM14 (iii).
- Applicants have failed to explain why the functional need cannot be met through the currently situated mobile homes which the Applicants propose to retain. The Applicants have therefore has not satisfied Policy DM14 (v).
- no further mention of breeding nor any accounts to evidence the profits made from the breeding element of the business.
- Not demonstrated 24 hr need to be on site.
- Dwelling too bulky.
- Traffic concerns on single track road.
- Main access to this site would be from the A1124 onto Vernon road at which several accident have happened with the turning being just over a blind summit having witnesses one myself last week and my son having his car written off at this junction .
- Events and competitions "in-house". This is clearly not the case. Hemps Green Equestrian promotes competitions on its website and FB page (see below) and there was a show today which was largely for external clients. You will note that Ms Spence has set up a cross country course and is offering One Day Event training. This is not for the clientele who ride the riding school horses and is aimed at a much wider group of people.
- You will note that there is a London Group. They also have to get to and from the establishment, presumably by car as it is too far to walk.
- Environmental destruction of agricultural land.
- Public footpath appears to have been moved to accommodate caravans.
- noise from the site at the moment is not pleasant. Westerly wind the noise carries and can be heard in the Annex and the house.
- Refuses to use headsets and teaches 7 days a week; including all public holidays.

10.3 One letter states:

- no objection to the building of a house, to replace the temporary living accommodation, but it should occupy the same footprint.
- Worry about the increase of traffic on the road, which is single track in several places, as it is a country road used by walkers and horse riders.

10.4 One letter of support states:

- Support the proposal.

Comment: We live within half a mile of the address, it is not visible from the road, and therefore we are 100% behind building a house on the site, this couple have saved the village from the previous potential issues when travellers owned some of the land, why should they not be allowed to build a property on the 20+ acres of land?

**11.0 Parking Provision**

11.1 At least two spaces available on site to serve the dwelling.

**12.0 Accessibility**

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DM21 (Sustainable Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

**13.0 Open Space Provisions**

13.1 N/A

**14.0 Air Quality**

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

**15.0 Planning Obligations**

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team. Contributions will be sought via a Unilateral Undertaking.

## 16.0 Report

### Principle

16.1 The site lies within the countryside and in terms of settlement policy principle for a dwelling, regard needs to be had to the newly adopted Local Plan 2017-2033. Local Plan Policy SP1 states that throughout the Borough, growth will be located at the most accessible and sustainable locations in accordance with the settlement hierarchy. Settlement Policies SP3, SG1 and SG1 and SG2 have similar provisions. The Council can demonstrate a five year housing land supply.

16.2 In addition Policy OV2 of the adopted Local Plan also provides that:  
*Residential development proposals in the countryside, outside defined settlement boundaries, will need to demonstrate that the scheme respects the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity. Small scale rural exception sites needed to meet local affordable housing needs will be considered favourably on appropriate sites provided a local need is demonstrated by the Parish Council on behalf of their residents, based on evidence gained from an approved local housing needs survey. Where there is an identified need for certain types of housing, schemes must demonstrate how these needs have been met.*

16.3 Accordingly, having regard to the above and to Paragraph 80 of the NPPF housing within and the countryside is strictly controlled in accordance with settlement policy and the adopted spatial strategy. There therefore needs to be a special justification and one such justification can be an essential need for a rural worker to live on site in accordance with the above policies and Para 80 of the NPPF which states:

NPPF Para 80: Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- (a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

16.4 Government Guidance (NPPG) provides some additional background on this issue as follows:

“How can the need for isolated homes in the countryside for essential rural workers be assessed?”

Considerations that it may be relevant to take into account when applying paragraph 80a of the NPPF could include:

“evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products).”

16.5 Policy DM14 of the Local Plan is also directly relevant and states:

*Policy DM14: Rural Workers' Housing Permanent Rural Workers' Dwellings Planning permission will be granted for new agricultural/rural workers' dwellings as part of existing businesses where all of the following criteria are met:*

- (i) Evidence is provided to show that there is an essential functional need for a permanent dwelling;*
- (ii) The need is related to a full time worker who is primarily employed locally in agriculture, forestry or some other rural based business that requires a new dwelling in the countryside;*
- (iii) The size and design of dwelling is commensurate with the needs of the rural business;*
- (iv) The business has been established for at least 3 years, has been profitable for at least one of them, is financially viable and is likely to remain so in the future;*
- (v) The functional need cannot be met by another suitable and available dwelling;*
- (vii) The conversion of an existing building should be considered in preference to new build;*
- (viii) The proposed development is not located in a recognised area of flood risk; and*
- (ix) The proposed development satisfies all other Local Plan policy requirements.*

16.6 Overall, having regard to the nature of the business which is long established, the justification and supporting information put forward, the above Local Plan policies and NPPF and the planning history of the site it is considered that a justification for a dwelling to provide for the owners on the site is deemed essential on functional grounds and to enable to the business to continue satisfactorily.

16.7 Temporary permission was originally granted for a mobile home on appeal and then renewed temporarily on the most recent approved application (200964). The proposed equestrian use is similar to that previously proposed, although differs from the original appeal consent in that foaling no longer appears to form part of the equestrian use on the site at present. The applicant has put forward a case for a dwelling on the grounds of

security (with horses on site of considerable value), welfare (especially Colic). A 24/7 livery service is also provided rather than DIY.

- 16.8 This combination is considered adequate justification to demonstrate an essential functional need for permanent residential accommodation on site. Security by itself is not normally a sufficient need although combined with the other points and plus the stated 'high value' of the horses on site, the combination of factors overall is considered convincing. It is becoming increasingly obvious that the requirement for an on site presence to serve significant equestrian businesses is becoming more prevalent, as evidenced by other similar applications submitted to the planning authority of similar businesses.
- 16.9 Furthermore, as outlined earlier, the applicant's licence with the Colchester City Council Animal Welfare states that on site supervision is required and stipulates that 24h hour supervision is highly recommended to maintain a high standard of care for the horses. The applicant also states that risk of colic is high in these types of horses and this onsite care is one of the reasons the applicant attracts such a high level of livery. It is also why she is able to provide the provision of such quality horses for her training centre which is very different to the average riding school. Research from the case officer has confirmed that Colic is deemed a medical emergency and is the most common cause of death for horses.
- 16.10 The applicant states that there are also has a number of competition horses at livery of high value (in excess of 25k each) with high maintenance demands, similar to those in the racing industry. The nature of the high level of endurance required makes the need for 24 hour supervision essential.
- 16.11 Having regard to the above it is considered essential on functional grounds for there to be a dwelling on site for the reasons outlined above; including being available for animal welfare and health emergencies and for security given the value of the horses. This need is also judged having regard to the track record of this established business and its importance and value to the rural economy. There is not an existing dwelling on the site that would serve this need.
- 16.12 In terms of the financial test, Policy DM14 provides that the *business* should have *been established for "at least 3 years, has been profitable for at least one of them, is financially viable and is likely to remain so in the future."* The equestrian business is considered to meet this policy criteria. The business itself has been established for well in excess of 3 years, with the applicant confirming that  
"Hemps green Equestrian Ltd was established in 2014 at our former residence Hemps Green Barn. The success of the rural business meant we soon outgrew the 4-acre premises we were established in." The business moved to the current site in 2020.



- 16.13 The financial business details submitted show an increase in turnover and continuing profit with three income streams from the equestrian business, fencing and agricultural business, glamping and education centre to more than sufficiently support the development. Details of the profits have also been submitted and have been analysed by the case officer and show the business continues to make a profit and is an ongoing sustainable business with a lengthy track record. Accordingly, given the above factors it is considered that the financial test is also met.
- 16.14 The size of the revised proposal comprising a 3 bedroomed dwelling is now considered commensurate with the needs of the holding as referred to in the NPPF. It is not unreasonable for a dwelling of this size to serve a business of this nature. The initial submission of a 5 bedroom dwelling has been reduced to a 3 bedroom dwelling and this represents a substantial reduction in size.
- 16.15 It also needs to be borne in mind that the NPPF remains supportive of the rural economy and that this equestrian business is beneficial to the rural economy and the proposed dwelling is an important element of that business. NPPF Para 84 indicates that decisions should support sustainable growth and expansion of all types of business. It states:
- NPPF Para 84. Planning policies and decisions should enable:*
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses;*
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; ...*
- 16.16 Para 85 of the Framework also recognises the importance of businesses in rural areas including in areas not particularly well served by public transport and also emphasises the importance of businesses being sensitive to their surroundings. It states:
- Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.*
- 16.17 Local Plan Policy DM6 also supports businesses in rural areas, including their expansion and confirms that businesses in rural areas can help “ensure local residents have access to local job opportunities without the need to travel.” . Local Pan Policy SP5 promotes a strong and sustainable economy and Policy SG3 aims to encourage economic development, including on existing sites with permission

- 16.18 The proposed dwelling is considered to be an integral and essential part of this equestrian business and would therefore accord in principle with National and Local Plan policy of supporting business in a rural area. The occupation of the dwelling will be restricted to a worker employed in the equestrian business and their partner/dependents thereof.

Layout, Design, Scale, Form and Landscape impact:

- 16.19 In considering the layout, design, scale, form and layout of the proposal, policies DM15 and SP7 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.
- 16.20 It is considered that the location and orientation of the dwelling is acceptable within the local environment. Its front elevation faces the access track, which is a logical orientation but it remains relatively close to existing buildings on the site and on the adjacent Hammonds Farm to ensure that it does not appear isolated or unrelated to the overall complex. It is set well away from the nearest Listed Building to avoid adversely affecting its setting.
- 16.21 The scale of the building has been significantly reduced to a 3 bedroom dwelling of traditional proportions and design. The main gable is 6 metres, which is a traditional width and ensures a conventional roof pitch is achieved. The height of the dwelling is approximately 7.5 metres which again is a traditional height for rural dwellings and the materials to be used (render and plain clay tiles) reflect local historic vernacular. Elements of the fenestration are not entirely traditional but overall are considered appropriate for a dwelling of this design, scale and form. Accordingly, it is considered that the location, design, scale and form of the dwelling would appear as a generally traditional, modestly sized farmhouse in the countryside and would not detract from the character of the landscape subject to the use of appropriate materials (which can be conditioned).
- 16.22 The comments received from the landscape officer have been carefully considered in this respect, and, further to the significant reduction in the size of the dwelling, conditions can be applied to ensure the submission of an appropriate landscape scheme, including native screen and filter planting and the omission of the mound shown adjacent to the proposed dwelling which would not be a sympathetic feature in the landscape.
- 16.23 Overall, subject to the above mentioned conditions, the scheme is therefore considered to accord with Policy SP7 and DM15 as it is considered to respect the character of the site and surroundings and would not undermine the character of this part of the countryside or impact upon heritage assets (DM16).

### Highway Issues

- 16.24 The scheme is considered acceptable in terms of consideration of highway issues. The Highway Authority has raised no objections. The dwelling would not result in a vehicular intensification of the use of the site. The existing, adequate accessway to the site would be utilised, with a new appropriate entrance and there is adequate parking and turning provision available. The proposal would therefore accord with the provisions of Para 111 of the NPPF and Local Plan policies, including DM22 which concerns parking provision and the associated adopted parking standards. The nearby Public Footpath is not affected by the proposal and the informative will be applied to ensure that it should remain unobstructed will be applied.

### Residential amenity

- 16.25 It is not considered that the dwelling would have any significant impact upon neighbouring residential amenity. Owing to the intervening distance of the replacement dwelling from the neighbouring dwelling, which is beyond farm buildings, the proposed development would not appear overbearing on the outlook of neighbours. Similarly, there are no concerns regarding loss of light. The parking and manoeuvring areas are located well away from the neighbours dwelling so there should not be any material noise or disturbance impact in this respect. A condition can be applied to control hours of construction, as suggested by Environmental Protection.

### Other

- 16.26 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. There is no impact upon vegetation of significance or upon wildlife (Policy Env 1). Adequate private amenity space is provided, in accordance with Policy DM19.
- 16.27 An 'Unexpected Contamination' condition will be applied.
- 16.28 A Unilateral Undertaking will need to be completed to ensure appropriate contributions are made, and a RAMs wildlife mitigation payment will be required. As these have not yet been finalised, Authority to Approve the application is required with planning permission being issued only once these have been finalised.
- 16.29 An appropriate Habitats Regulation Assessment has been undertaken.

## **17.0 Planning Balance and Conclusion**

- 17.1 In conclusion it is considered that there is an essential need to locate a dwelling on the site to serve the existing, well established and viable equestrian business. The location, design, scale and form of the dwelling, which has been reduced from 5 bedrooms to 3, would respect the character of this part of the countryside and is well related to the existing complex. There are no highway safety, residential amenity, vegetation or wildlife concerns and the Public Footpath is not affected. A Unilateral Undertaking and RAMs wildlife payment will be required.

## **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject prior completion of the Unilateral Undertaking and RAMs payment and to the following conditions:

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

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:108 Rec'd 14.9.22, 103 D (excluding mound), 104 D, 105 D Rec'd 8.12.22, 109 Rev A Rec'd 16.1.23.

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

### **3. Z00 – Equestrian Occupation**

The occupation of the dwelling hereby approved shall be limited to a person solely or mainly working or last employed in the existing equestrian business on site or a widow or widower of such a person and to any resident dependents.

Reason: The site of the permission is outside any area where planning permission would normally be forthcoming for residential development not directly related to a clearly and specifically identified exceptional need related to a recognised countryside activity.

#### **4. ZBC – Materials to be agreed**

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

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

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

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

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

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

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not 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 all relevant, current, best practice guidance, including 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 where there is the possibility of contamination.

#### **7. Z00- Sewage Treatment Plant**

Prior to its first use, precise details of the sewage treatment plant shall be submitted to and agreed in writing by the Local Planning Authority. The approved plant shall be provided prior to first occupation of the dwelling and shall thereafter be retained as such whilst the flat is in occupation.

Reason: To ensure the provision of appropriate foul drainage.

#### **8. Z00- Construction Hours**

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

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. ZDC- Removal of PD Rights**

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 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.

#### **10. Z00 - Boundary Details**

The development hereby permitted shall not come in to use until details of the provision, siting, design and materials of any screen walls and fences required have been submitted to and agreed, in writing, by the Local Planning Authority. The approved screen walls and fences shall then be erected prior to the first USE/OCCUPATION of the development and shall thereafter be retained in the approved form.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to visual amenity.

#### **11. ZIR- Vehicle Parking**

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, shall have been hard surfaced, and made available for use to the satisfaction of the Local Planning Authority. The vehicle 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 that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

#### **12. ZJF- Cycle Provision and Electric Charging**

Prior to the first occupation of the development hereby permitted, cycle parking for bicycles and an electric vehicle charging point shall have been laid out within the site in accordance with details that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority.

The agreed cycle parking provision and electric charging points shall thereafter be maintained and made available for this use at all times.

Reason: There is insufficient detail shown to ensure that there is satisfactory cycle parking and electric charging available at the site at the time that it becomes occupied.

### 13 Z00 – Existing Mobile Homes

Within one month of the occupation of the dwelling hereby approved, residential accommodation of the existing mobile homes shall cease.

Reason: To ensure compliance with local planning policy which seeks to protect the character of the countryside from unjustified development.

### 14 Z00 – Name Signs to be installed

Prior to the first occupation of any of the dwelling hereby approved a name sign shall have been installed at the junction of the new driveway with the existing road network.

Reason: To ensure that visitors to the development can orientate themselves in the interests of highway safety.

## 19.0 Informatives

19.1 The following informatives are also recommended:

1. The Highway Authority does not object to the proposals as submitted.

Informative: The public's rights and ease of passage over Public Footpath Nos.31 & 34 (Mount Bures) shall be maintained free and unobstructed at all times and there shall be no access for any construction activities from the footpath.

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

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

Informative: The mound shown on the site is not considered acceptable and is would not be approved.

### 2. 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.

### 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 and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your

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





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**Item No:** 7.3

**Application:** 222262

**Applicant:** Mrs Lisa Spence

**Agent:** Mrs Mandy Sexton

**Proposal:** Change of Use for a Education Centre and Welfare Facility building and Two Client & Student Accommodation pods

**Location:** Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP

**Ward:** Rural North

**Officer:** Chris Harden

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Sunnucks who states “This has been called in at the request of the Parish Council and the owners of a neighbouring property. Although the expansion of rural businesses should be supported there have to be serious questions about adding a dwelling to the site. The neighbours are complaining about noise, surface water run-off, human and animal liquid waste.”

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of the additional elements to the equestrian business along with the visual impact upon the rural surroundings, highway safety, residential amenity, vegetation and wildlife.
- 2.2 The application is subsequently recommended for approval. It is considered that the buildings and their uses has been justified having regard to the needs of the long-established equestrian business. It is considered the proposal is acceptable in highway safety terms including consideration of the overall intensity of use of the site. The location, design, scale and form of the buildings would respect the character of this part of the countryside and is well related to the existing complex, subject to appropriate conditions. There are no residential amenity, vegetation or wildlife concerns and the Public Footpath is not affected subject to an appropriate informative.

## **3.0 Site Description and Context**

- 3.1 The site lies within the countryside and was previously part of Hammonds Farm and formerly known as Meadow Green Farm. It is now called Hushwing Farm and has an approved equestrian use and lies adjacent to the remainder of Hammonds Farm.

## **4.0 Description of the Proposal**

- 4.1 The proposal is for the change of use to provide for an education centre and welfare facility building and two client and student accommodation pods, all associated with the existing equestrian use on the site. It is proposed that a 10 metre long 6 metre wide, single storey, timber-framed and weatherboard clad outbuilding with a pitch roof be built close to the manège. It would be used by both the staff and the clients as an office/staff room and kitchen for the staff, WC and showers for the staff and clients and a room for use in bad weather, dining and as a class and meeting room for educational purposes.
- 4.2 Two glamping pods are proposed to be sited south of the manège adjacent to the grass mound on the boundary with Hammonds Farm. The applicant states that “the pods would allow for occasional overnight accommodation for clients and students who would normally commute, drive from afar and stay at accommodation off site.” The pods would be prebuilt timber framed structures erected on temporary foundations.

4.3 The applicant also states that once the owner's dwelling has been built (application 222261 recommended for approval at this Committee) the existing mobile caravans would be kept for the occasional use for staff accommodation during special events or when the horses require additional 24 hour care. The owners would move out of the existing mobile caravans temporarily granted approval and into the new dwelling.

4.4 In support of the application the applicant has made the following points.

- The present owners purchased the farm in June 2020 at the same time that planning was granted for a change of use to an equestrian school and livery stables. The equestrian business has been thriving whilst the owners have been living and working in two mobile caravans sited next to the stables.
- Demand for the equestrian services has been great and despite being hampered by Covid have been able to triple turnover since moving to the new site.
- Since the move to Hushwing Farm and the ability to grow our business we are now able to host BHS assessments which are accredited by BHSQ. This is an awarding body recognised and regulated by the office of the qualifications and examinations regulator (Ofqual) in England, SQQ accreditation in Scotland, Qualifications Wales, Work Based Diplomas, Equestrian Tourism and Equestrian Coaching qualifications. We have been approved to run assessments to stage 4 level and are the only centre in the whole of East Anglia offering this provision.
- The business also has a number of competition horses at livery of high value (in excess of £25k each) and high in maintenance, similar to those in the racing industry. The nature of the high level of endurance required makes the need for 24-hour supervision essential. The Applicant's licence with the Colchester City Council Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, states that on site supervision is required and stipulates that 24h hour supervision is highly recommended to maintain a high standard of care for the horses.
- The risk of colic (a stomach impaction common in horses due to the extreme length of their intestines) is high in these types of horses. This makes on site accommodation essential for both her and staff to cover the applicant's absence, and annual leave of which we are all entitled.
- Lisa Spence also runs her own livery business, Lisa Spence coaching and livery from Hushwing farm, which this year posted a significant increase on its profit. It also employs one full time member of staff.

- Moving the student pods further from the car park and to another area of the site would make access for the less able prohibitive, not to mention the further upheaval of amenities that would require. The current locations allow for easy access to water and electric as well as the foul drainage which is already in situ.

4.5 In addition, in response to initial concerns raised by the County Highway Authority about levels of traffic generation, the applicant has submitted the following details:

- The number of horses at Hushwing Farm has not changed since our arrival. We sit currently at 17 horses. We have 12 stables inside the current barn and the last two winters has proven that the clay soil does not lend itself to 24 hour turnout for the horses and it has been difficult to maintain their welfare to the level we strive to achieve. The barn which already had permission, seems to be the obvious place to put in some additional internal stables to allow the horses to be housed in the wet winters. This will not generate more traffic or business.
- The Highways officer mentions the holding of events and competitions. We only hold small in-house competitions for our current clients, predominantly on our own horses that live on site. These are not open to those that are not current registered clients of Hemps Green Equestrian. The East Essex hunt meetings held at Hammonds farm and access via our drive and are nothing to do with our business and the cross country course hire advertised by the East Essex Hunt at Hammonds Farm which is open to public from April to October, including the ladies day meet attracting some 80 plus horseboxes, was not in any way linked to Hemps Green Equestrian Ltd. Therefore this traffic cannot be linked with our planning application.
- There was some concern over the number of employees we have generated since being here. This has increased by two from the number employed at our previous residence, Hemps Green Barn, where the equestrian centre started 10 years ago, just 500 yds down the road. We do our best to reduce traffic with car shares for some of our younger staff. We have encouraged the apprentices to arrive by train. The last apprentice to complete under my training completed her entire apprenticeship by using the Sudbury to Chappel rail link.
- There has been some concern over my husband's fencing business and what additional traffic that it may bring. I can confirm his business has not changed over the last 20 years and if anything has slightly reduced in output. His business does little more than store materials and of that it is a very small quantity as most of the fencing materials get delivered direct to site. He does not employ anyone and plans to continue to be a sole trader working alone. The query over delivery vehicles is understandable, but due to our larger site and greater facility to store materials, as well as the significantly improved access and turning ability, we have been able to hugely reduce regularity of delivery.

- Since we purchased Hushwing Farm nearly two and a half years ago, the erection of an additional stable yard has been built on the field opposite our site. The additional traffic to the stables via my driveway, is not linked to my business in any way. I do not believe either of the stable blocks erected and sublet went through the planning process, and it would seem unfair that some of the traffic generated by these additional liveries are being considered as Hushwing Farm traffic.
- Student Pods: Allow students to come for several days at a time and to significantly reduce the toing and froing of vehicles. We are within easy walking distance from the local public house, the Thatchers, and bikeable distance from Bures town and the local post office stores at Chappel. We will ensure in our business plan that bikes are available for students to use to allow easy access traffic free to these locations.

4.6 There is an associated application (222261) for erection of a new 3 bedroomed dwelling for the owners of the equestrian business. This application is also to be presented to the Committee and is recommended for approval.

## **5.0 Land Use Allocation**

5.1 Countryside/Equestrian

## **6.0 Relevant Planning History**

6.1 200964 Change of use to equestrian school and livery stables. Complete the conversion of hay barn to stables – further alterations to proposed doors, openings and finishes of buildings now under construction and originally consented to under application no 120484. Build approved hay barn to store hay and machinery. Extend hardstanding and entrance track for access, turning and parking. New managed and lunge pen. Siting of temporary mobile home and office. Approved

172806 Extensions to existing building to form hay barn and rest facilities, creation of a manege, lunge pen and erection of horse walker for equine breeding unit following approval 120484 for a stud farm. Stationing of caravan/temporary accommodation for owners of the equine unit (AMENDED DESCRIPTION). Withdrawn.

120484

15/03/2012 -

Land at, Meadow Green Farm, Mount Bures Road, Wakes Colne Colchester CO6 2AP

Formation of a Stud Farm comprising a Change of Use of land and redundant livestock building to equestrian use, minor alterations to the building to form stabling, provision of manege, minor extension of existing access track and A mobile home was also given a temporary permission.

Approved After Appeal - 15/01/2013

090546

22/04/2009 - Full (8 Week Determination)

Land at Hammonds Farm, Hemps Green, Fordham Colchester CO6 3LS

Change of use of agricultural building into stables to include  
opening up of footpath route and provision of hardstanding.

Refuse - 16/06/2009

Appeal dismissed- not sufficient evidence of economic benefit. Might need dwelling.

## **7.0 Principal Policies**

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

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

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP5 Employment
- SP7 Place Shaping Principles

### **7.3 Local Plan 2017-2033 Section 2**

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG1 Colchester's Spatial Strategy  
SG2 Housing Delivery  
SG3 Economic Growth Provision  
SG4 Local Economic Areas  
SG7 Infrastructure Delivery and Impact Mitigation  
SG8 Neighbourhood Plan  
ENV1 Environment  
ENV3 Green Infrastructure  
ENV5 Pollution and Contaminated Land  
CC1 Climate Change  
OV1 Development in Other Villages  
OV2 Countryside  
DM1 Health and Wellbeing

- DM2 Community Facilities
- DM3 Education Provision
- DM4 Sports Provision
- DM5 Tourism, leisure, Culture and Heritage
- DM6 Economic Development in Rural Areas and the Countryside
- DM7 Agricultural Development and Diversification
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM14 Rural Workers Dwellings
- DM15 Design and Amenity
- DM16 Historic Environment
- DM17 Retention of Open Space
- DM18 Provision of Open Space and Recreation Facilities
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to development
- DM22 Parking

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

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Community Facilities
- Open Space, Sport and Recreation
- Sustainable Construction
- Cycling Delivery Strategy
- Managing Archaeology in Development.
- Developing a Landscape for the Future

## 8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Highways Authority initially raised concerns about overall volume of traffic but, following submission of extra details from the applicant, as outlined in detail above has no objections to the scheme and states the following:

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

The proposed temporary accommodation hereby approved shall not be occupied other than for employment or onsite educational purposes and shall not be used as a sole or main place of residence or holidays/short stays etc. The owner shall maintain an up-to-date register of names and addresses of the occupiers of the temporary accommodation, together with their dates of

occupation and shall make the register available to the Local Planning Authority upon request.

The development shall not be occupied until such time as an appropriate number of bicycles together with a suitable parking and storage facility of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter for use by those using the temporary accommodation.

The development shall not be occupied until such time as details of public transport facilities (taxis, timetables and locations of bus stops etc), walking and cycling being prominently displayed in public or communal areas and regularly updated and maintained in perpetuity within the site, which shall be approved by Local Planning Authority.

Informative1: The public's rights and ease of passage over Public Footpaths No.31 & 34 (Mount Bures) shall be maintained.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement.

8.3 Environmental Protection has raised no objections.

8.4 Contaminated Land Officer states:

The above named report is acceptable for the purposes of the Environmental Protection team and the conclusions seem reasonable based upon the information provided.

Should planning permission be granted for this application, the following condition will apply:

Reporting of Unexpected Contamination

8.5 Landscape officer has "No landscape objections."

8.6 Natural England: Standard advice and Habitats Regulation Assessment required.

8.7 The Ramblers state: "Make a general observation  
Comment: The routes of Public Rights of Way 31 (clearly shown on the plans) and 34 (not so obvious) should remain open and safe to use during and after any works. It is understood that dogs and washing lines adjacent to the caravans have unnerved some footpath users and this application is seen as a good time to address this."



## 9.0 Parish Council Response

### 9.1 Mount Bures Parish Council “ Make a general observation:

The Parish Council has no difficulty with the applicants wishing to develop their business including the proposed education and welfare centre.

However, the proposed new building for the centre is very close to the boundary with Hammonds Farm (Mount Bures) with possible noise and other impacts and it is not clear from the documentation why it needs to be in this position although we accept there might be good business needs. This should be sited where it will have least impact on neighbouring properties while meeting business needs, and additional screening should be considered to mitigate any adverse impact.

The move to providing overnight accommodation for students and staff (beyond what is needed to look after the horses) is a very significant development. The Parish Council would have thought that in terms of the economic benefit to the wider community, it would be preferable if students and staff were using accommodation in the wider locality, which would also avoid more buildings/caravans/glamping pods in the countryside affecting the amenity of local residents and those walking along footpaths across the area. If there are concerns that insufficient accommodation is currently available within a reasonable distance, then the Parish Council could only support accommodation on site if it is temporary or time limited allowing regular review against the availability of hotel, bed and breakfast and rented accommodation nearby.

The Parish Council would like to suggest that any permanent staff accommodation could be included within the development of the new dwelling. (i.e an annex perhaps?) The Parish Council is also concerned about the retention of the caravans, which are generally an eyesore.

If the house is needed because people have to be on site overnight, it is difficult to see why caravans should also be needed for the same purposes.

However, the Parish Council accept that there may be good temporary reasons why they are needed so would be content to support a further temporary extension but not permanent retention.

Finally, while we have been very understanding about the impact of the caravans on the use of Footpath 34 while the business has been establishing, if the caravans are to be retained in their current positions and a new dwelling built then all current fences and gates impeding the passage of members of the public along the correct line of Footpath 34 must be removed. (And the Parish Council would like to note that the line of Footpath 34 has not been clearly marked on the plans and no mention has been made of this in the documents submitted.)”

## 9.2 Wakes Colne Parish Council “Make a general observation:

- Wakes Colne Parish Council has requested that this application be determined by the CBC Planning Committee rather than through Officers delegated powers.
- The application site is beyond the village settlement boundary.
- Concerns were raised regarding a potential increase in traffic movements in a narrow lane with few appropriate passing places.
- That suitable provisions should be addressed to mitigate any detrimental effects to both adjoining neighbours and the wider countryside setting.
- Specific business needs for the new accommodation should be adequately demonstrated.
- The existing footpath should remain unhindered and any concerns raised by Ramblers and other users addressed.

## 10.0 Representations from Notified Parties

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

10.2 3 letters of objection have been received which make the following points:

- 1a. Development of education centre and client accommodation is situated in close proximity to Hammonds Farm. Development will negatively impact on those neighbour’s residential amenity particularly with regard to privacy, security, noise, disturbance and pollution in breach of Policy DM15 (v) and Policy DM5.
  - b. Applicants have failed to explain how two ‘glamping pods’ will make a positive contribution to neighbouring area and biodiversity in compliance with Policy DM5.
  - c. Site is only safely accessible by way of private motor vehicle and thus fails to comply with further provision of DM5 which requires that leisure / tourism facilities should be accessible by a choice means of transport.
  - d. Applicants have failed to provide any justification as to why they require the retention of the mobile dwelling The applicants have failed to demonstrate how the retention of the mobile home complies with Policy DM14.
  - e. Layout for the proposed education centre places further development on the eastern edge of the site leading to a cramped and overbearing bulk of buildings overlooking Mr & Mrs Barr’s property. Proposal therefore fails to comply with Policy DM15 (i)
4. Application should be assessed in line with the NPPF and adopted Local Plan.
  5. No justification as to why there should be a departure from the adopted Local Plan.
  6. Main policies that should be considered in connection with this application are SG1, OV1 OV2 DM14 DM5 DM15.
  7. Retention of Mobile home: Council are asked to review the objection letter filed under the Dwelling Application.

8. Applicants have failed to evidence why entitled to retain the temporary rural worker's dwelling (let alone erect a further 5 bedroom rural worker dwelling). The Local Plan has clear policy in connection with rural worker's dwelling (Policy DM14) which should be attributed full weight in this instance.

9. Applicant has failed to reference or address Policy DM14 so permission for the retention of the mobile home as a permanent dwelling should be refused.

10. Education Centre & Pods: noted that the education centre will contain wash facilities and a kitchen: concern that the education centre will end up being used by the Applicants for residential purposes.

11. The bulk, scale and location of the education centre is also objected to. Noted Applicants are seeking to concentrate development of both the education centre and pods at the eastern boundary between the application site and Hammonds Farm as opposed to being located to the western side of the site where the Applicants propose to construct their dwelling.

12. Large education centre with holiday accommodation will come at the expense of the amenity enjoyed by the occupiers of Hammonds Farm. Whilst the principle of the education centre and pods are objected to, if the council were minded to grant permission in principle, it is requested that the centre and pods be reallocated to the western side of the menage away from Hammonds Farm.

13. The Applicants have also failed to demonstrate how the proposal complies with Policy DM5.

14. Policy DM5 goes on to provide that any leisure or tourism development should be accessible by a choice means of transport. In the current case the centre and pods are only accessible by private vehicle or taxi. Acknowledged by the applicants in Design & Access Statement who advise that the nearest bus stop is a 10minute walk away (this walk being on unlit roads with no pavements).

15. Increase traffic volume to the area. The access track to the application site granted permission under application ref 080562 provides the existing surface should be retained to allow the track to blend in with the rural land. Given increase in traffic, anticipated that applicants will not be able to comply with this condition and track will need to be resurfaced.

16 impacts on the occupiers of Hammonds Farm:

a. Surface & Foul Water: further buildings and non-permeable surfaces will have impact on the running ditch between the boundary that separates application site and Hammonds Farm as well as increased water discharge in connection with proposed intensification of the applicants' business. Running ditch has at times struggled to cope with the water that is drained from the Applicant's menage and hardstanding (that is now 40% larger than was originally applied for). Introduction of further development (which includes 4 dwellings) risks overfilling a ditch that was previously only meant for drainage from agricultural land which has the potential to lead to flooding onto Hammonds Farm and the amenity space of Mr & Mrs Barr. Concerns that the Applicants are discharging foul waste into this ditch in breach of environmental health legislation.

b. Noise: Applicants have to date refused to use headsets to coach customers on the site. This has resulted in a considerable amount of noise pollution during the day (7 days a week as well as bank holidays) as the Applicant and other instructors are constantly heard shouting or using loudspeaker systems during lessons in order to make themselves heard across the distance of the menage. Concern that noise pollution will increase (both in terms of volume and duration) with intensification of business and the introduction of clients staying overnight. Matter exacerbated as applicants have failed to satisfy previous condition to

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plant Hornbeam on eastern side of application site where a bund is not present (see condition 6 of planning application ref 202396).

17. Light pollution.

18. Events wider than registered clients.

19. Need for another hay store?

20. Annex at Hammonds Farm houses office

### 10.3 Two letters of support state:

- Have been a client of Hemp Green /Hushwing Farm for a considerable length of time. Attend centre 2 to 3 times a week for training on my own horse. On every private mounted training session, I have always been required by the instructor to wear headsets provided by the centre which acts to aid my own hearing of instructions without the instructor having to use a raised voice. I have never had a mounted session without being required to use this equipment. I much prefer this system and have never heard my instructor shout and cause noise pollution. Outdoor sports are a vital part of our community.
- Having suffered with mentor Heath I benefit greatly by having a training centre like Hushwing that is easily accessible to myself and other members of my family.
- Learning centre will be a great addition to the facilities. Hushwing already hosts British Horse Society accredited qualifications which are recognised the world over.
- My own son already having taken advantage of the learning opportunity's the centre is providing which also motivated him to follow a career at a higher level within the industry, however there is a lack of indoor warm dry space for the classroom based learning. No facilities currently to be able to enjoy a warm drink after training, there is limited adequate toilet facilities and nowhere to make a change of clothing in severe weather.
- Staff at the centre go over and above to make clients comfortable and welcome but I can see that this is a constant challenge within limited facilities at present.
- What a great place to visit but much in need of up to date facilities for the comfort of clients, staff and proprietors.
- Well thought out application.
- Given all the disruption following COVID, it is impressive to see a local business thriving.
- Further visitors to local area brings additional money to area's existing businesses. Could benefit local pubs and campsites alike.
- Equestrian activities are very popular and having an exceptional local facility such as this is an asset to the area for sure.

## 11.0 Parking Provision

11.1 8 parking spaces plus hard surfaced areas and manoeuvring areas and tractor and storage hard surfaces.

## 12.0 Accessibility

- 12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DM21 (Sustainable Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

## 13.0 Open Space Provisions

- 13.1 N/A

## 14.0 Air Quality

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

## 15.0 Planning Obligations

- 15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team. Contributions will be sought via a Unilateral Undertaking.

## 16.0 Report

### Principle

- 16.1 The proposal relates to an existing business that lies within the countryside. In terms of the principle of the proposals, the NPPF remains supportive of the rural economy and this equestrian business is beneficial to the rural economy. The proposals are considered to potentially be an important element of the established equestrian business. NPPF Para 84 indicates that decisions should support sustainable growth and expansion of all types of business. It states:

*NPPF Para 84. Planning policies and decisions should enable:*

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; ...*

- 16.2 Para 85 of the Framework also recognises the importance of businesses in rural areas including those in areas not particularly well served by public transport and also emphasises the importance of businesses being sensitive to their surroundings. It states:

*Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by*

*public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.*

16.3 Local Plan Policy DM6 also supports businesses in rural areas, including their expansion and confirms that businesses in rural areas can help “ensure local residents have access to local job opportunities without the need to travel.” Local Plan Policy SP5 promotes a strong and sustainable economy and Policy SG3 aims to encourage economic development, including on existing sites with permission.

16.4 In addition, Local Plan Policy DM5 states:

*“Development for new and extended visitor attractions, leisure, cultural and heritage facilities along with visitor accommodation (including hotels, bed and breakfast accommodation, self-catering accommodation, holiday lodges, static and touring caravans and camping sites) will be supported in suitable locations subject to minimising their impact on neighbouring areas.*

*Proposals for tourism, leisure, culture and heritage development should be appropriate in scale and function to the surrounding area; be accessible by a choice of means of transport; and not cause significant harm to the amenity of people living and working nearby.”*

16.5 With regard to the uses of the buildings proposed, it is considered adequate justification has been put forward to show how they are required to help sustain the business having regard to the above policies. It is clear that the existing business has become an important equestrian facility and the related education facility and accommodation proposed will relate directly to the equestrian business and help sustain its long-term future and provide an important service as well. The potential for staff and students to temporarily stay on site when necessary has been justified in terms of reducing travelling and also for the welfare of the horses, as clearly explained in the applicant’s submitted details. This permission would not grant permanent residential accommodation on the site. The requirements of Policy DM14 and settlement policies outlined in the Local Plan and NPPF have been considered in this respect.

16.6 To summarise the principle of the development having regard to the above policy background, it is clear that the NPPF and the adopted Local Plan are strongly supportive of sustaining and encouraging all types of business enterprise in rural areas which would include equestrian/leisure facilities. However, this is subject to the business being compatible with location with careful regard being given to the impact upon issues such as highway safety, neighbouring residential amenity, the character of the countryside and wildlife. These issues will be discussed below.

16.7 It should be noted that the provision of new dwellings in the countryside is strictly controlled by adopted Local Plan settlement policies but that is not what is being proposed for this application.

## Highway Issues

- 16.8 The scheme is considered acceptable in terms of consideration of highway issues. Following the submission of the additional details, as outlined in detail at the start of this report, the Highway Authority has raised no objections. It is concluded that the additional uses and buildings proposed would not result in such a significant increase in vehicular traffic to the site that would warrant a refusal having regard to the impact upon highway safety including upon the surrounding highway network. The business has been established for many years, including at another nearby site from which it has moved. Importantly, Para 111 of the NPPF states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." It is not considered there would be a severe impact upon the road network and that there would not be a detriment to highway safety. The existing, adequate accessway to the site would be utilised.
- 16.9 There is considered to be adequate parking and manoeuvring provision on site having regard to Policy DM22. The conditions recommended by the Highway Authority will be applied including occupation of the buildings proposed, storage of bicycles and details being available of alternative sustainable travel options being provided. An informative ensuring the public footpaths should remain unobstructed will be applied as suggested by the Highway Authority.
- 16.10 Subject to these conditions the proposal would therefore accord with the provisions of Para 111 of the NPPF and Local Plan policies, including DM22 which concerns parking provision and the associated adopted parking standards. The nearby Public Footpath is not affected by the proposal and the informative will be applied to ensure that it should remain unobstructed will be applied.

## Layout, Design, Scale, Form and Landscape impact:

- 16.11 In considering the layout, design, scale, form and layout of the proposal, policies DM15 and SP7 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.
- 16.12 It is considered that the location design, scale and form of the proposed buildings is acceptable within the local environment. The buildings are all single storey and positioned to the rear of the site with a backdrop of vegetation and the generally modern farm buildings of Hammonds Farm. They would therefore be relatively close to existing buildings on the site and on the adjacent Hammonds Farm to ensure that they do not appear isolated or unrelated to the overall complex. All are set well away from the nearest Listed Building to avoid adversely affecting its setting.
- 16.13 In terms of the specific buildings, the existing mobile homes are relatively unobtrusive and positioned directly adjacent to farm buildings. Whilst they are low lying, it is considered their external elevations could be improved by a more sympathetic finish (potentially darker) so a condition will be applied

to secure the submission of such details. This will ensure they blend in more satisfactorily when viewed from outside the site. Similarly, a condition to secure details of the external finishes and materials of the modestly scaled education building will also be recommended to be applied.

- 16.14 The footprints of the student pods have been shown on a submitted plan and an example of such structures has been submitted. They are modest in size and generally unobtrusive in the countryside. However, it is considered a condition should be applied to ensure the pods are located in the positions shown, do not exceed the footprint on the submitted plans and accord with the submitted elevation details. This will ensure that any structure erected is contextually sympathetic to the surroundings.
- 16.15 Overall, subject to the above-mentioned conditions, including a landscaping condition, the scheme is therefore considered to accord with Policy SP7 and DM15 as it is considered to respect the character of the site and surroundings and would not undermine the character of this part of the countryside or impact upon heritage assets (DM16).

Residential amenity

- 16.16 It is not considered that the proposed buildings and their uses would have any significant impact upon neighbouring residential amenity, including having regard to the overall intensity of use of the site. Owing to the intervening distance of the buildings from the neighbouring dwelling and its residential curtilage, which is beyond farm buildings, it is considered the use of the buildings would not result in a noise disturbance. Whilst they would be close to the neighbouring boundary the nearest neighbouring dwelling is set well away. The concerns raised by neighbours in this respect have been carefully considered and Environmental Protection have raised no objections. If the neighbouring occupants continue to have concerns about noise from the site there is the option for Environmental Protection to assess this under the Statutory Nuisance legislation. However, it is not considered the structures and uses proposed under this application would result in a significant change to the noise generated on the site.
- 16.17 It should be noted that the Inspector who granted an equestrian use of the site on appeal did not apply any restriction upon the hours of use by condition. However, the use of the outdoor riding area is limited by hours of daylight which is quite early in winter times.
- 16.18 With regard to other potential residential amenity impacts, the proposed development would not appear overbearing on the outlook of neighbours. Similarly, there are no concerns regarding loss of light. The parking and manoeuvring areas are located well away from the neighbours dwelling so there should not be any material noise or disturbance impact in this respect. A condition can be applied to control hours of construction, as suggested by Environmental Protection.



## Other

- 16.19 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. There is no impact upon vegetation of significance or upon wildlife (Policy Env 1).
- 16.20 An 'Unexpected Contamination' condition will be applied to cater for this eventuality.
- 16.21 A foul and surface water drainage condition will be applied having regard to the concerns raised by neighbours.

## **17.0 Planning Balance and Conclusion**

- 17.1 It is considered that the buildings and their uses has been justified having regard to the needs of the long-established equestrian business. It is considered the proposal is acceptable in highway safety terms including consideration of the overall intensity of use of the site. The location, design, scale and form of the buildings would respect the character of this part of the countryside and is well related to the existing complex, subject to appropriate conditions. There are no sustainable objection on grounds of residential amenity, vegetation or wildlife concerns and the Public Footpath is not affected subject to an appropriate informative.

## **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

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

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 110, 111, 106 Rev D Rec'd 14.9.22.

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

### **3. ZBC – Materials to be agreed**

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

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

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

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

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

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

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not 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 all relevant, current, best practice guidance, including 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 where there is the possibility of contamination.

### **6. Z00 – Temporary Accommodation**

The proposed temporary accommodation (mobile homes, welfare centre and student pods) hereby approved shall not be occupied other than for employment or onsite educational purposes relating to the existing equestrian use and shall not be used as a sole or main place of residence or holidays/short stays etc. The owner shall maintain an up-to-date register of names and addresses of the occupiers of the temporary accommodation, together with their dates of occupation and shall make the register available to the Local Planning Authority upon request.

Reason: To prevent the generation of unnecessary traffic in the interests of highway safety.

**7. Z00- Bicycle storage**

The development shall not be occupied until such time as an appropriate number of bicycles together with a suitable parking and storage facility of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter for use by those using the temporary accommodation.

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

**8. Z00 – Travel Packs**

The development hereby approved shall not be occupied until such time as details of public transport facilities (taxis, timetables and locations of bus stops etc), walking and cycling being prominently displayed in public or communal areas and regularly updated and maintained in perpetuity within the site, which shall be approved in writing by Local Planning Authority.

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

**9. Z00- Foul and Surface Water Drainage**

Prior to first use of the buildings hereby approved precise details of foul and surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be provided prior to first occupation of the buildings hereby approved and shall thereafter be retained as such whilst the buildings are in occupation.

Reason: To ensure the provision of appropriate foul and surface water drainage.

**10. Z00- Construction Hours**

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

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.

**11. Z00 - Boundary Details**

The development hereby permitted shall not come in to use until details of the provision, siting, design and materials of any screen walls and fences required have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to visual amenity.

## **12. ZIR- Vehicle Parking**

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, shall have been hard surfaced, and made available for use to the satisfaction of the Local Planning Authority. The vehicle 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 that are related to the use of the development. Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

## **13. Z00 – Existing Mobile Homes**

Prior to the revised first use of the existing mobile homes precise details of works to improve their external appearance shall be submitted to and agreed in writing by the local planning authority. The approved details shall be implemented prior to first revised occupation of the mobile homes and shall thereafter be retained as such.

Reason: To ensure compliance with local planning policy which seeks to protect the character of the countryside.

## **14. Z00 – Student Pods**

The footprint of the student pods hereby approved shall not exceed that shown on the approved plans and the pods shall be located in the positions shown and accord with the submitted elevation details.

Reason: For the avoidance of doubt as to what has been considered and approved and in the interests of visual and residential amenity.

## **19.0 Informatives**

19.1 The following informatives are also recommended:

### **1. Highway Informatives**

The public's rights and ease of passage over Public Footpaths No.31 & 34 (Mount Bures) shall be maintained free and unobstructed at all times and there shall be no access for any construction activities from the footpaths.

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

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

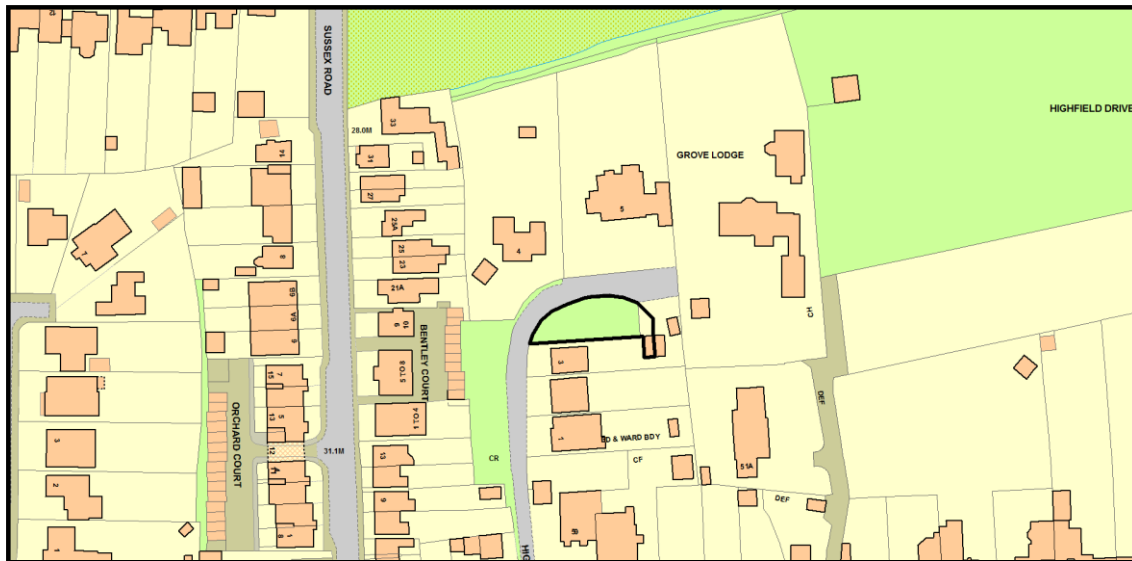
### **2. ZT0 – Advisory Note on Construction & Demolition**

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.

### **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 and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.





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**Item No:** 7.4

**Application:** 222971

**Applicant:** Marguerite Haddrell

**Agent:** Michael Smith, JCN Design & Planning

**Proposal:** Creation of a three bedroom detached house.

**Location:** Land Adjacent To, 3 Highfield Drive, Colchester, CO3 3QA

**Ward:** Lexden & Braiswick

**Officer:** Nadine Calder

**Recommendation:** Refusal

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

- 1.1 This application is referred to the Planning Committee because it was called in by Councillors Barton and Willets.
- 1.2 Councillor Barton requested the application be referred to the Planning Committee in the event of a recommendation for refusal, the reasons being:
- This site has been controversial so in the interests of openness and fairness, it is appropriate for this application to be referred to the Planning Committee.
  - The new application has taken on board the comments from the Planning Committee and the recently adopted Local Plan does indicate it meets all policy requirements.
- 1.3 Councillor Willets requested the application be referred to the Planning Committee in the event of a recommendation for approval, the reasons being:
- The private drive is narrow and has no sight splay at its junction with A1124 Lexden Road, and no remedial action is proposed as part of this application. The existing access is already a hazard to pedestrians passing-by on Lexden Road, and further development at this unsuitable location will further exacerbate the dangers. This matter is neither addressed by ECC highways policy nor by the City Council Planning Policy. Therefore in making a decision, the Planning Committee needs to take the safety issues pertaining to the access to this development.
  - The proposed site is very small and tightly constrained and the designated parking appears to extend beyond the curtilage of the development site so as to impede the safe flow of traffic to the other houses in what is already a cramped geometry. Again this is not directly covered by CCC Planning Policy and needs determination by the Planning Committee.
  - While each application must be determined solely on its merits, there is a history of refusal of applications and appeals on this site for broadly similar developments, and previous Planning Inspectors conclusions need to be carefully weighed for relevance by the Planning Committee in regard to this application.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact of the development upon its surroundings in addition to any issues concerning neighbouring residential amenity, highway safety and impact upon vegetation.
- 2.2 The application is subsequently recommended for refusal. It is considered that the proposed development would lead to the loss of an attractive, open green corner and would thus erode the feature that gives the area its townscape quality to the serious detriment of the character and appearance of the street scene and surroundings. The flank wall of the substantially sized dwelling would be considerably closer to the Drive than the existing dwelling and would result in a cramped form of development that would detract further harm the character of the area.



- 2.3 The proposal would also result in a private rear garden of limited size in comparison with the more generous plot sizes found in the immediate area, thus detrimentally changing the character of this part of Highfield Drive. The proposal would be discordant with its context and would fail to enhance the attractive and tranquil character of the area.

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

- 3.1 The site lies within the settlement limits for Colchester as defined in the Colchester Borough Council Local Plan and currently comprises part of the side and rear garden to No.3 Highfield Drive, which is located off an unmade lane leading from Lexden Road and beyond the Conservation area. The site slopes down to the adjacent lane. The host property is one of a series of three mid 20<sup>th</sup> century houses on this lane, with a further two properties at the bottom. The lane is relatively well screened with trees, especially along the western side. No trees of any merit are on the site itself although a group of trees subject to preservation orders are found on the other side of the lane.

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

- 4.1 The proposal comprises the construction of a detached three bedroom, pitched roofed house. It would be positioned slightly set back from the frontage of the adjacent No.3 Highfield Drive and would measure 8.88m in width (9.79m including the bay window), 6.4m in width and 8.56m in height. The front elevation of the property is shown to face the Drive to the north of the site.

### **5.0 Land Use Allocation**

- 5.1 The site lies within the defined settlement limits for Colchester.

### **6.0 Relevant Planning History**

- 6.1 There is a long planning history associated with this site, as outlined below:

211117	Erection of four bedroom detached house	Refused 09.07.2021
201371	Lawful Development Certificate for Proposed Erection of Garage and Store Building	Refused 30.07.2020
200847	Erection of four bedroom detached house	Withdrawn 17.06.2020
151993	Two storey side extension	Approved Conditional 20.11.2015
146416	Erection of two bedroom detached bungalow (Resubmission of application 145426)	Refused 21.01.2015 Appeal dismissed 24.06.2015
145559	Renewal of planning permission 111460 for a two storey side extension	Withdrawn 27.11.2014

145426	Erection of three bedroom detached house	Refused 09.10.2014 Appeal dismissed 24.06.2015
111460	Two storey side extension	Approved Conditional 15.09.2011
102315	One detached three bedroom house and replacement garages. Resubmission of 101564.	Refused 16.12.2010 Appeal dismissed 04.04.2011
101564	One detached four bedroom house and replacement of existing detached garage.	Refused 21.10.2010

6.2 Inspector's comments for dismissed appeals 145426 and 146416 (emphasis added by your Officers) include:

6. The area includes a number of small cul-de-sacs and although it is within the built up area I consider it has **retained a sylvan character** with a significant number of trees and shrubs. The site is mainly grassed with a fence separating it from No 3 and the garages and along the road edge there is a low timber rail. Although partly fenced and somewhat unkempt at the time of my visit it **nevertheless provides an important feature that contributes to the character of the Drive and area.**

7. The developments proposed are for the erection of a detached two storey, 3 bedroom dwelling or a detached 2 bedroom bungalow. These would be sited within the open area and **would erode the feature that gives the area its quality. They would provide a discordant element that would fail to retain the attractive character by further urbanising the area.**

8. Furthermore, the existing properties on the Drive are set well back from the road frontage and whilst the areas in front of the properties are used for parking there is also a considerable amount of vegetation. The **combination of the set back and verdant appearance contributes to the character of the area.** However, the proposed developments would result in the **flank wall of the dwellings being considerably closer to the Drive. This would provide a cramped form of development that would detract further from and harm the character of the area.** Although the proposals include retention and reinforcement of landscaping on the site I do not consider any scheme of landscaping would reduce the harm caused by a dwelling on the site.

9. The submissions refer to previous proposals to extend No 3 and to erect a new dwelling on the appeal site. Planning permission has previously been granted for a **two storey extension** to No 3 and the proposal was subsequently amended. This consent has not been implemented and has now lapsed. In any event this permission did not authorise a new dwelling and it differs significantly from the current appeal proposals as the extension was subservient to the existing house and, as it was not freestanding, **it would not intrude** to any great degree into the open space.

10. There have also been a number of applications refused for a new dwelling and one appeal for the erection of one detached three bedroom house and replacement garages was dismissed in 2011. Although this decision predates the Framework I consider the Inspector's conclusions regarding the effect of a new dwelling on the site still to be relevant. **I consider the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area.**

11. A number of matters have been put forward by the appellant to support the proposals. The site is vacant and untidy and it is suggested the proposals would improve the appearance but such arguments could easily be replicated elsewhere to justify a proposal that is otherwise unacceptable and there are other options open to the Council if the condition of the site deteriorates.

12. My attention has also been drawn to a relatively recent development comprising a new dwelling sited to the rear of No 1 and 2 Highfield Drive. From my visit this development differs in a number of ways from the appeal proposals as the site is considerably larger allowing space around the building to be retained and it is not a prominent corner site. I therefore do not consider the development provides support for the appeal proposals. Reference is also made to a number of other developments within the Borough but I do not have the full details nor do I know the circumstances that led to the developments. **In any event I must determine these appeals on their merits.**

13. I have noted the Council has not raised concerns regarding the external appearance of the dwellings, the effect on living conditions of nearby residents, amenity space provision or that the developments would create a highway hazard. A number of interested parties have raised concerns regarding highway and parking matters but I am satisfied that one additional dwelling would not lead to an increase in additional traffic or congestion that would justify dismissal of the appeals. The design of the proposed dwellings is pleasant and from my visit I am satisfied would not result in a loss of privacy or other impacts that would detract from the living conditions of nearby residents. However, these factors do not outweigh my concerns regarding the effect of the development on the character and appearance of the area.

14. Having considered carefully all the points made **I do not consider the benefits of the proposal outweigh the harm to the character, quality and appearance of the area. I therefore conclude both proposals conflict with CS Policy UR2, DP Policy DP1 and the SPG.**

6.3 Inspector's comments for dismissed appeal 102315 (emphasis added by your Officers) include:

4. As I saw it at my site visit, this part of Colchester has a character which relies heavily on the interaction of the built environment with the significant amount of trees and shrubs. This character is present in Highfield Drive, where trees and bushes provide the backdrop to the dwellings making a substantial contribution to the attractive quality of the area. The site comprises part of a garden and the double garage to number 3 Highfield Drive. At the front of the site, alongside the existing dwelling, there is an area of lawn that is fairly open with a recently erected fence at the boundary. Behind this, to the east, there is a substantial amount of reasonably dense and tall planting. **At present I judge that this plays a full part in defining the attractive character of the cul-de-sac. The appeal proposal would change the character of this part of Highfield Drive, reducing the very quality which makes this an attractive living environment.** I conclude that it would be contrary to Policy UR2, which resists developments which are discordant with their context and fail to enhance the character, quality and function of the area."

## 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 (the Framework) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

### 7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP7 Place Shaping Principles

### 7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- DM12 Housing Standards
- DM15 Design and Amenity
- DM17 Retention of Open Space
- DM19 Private Amenity Space

- DM22 Parking
- DM25 Renewable Energy, Water Waste and Recycling

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

The Essex Design Guide  
 External Materials in New Developments  
 EPOA Vehicle Parking Standards  
 Community Facilities  
 Open Space, Sport and Recreation  
 Managing Archaeology in Development

7.5 5 Year Housing Land Supply

Section 1 of the Colchester Local Plan 2017-2033 was adopted by the Council on the 1 February 2021, with Section 2 being adopted in July 2022. The complete Local Plan carries full statutory weight as the development plan.

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

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

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

The Council's latest published Housing Land Supply Annual Position Statement (July 2022) demonstrates a housing supply of 5,074 dwellings which equates to 5.25 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2022/2023 through to 2026/27.

## 8. Five Year Supply Calculation

- 8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2022/2023 through to 2026/2027.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing allocations and windfall allowance	5074
Total number of years' worth of housing supply including emerging allocations	
Supply against OAN with permissioned sites, existing allocations and windfall	5.25

- 8.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.25 years is deliverable within this period.

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

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

### 8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Archaeological Advisor does not object to the proposal subject to a condition.
- 8.3 The Contaminated Land Officer requested an appropriate risk assessment for the site needs to be submitted prior to approval given that the proposed residential use of the site would be particularly vulnerable to the presence of contamination.
- 8.4 Environmental Protection raise no objection to the proposal subject to a condition limiting the hours of work and securing EV charging points as well as the inclusion of the Demolition and Construction Advisory Note.
- 8.5 The Highway Authority observes that Highfield Drive is classified as a Private Road and therefore does not object to the proposal.

## **9.0 Parish Council Response**

9.1 This area is non-parished.

## **10.0 Representations from Notified Parties**

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

10.2 Seven letters of objection have been received, raising the following concerns:

- Loss of green corner
- Cramped form of development
- Impact on character of the area
- Loss of light
- Overlooking
- Limited garden sizes compared to more generous plots surrounding the site
- Deliberate negligence of the site
- Lane cannot support more vehicles/traffic than it already does
- Access onto Lexden Road is very narrow and constrained
- Inappropriate access for fire service and refuse vehicles
- Long planning history with various refusals over the last 10+ years
- Inspector considered the site unsuitable for a separate dwelling
- Reasons for previous refusals have been consistent, and nothing has changed since the last application

## **11.0 Parking Provision**

11.1 The proposal includes the provision of two dedicated parking spaces for both the donor and the proposed dwelling (four spaces in total).

## **12.0 Accessibility**

12.1 The proposal has the ability to comply with the provisions of the Equalities Act in respect of access for the new dwelling.

## **13.0 Open Space Provisions**

13.1 The application would result in the loss of an area of private open space. However, it would provide policy compliant private amenity space for the two resultant dwellings.

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

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

## **16.0 Report**

### Principle of Development

- 16.1 The current Development Plan for Colchester comprises the North Essex Authorities’ Shared Strategic Section 1 Colchester Borough Local Plan (adopted 2021) and the Colchester Borough Section 2 Local Plan 2017-2033 (adopted 2022). The Development Plan is up-to-date and compliant with the Framework. The Council is also able to demonstrate an up-to-date 5 year housing land supply.
- 16.2 As such, the presumption (at paragraph 11d of the Framework) is not engaged, and the development should be assessed against the Development Plan, unless material planning considerations indicate otherwise.
- 16.3 The site lies within the development boundary for Colchester and in a reasonably sustainable location surrounded by established residential development. In accordance with Local Plan SP1 and the Framework (which has a presumption in favour of sustainable development), the proposal should be judged on its planning merits. Regard also needs to be had to the planning history of the site as a material consideration, which includes previous refusals and appeal dismissals together with consideration of the case put forward by the agent.

### Impact on Surrounding Area

- 16.4 From the planning history, as set out in Section 6 of this report, it is obvious that several previous attempts have been made to construct a detached dwelling on this plot of land, all of which were refused by the Local Planning Authority (LPA) and those refusals that were appealed were dismissed by the Planning Inspectorate. These decisions are material planning considerations in the determination of this current proposal.
- 16.5 The current proposal is for a detached three bedroom property, positioned slightly behind the existing property No. 3. The front door would be provided in the northern elevation and a feature wall is proposed to the garden of the property, slightly set back from the Drive together with new soft landscaping features, presumably to soften the impact on the lane and to provide visual interest along the northern boundary of the site.



- 16.6 This arrangement is slightly different to the most recently refused application (211117) which sought permission for a four bedroom dwelling (albeit of similar dimensions and layout) which had a front door in the western elevation, a relatively bland northern elevation and a garden enclosure in close proximity to the Drive.
- 16.7 Compared to the previous refusal, the proposal the subject of this application presents a number of minor improvements. These relate to the design of the dwelling, which is of a slightly higher standard than the previous one, and the boundary treatment. A feature wall set back from the Drive, with new soft landscaping features demarcating the boundary would be a visual improvement on the layout as proposed previously.
- 16.8 However, this proposed arrangement with the dwelling fronting the north and providing new landscape features between the Drive and the dwelling/garden enclosure is one that has previously been considered as part of application 146416. The main difference from that scheme to the current one is that the dwelling was proposed to be a chalet bungalow and the garden enclosure was square rather than a feature wall.
- 16.9 The scheme proposed under 145426 appears to be identical to that proposed under 211117 with the exception of the canopy over the front door and the internal layout at first floor with one of the proposals being for a three bed dwelling and the other for a four bed.
- 16.10 All three of these previous proposals were refused by the LPA, with two of them also dismissed at appeal. Given that the current proposal does not make any significant changes or introduces features that have not previously been tested at appeal (the feature wall being the only exception), it is not considered that a different conclusion can be reached when assessing the proposal's impact on the character and appearance of the surrounding area.
- 16.11 Members will be aware that since the latest refusal, Section 2 of the Local Plan has been adopted, however, there has been no significant change in relevant policy compared to the previously adopted policies that would suggest an alternative conclusion should be drawn to that reached previously.

- 16.12 All of the previous applications were refused on the grounds of the new dwelling's adverse impact upon its surroundings. As set out above, the minor changes to the design of the dwelling (which did not form part of previous refusals) and the introduction of a feature wall are not considered to overcome the more fundamental reasons for refusing planning permission previously, with these relating to the loss of an existing area of open space which positively contributes to the visual amenity of the site. As identified through previous applications, Highfield Drive is a secluded, wooded lane, with a row of three houses sharing a common building line. The corner subject to this application is a green garden feature which enhances the open, airy, character of the area. The proposed development would lead to the loss of this green corner and results in a private rear garden of limited size in comparison to the more generous plot sizes found in the immediate area, thus changing the character of this part of Highfield Drive and eroding the very quality which makes this an attractive living environment. It would be discordant within its context and fail to enhance the attractive and tranquil character of the area.
- 16.13 The Inspector as part of the joint appeal against the refusals of 145426 and 146416 agreed that the site was an important open green feature and that a dwelling on this site would harm the character, quality and appearance of the area, commenting:
- "...nevertheless provides an important feature that contributes to the character of the Drive and area."* (paragraph 6)
- "...would erode the feature that gives the area its quality. They would provide a discordant element that would fail to retain the attractive character by further urbanising the area."* (paragraph 7)
- "...combination of the set back and verdant appearance contributes to the character of the area."* (paragraph 8)
- "....flank wall of the dwellings being considerably closer to the Drive. This would provide a cramped form of development that would detract further from and harm the character of the area."* (paragraph 8)
- "I consider the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area."* (paragraph 10)
- 16.14 These comments remain pertinent to the current proposal and the concerns and serious impact upon the character of the location have not been overcome. In any event, Section 2 Plan Policy DM17, which was adopted after the refusal of the most recent application, adds more weight to the Council's case, in that it states that development of any existing private open space will not be supported if it results in the loss of an area important for its amenity to the character of the area in general. It further states that *"development that would result in the loss of any small incidental areas of open space, not specifically identified on the policies map but which contribute to amenity value and the character of existing residential neighbourhoods (...) will not be permitted"*. The corner has clearly been

identified, by both the LPA and the Planning Inspectorate, as making a positive contribution to the visual amenity of the area and as such, the proposed development would be in direct conflict with the aims of Policy DM17.

- 16.15 The proposal would also continue to result in two private rear gardens of limited size in comparison to the more generous plot sizes found in the immediate area, thus detrimentally changing the character of this part of Highfield Drive, contrary to the aims of Policy DM19.
- 16.16 Regard has been had to the detailed Design and Access Statement submitted by the agent, which includes a Character Appraisal of Lexden Road and its surroundings, however, each site is different and needs to be judged on its planning merits. It is not considered that other examples warrant changing the unfavourable recommendation, a fact acknowledged by the Inspector on the previous case when some examples were submitted.
- 16.17 Furthermore, the approved two storey side extension (151993) eats into far less of the site than the proposed dwelling. The fact that there had been a previously approved extension prior to the appeal decision had also been taken into consideration by the Inspector.
- 16.18 Accordingly, overall, it is considered that the proposal should be refused on the same grounds as previously as it remains contrary to Local Plan Policies SP1 and DM15, and the Backland and Infill SPD, for the same reasons. It also conflicts with the Framework, in particular Section 12 which provides that *“the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve”* (paragraph 126).
- 16.19 As before, and outlined by the Inspector, it is not considered that *“the benefits of the proposal outweigh the harm to the character, quality and appearance of the area.”*

Impact upon neighbouring residential amenity:

- 16.20 Owing to the location and orientation of the property and distance from neighbours, it is considered the proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.21 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.22 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the

privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. The rear first floor windows would look down the rear garden. The property would be far enough from the dwellings opposite to avoid any significant overlooking.

#### Highway Matters

- 16.23 The Highways Authority has raised no objections and state that this is a private road. Overall, there would be space to provide adequate parking. The existing garaging is unlikely to be policy compliant in terms of size, but it exists and there is the space to provide additional policy compliant space. Visibility is good in one direction and as exists in the other. Consultation responses have raised a number of concerns about the width of the lane, current congestion and highway safety issues. However, it is not considered these concerns can form part of the refusal particularly as the Highways Authority have not objected and the introduction of one dwelling would not substantially intensify vehicular traffic. The residual cumulative impacts on the road network would not be severe as referred to in paragraph 111 of the Framework. Overall, it is not considered there is a justification to refuse the application on highway safety or parking provision grounds.

#### Other Matters

- 16.24 The proposed development is situated within the area of archaeological interest that has been defined in the Colchester Historic Environment Record, is within the area of a Roman cemetery. A Roman inhumation burial is recorded less than 75m to the southwest of this property (Colchester HER no. MCC2504). Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist. There however are no grounds to consider refusing planning permission in order to achieve preservation in situ of any important heritage assets subject to any permission granted being the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 16.25 It is not considered there is a justification for refusal on site specific wildlife grounds. This is relatively small parcel of land with no particular wildlife value. It is not particularly overgrown, there are no ponds nearby or outbuildings that could harbour bats.
- 16.26 A Unilateral Undertaking (UU) is in the process of being signed which would secure contributions towards access improvements to Highfields allotments (£6,560.79) and the improvements of St Leonards Church Community Hall (£2,872.83). Should the UU not have been completed by the date of the Planning Committee, it is suggested that Members delegate powers to Officers following the Committee to issue a decision on the application once the UU has been completed (subject to this being completed within a reasonable timeframe).

- 16.27 The UU would also include the RAMS wildlife mitigation payment which is required by all new residential developments to mitigate against recreational disturbance to designated coastal wildlife sites.
- 16.28 There are no trees of significance on the site, and it is unlikely that there would be such a significant impact upon vegetation nearby to warrant a refusal on tree impact grounds. The nearby trees covered by a Tree Protection Order are expected to remain unaffected by the proposal.
- 16.29 The Contaminated Land Officer asked that an appropriate risk assessment for the site be submitted prior to approval, given that the proposed residential use of the site would be particularly vulnerable to the presence of contamination. It would appear that the Contaminated Land Officer was not consulted/did not provide any comments on the previous applications. Given that this request was not made previously, it is not considered reasonable to ask for this assessment upfront. In the event of an approval, the submission of an appropriate risk assessment prior to commencement of any works would need to be secured via condition.

## **17.0 Planning Balance and Conclusion**

- 17.1 In conclusion, having considered the current proposal on its merits and having regard to the provisions of the recently adopted local plan, your Officers remain of the view that the proposed development would lead to the loss of this attractive, open green corner to the serious detriment of the character and appearance of the street scene and surroundings. The flank wall of the substantially sized dwelling would be considerably closer to the Drive than the existing dwelling and would result in a cramped form of development that would detract further from and harm the character of the area. The proposal would also result in a private rear garden of limited size by comparison to the more generous plot sizes found in the immediate area, thus detrimentally changing the character of this part of Highfield Drive. The proposal would thus be discordant with its context and would fail to enhance the attractive and tranquil character of the area. Applications for a dwelling on the site have previously been dismissed on appeal, the latest in 2015. The Inspector having concluded that the undeveloped site was an *“important feature that contributes to the character of the Drive and area.”*
- 17.2 In the interest of consistency, having regard to the very minor changes that were made to this current proposal, and taking into account the support that arises from Section 2 Plan Policy DM17 with regards to the loss of private open space that contributes positively to the amenity of the area, it is considered that planning permission for the proposed development should be refused.

## 18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

REFUSAL of planning permission for the reasons set out below:

1. Highfield Drive is a secluded, wooded lane, with a row of three houses sharing a common building line. The corner site the subject of the application for a two storey dwelling is an important open, green, garden feature which enhances the open, airy, character of the Drive and area. The combination of the set back of the existing dwelling and verdant appearance of the site contributes significantly to the character of the area. The proposed development would lead to the loss of this green corner and would thus erode the feature that gives the area its quality to the serious detriment of the character and appearance of the street scene and surroundings. The flank wall of the substantially sized dwelling would be considerably closer to the Drive than the existing dwelling and would result in a cramped form of development that would detract further from and harm the character, quality and appearance of the area. The proposal would also result in a private rear garden of limited size by comparison to the more generous plot sizes found in the immediate area, thus changing the character of this part of Highfield Drive and reducing the very quality which makes this an attractive living environment. It would be discordant with its context and fail to enhance the attractive and tranquil character of the area.

The proposal would therefore be contrary to the following policies of the Colchester Borough Council Local Plan Sections 1 (adopted February 2021) and Section 2 (adopted July 2022):

- (i) Policy SP7 which provides that all new development should must meet high standards of urban and architectural design and should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.
- (ii) Policy DM15 which provides that all new development must be designed to a high standard, positively respond to its context and achieve good standards of amenity. Development proposals must also demonstrate that they respect and, wherever possible, enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features.
- (iii) Policy DM17 states that development of any existing or proposed public or private open space will not be supported unless it can be demonstrated that (amongst other matters) the proposal would not result in the loss of an area important for its amenity or contribution to the green infrastructure network or to the character of the area in general. The policy also provides that development that would result in the loss of any small incidental areas of open space, not specifically

identified on the policies map but which contribute to amenity value and the character of existing residential neighbourhoods will not be permitted.

- (iv) The proposal would also conflict with the Council's adopted "Backland & Infill Development" SPD, which requires a high standard of design and an appropriate architectural approach as well as for the development to relate well to the surrounding context and enhance in the character of an area.







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## Item No: 7.5

**Application:** 222779

**Applicant:** Cllr Jeremy Hagon

**Agent:** Mr Kevin Ayen

**Proposal:** Application for a lawful development certificate for proposed 4 metre single storey rear extension

**Location:** 71 Byron Avenue, Colchester, Essex, CO3 4HQ

**Ward:** Prettygate

**Officer:** Nicola Perry

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because the applicant is a current Councillor at Colchester City Council, representing Stanway Ward.

## **2.0 Synopsis**

- 2.1 This application has been made by the applicant in order to request a formal legal determination as to whether or not the proposed development requires a planning application or can be undertaken via the planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is therefore 'permitted development'.
- 2.2 The detailed assessment of the '4 metre single storey rear extension' proposed in this application against the relevant terms of the aforementioned Order, has confirmed that it meets the criteria set out in Schedule 2, Part 1, Class A: *The enlargement, improvement or other alteration of a dwellinghouse*. Therefore, it constitutes permitted development and the application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site comprises a single detached residential dwelling (see site plan for layout, orientation and relationship to neighbouring properties), located within the settlement boundary on the east side of Byron Avenue. The two-storey property accommodates a good-sized plot, set back from the highway with an area for off-street parking to the front, a single garage to the north side connected to the dwelling with a small canopy, and an enclosed garden to the rear. The external finishes of the property consist of brickwork and hanging tiles to the walls, under a tiled pitched roof. The application site does not contain a listed building and is not situated within designated land such as a Conservation Area or an Area of Outstanding Natural Beauty (AONB) (Article 2(3), 1(4), or 1 (5) land). The surrounding area is characterised by residential development of similar scale and design.

## **4.0 Description of the Proposal**

- 4.1 The application is for a Lawful Development Certificate for a proposed development comprising a 4 metre single storey rear extension. The proposed extension spans 8.7 metres in width across the full rear elevation of the original dwellinghouse, projects 4.0 metres in depth and includes a flat roof with a 2.8 metre overall height. In addition, the submitted drawing shows an existing door in the north elevation would be replaced with a 500x500 millimetre ground floor window.

## **5.0 Land Use Allocation**

- 5.1 Not applicable.

## **6.0 Relevant Planning History**

6.1 The planning history for the site has been reviewed, although the original consent for the dwelling is not obtainable, there is no indication that permitted development rights have been removed from the site and there are no known restrictions.

6.2 The following planning permissions have previously been granted but there is no evidence that they have been implemented:

162180 – Proposed two storey and single storey extensions to form kitchen/sitting room; bedroom & en-suite. - Minor elevational changes to design approved under 160567 – Approve Conditional 12/10/2016.

160567 – Proposed two storey and single storey extensions to form kitchen/sitting room; bedroom & en-suite – Approve Conditional 29/06/2016.

## **7.0 Principal Policies**

7.1 As the proposed development is for householder operations, the relevant consideration is The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – “the Order”. Schedule 2, Part 1 sets out the criteria for the permitted development applicable to “Development Within The Curtilage Of A Dwellinghouse”.

7.2 Class A of Schedule 2, Part 1 relates specifically to ‘the enlargement, improvement or other alteration of a dwellinghouse’ and is therefore the relevant Class of the Order to be used in the assessment of this proposal. If all of the criteria are satisfied, then the proposal constitutes permitted development and planning permission is not required.

## **8.0 Consultations**

8.1 No stakeholders were consulted on the proposal, given that it relates to a Lawful Development Certificate for a proposed development and no comments have been received.

## **9.0 Parish Council Response**

9.1 The area is non-parished, however this type of consultation is not required for this proposed development, given that it relates to a Lawful Development Certificate for a proposed development under the Order.

## **10.0 Representations from Notified Parties**

10.1 No notification letters were sent out to third parties for this proposal including neighbouring properties, given that it relates to a Lawful Development Certificate for a proposed development.

*Note: As a legal determination, officers cannot take the usual material considerations, for example design and the impact of a development on neighbouring amenity into account.*

## **11.0 Parking Provision**

11.1 Not applicable.

## **12.0 Accessibility**

12.1 Not applicable.

## **13.0 Open Space Provisions**

13.1 Not applicable.

## **14.0 Air Quality**

14.1 Not applicable.

## **15.0 Planning Obligations**

15.1 Not applicable.

## **16.0 Report**

16.1 The only consideration for this application is whether the proposed development meets the criteria of the relevant class in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – “the Order”. Material planning considerations do not apply to Lawful Development Certificates.

16.2 Class A of the Order stipulates that ‘the enlargement, improvement or other alteration of a dwellinghouse’ is permitted development, subject to various limits and conditions.

16.3 Paragraph A.1 of Class A sets out the exclusions where development would not be permitted under the Order. The Application is assessed under each of the criteria below: -

- a) Permission to use the property as a dwellinghouse has **not** been granted by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of Schedule 2 (changes of use) of the Order.
- b) As a result of the proposal, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would **not** exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- c) The height of the part of the dwellinghouse enlarged, improved or altered would **not** exceed the height of the highest part of the roof of the existing dwellinghouse;

- d) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would **not** exceed the height of the eaves of the existing dwellinghouse;  
*Note: the height of the eaves of the proposed extension would exceed the height of the eaves of the garage which is attached via a canopy to the existing dwellinghouse. The Technical Guidance provides detailed rules on permitted development rights for householders and explains that 'Where the existing house has eaves of different heights, then the restriction on the height of the eaves for the part of the house enlarged, improved or altered is measured against the highest level of eaves on the existing house.' In this case, the proposed extension would not exceed the height of the highest level of eaves of the existing dwellinghouse.*
- e) The enlarged part of the dwellinghouse would **not** extend beyond a wall which—
  - (i) forms the principal elevation of the original dwellinghouse; or
  - (ii) fronts a highway and forms a side elevation of the original dwellinghouse
- f) Subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and would **not**—
  - (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
  - (ii) exceed 4 metres in height;
- g) Not applicable the proposal does not exceed the limitations of A.1 (f) above;
- h) Not applicable the enlarged part of the dwellinghouse would **not** have more than a single storey;
- i) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would **not** exceed 3 metres;
- j) The enlarged part of the dwellinghouse would **not** extend beyond a wall forming a side elevation of the original dwellinghouse, and would **not**—
  - (i) exceed 4 metres in height,
  - (ii) have more than a single storey, or,
  - (iii) have a width greater than half the width of the original dwellinghouse;
- ja) The enlarged part would not join any existing enlargement of the original dwellinghouse and would therefore **not** exceed the limits set out in subparagraphs (e) to (j);
- k) The development would **not** consist of or include—
  - (i) the construction or provision of a verandah, balcony or raised platform,
  - (ii) the installation, alteration or replacement of a microwave antenna, or
  - (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
  - (iv) an alteration to any part of the roof of the dwellinghouse, or
- l) the dwellinghouse is **not** built under Part 20 of this Schedule (construction of new dwellinghouses).

16.4 In addition the installation of a window in the north side elevation at ground floor level, to replace the existing external door would be permitted development.

- 16.5 Paragraph A.2 of Class A does not apply to this proposal as the Application Site is not located on article 2(3) designated land as described in this paragraph (e.g. a Conservation Area or Area of Outstanding Natural Beauty).
- 16.6 Development is permitted subject to meeting the conditions stipulated in Paragraph A.3 of Class A, which must be adhered to when implementing the development. Of relevance to this proposal is sub-paragraph (a), which requires the materials to be used in any exterior work to be of similar appearance to those used in the construction of the existing dwellinghouse.
- 16.7 Paragraph A.4 of Class A does not apply to this proposal as the development does not exceed the limits in Paragraph A.1(f).
- 16.8 On the basis of the above, the proposed '4 metre single storey rear extension' meets the requirements of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is therefore permitted development.

## 17.0 Conclusion

- 17.1 Assessment of the proposal confirms it is development permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 1, Class A.

## 18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for the following Lawful Development Certificate to be issued to the Applicant as the proposal constitutes permitted development.

COLCHESTER CITY COUNCIL hereby certifies that on 5th November 2022 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in red on the plan attached to this Certificate, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The proposed Application for a Lawful Development Certificate for a proposed 4 metre single storey rear extension is development permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, **Class A. 'enlargement, improvement or other alteration of a dwellinghouse'**, in that the Council considers the development would not fall within that described in paragraphs **A.1** or **A.2**, of the aforementioned Order, subject to compliance with the conditions listed in paragraph **A.3**.

### FIRST SCHEDULE

Application for a lawful development certificate for a proposed 4 metre single storey rear extension as shown on Drawing Number(s): **220801-D-200-001**.

## SECOND SCHEDULE

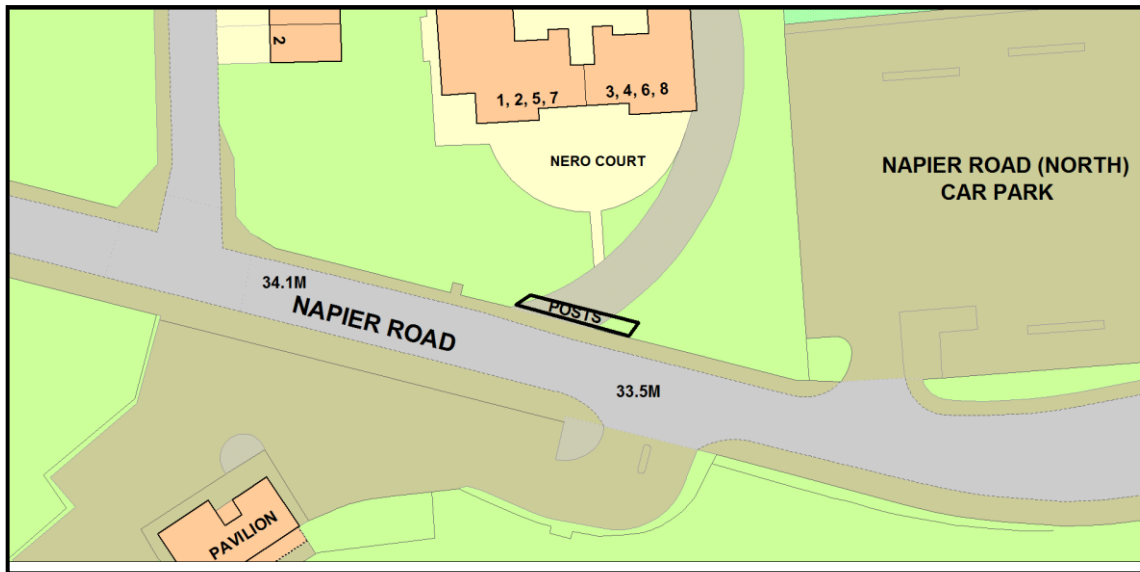
### **71 Byron Avenue Colchester Essex CO3 4HQ**

#### **19.0 Conditions**

- 19.1 Development is permitted by Class A subject to the conditions set out in Paragraph A.3 of the Order which requires:
- a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
  - b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—
    - (i) obscure-glazed, and
    - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and
  - c) where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.







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**Item No:** 7.6

**Application:** 222736

**Applicant:** Mr Philip Wise

**Agent:** None

**Proposal:** Interpretation panel on a post. 1m squared maximum size.

**Location:** Nero Court, Napier Road, Colchester, CO2 7NR

**Ward:** New Town & Christ Church

**Officer:** Simon Grady

**Recommendation:** Approval of planning permission and advert consent

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

- 1.1 This application is referred to the Planning Committee because the applicant is the Colchester and Ipswich Museums Service of Colchester Council.

## **2.0 Synopsis**

- 2.1 The application seeks planning permission and advertisement consent for an interpretation panel on a post to provide information to the public about the Roman Circus. The key issues for consideration are the visual impact it would have on the surrounding area, including the conservation area that the development site is located within and potential harm to archaeology. All relevant issues are assessed in the report below.
- 2.2 Having assessed the application against local and national legislation, policy and guidelines it is considered that the proposed development would not cause substantial visual harm to the conservation area.
- 2.3 The application is subsequently recommended for approval, subject to conditions.

## **3.0 Site Description and Context**

- 3.1 The application site is owned by Taylor Wimpey and the necessary certificate has been served on them by the applicant. The site is a grassed open space between Napier Road to the south and a residential development to the north. Napier Road Car park is to the east.
- 3.2 The site is located in the Abbey Field Conservation Area. There are no protected trees on or adjacent to the site and the site is in flood zone 1. There are no Listed Buildings whose setting could be affected by this proposed development but the building to the north of the site, which is a former Garrison Headquarters building is locally listed .
- 3.3 Given the presence of the Roman Circus, which is a designated Scheduled Monument the site is of high archaeological importance

## **4.0 Description of the Proposal**

- 4.1 The proposed interpretation panel measures 921mm x 674mm (2 different measurements on 2 different drawings – the Description says 1m square max) and would stand 900mm from the ground. The panel is fixed to a post that would be sunk into the ground to a depth of 600mm.

## **5.0 Land Use Allocation**

- 5.1 Residential, within Colchester settlement limits.

## **6.0 Relevant Planning History**

- 6.1 There is no planning history of particular relevance to this application.

## **7.0 Principal Policies**

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

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

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

- SP1 Presumption in Favour of Sustainable Development
- SP7 Place Shaping Principles

### **7.3 Local Plan 2017-2033 Section 2**

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

ENV1 Environment

DM2 Community Facilities

DM5 Tourism, leisure, Culture and Heritage

DM15 Design and Amenity

DM16 Historic Environment

DM18 Provision of Open Space and Recreation Facilities

7.4 The site is not within a Neighborhood Plan area.

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

- The Essex Design Guide
- External Materials in New Developments
- Open Space, Sport and Recreation
- Managing Archaeology in Development.

## **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. The following stakeholders were consulted:

- Historic England
- Environmental Protection
- Essex Highway Authority
- Historic Buildings and Areas Officer
- Archaeological Advisor

No response from Environmental Protection was received. The responses that were received are set out below.

### **Historic England**

- 8.2 Historic England have no objection to the application on heritage grounds and advise that it would have a negligible impact on the significance of the scheduled monument known as 'Roman Circus 200m south of Abbey House', subject to Archaeological monitoring during construction works. Scheduled Monument Consent has been granted for the erection of the interpretation panel.

### **Essex Highway Authority**

- 8.3 The Highway Authority does not object to the proposals as submitted and asked for an informative to be added to any permission granted asking for any works affecting the highway to be agreed with them first.

### **Historic Buildings and Areas Officer**

- 8.4 "By virtue of its design and content, the interpretation panel would be similar to other panels of this type that are located along the remains of the Town Wall and on other heritage points of interest within the historic Town Centre. The panel would promote the Roman Circus, raise awareness of its significance and enhance its appreciation by the public. Should its erection be regarded to result in a very low level of less than substantial harm to the significance of the Conservation Area through its cumulative effect to street furniture and other features associated to the public realm, this harm would be outweighed by the aforementioned public benefits, to accord with Par.202 of the NPPF which requires that any harm to designated heritage assets should be convincingly justified and outweighed by public benefits, when this harm is classified as less-than-substantial; this requirement is also reflected in Local Plan Policy DM16. For the reasons set out above, there are no objections to the proposal on heritage grounds."

### **Archaeological Advisor**

- 8.5 "This proposed development would involve ground disturbance directly over the remains of Colchester's Roman circus, which is a Scheduled Monument. There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 205), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed."

*Officer comment: PCC not yet agreed by applicant*

## **9.0 Parish Council Response**

- 9.1 The site is not within a Parish Council area.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in no objections and two comment of support.

## **11.0 Parking Provision**

11.1 Parking provision would be unaffected by this proposal.

## **12.0 Accessibility**

12.1 In considering the application, due regard has been given to the Local Planning Authority's duties under the Equality Act 2010, which legally protects people from discrimination in the workplace and in wider society. Representations received have not identified any specific equality implications potentially arising from the proposed development and requiring additional consideration. The height of the proposed panel would appear to be suitable to be read by wheelchair users. The proposal does not give rise to any other concerns from an accessibility or equality perspective.

## **13.0 Open Space Provisions**

13.1 The proposal does not include, nor is it required by policy to make any open space provisions.

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

15.1 There was no requirement for this application to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

## **16.0 Report**

16.1 Paragraph 132 of the National Planning Policy Framework states that: "The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts." The main issues in this case are therefore:

- The Principle of Development
- Visual Impact on the Surrounding Area (including conservation area)
- Amenity
- Public Safety
- Archaeology & impact on Scheduled Monument

## **Principle of Development/advertisement**

- 16.2 The principle of erecting interpretation boards at key points of interest in Colchester is established. This board would provide members of the public access to information about the Roman Circus that they may not have otherwise seen.

## **Visual Impact on the Surrounding Area**

- 16.3 The application site is inside Colchester's Conservation Area 2 and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. S38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Local Plan Policy SP7: Place Shaping Principles states that all new development should respond positively to local character and protect and enhance assets of historical value. Local Plan Policy DM16 states that *"Development that will lead to substantial harm to or total loss of significance of a listed building, conservation area, historic park or garden or important archaeological remains (including development that adversely affects the setting of heritage assets) will only be permitted in exceptional circumstances where the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where development will lead to less than substantial harm this harm should be weighed against the public benefits of the proposal."*
- 16.4 Due to its scale the interpretation board would not be visually dominant. Consequently it is considered that it would not have an adverse impact on the historic significance of the conservation area and that it meets the requirements of the relevant legislation, the National Planning Policy Framework and the relevant local plan policies in respect of protecting heritage assets (outlined above). This is an opinion shared by the Council's conservation officer.
- 16.5 The proposed interpretation board is considered acceptable in this location in terms of its form, design, colour, size and use of materials. The proposed signs would therefore not be out of keeping with the character of the building it is located on and would not harm the visual amenity of the area.

## **Amenity**

- 16.6 The interpretation board would not be illuminated and so there are no concerns that the nearby dwellings would be impacted by light pollution. Given that this proposal is for a modestly sized interpretation board, it is felt that it would have no impact on neighbour amenity.

## **Public Safety**

- 16.7 There are street lights close to the development site and so the development site should be well lit at all times. There are no concerns that the interpretation board would be a potential trip hazard in the dark. Consequently, there are no

concerns that the proposed adverts pose a risk to public safety. There would be no dangerous protrusions and the signage is unlikely to be so distracting as to create a risk to public safety. The proposed panel is set back from the highway so is not considered to have an adverse impact on the highway safety. This has been confirmed by the Highway Authority, subject to addition of Highway Authority Informative.

## **Archaeology**

16.8 Following feedback from the Council's Archaeology Adviser and Historic England, there are no concerns, subject to addition of pre-commencement archaeological monitoring condition.

## **17.0 Planning Balance and Conclusion**

17.1 To summarise, the proposed interpretation panel is acceptable in design terms, including taking into account the site's location in a conservation area. The level of harm to neighbour amenity is not considered to be material or unacceptable. No objections have been received and it is felt that the proposal accords with the Council's policy requirements including Policy SP7, DM15 and DM16.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of Advertisement Consent and planning permission subject to the following conditions:

### **Advert Consent:**

#### **ZQA – Standard Advert Condition**

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

## **Planning Permission:**

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

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

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

### **2. ZAM - Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Site Location Plan,

Site Details and Drawing Number DLB/CBC/pedestal/001.

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

### **3. Z00 – Archaeological Condition**

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. Provision to be made for analysis of the site investigation and recording.
- c. Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation.
- d. Provision to be made for archive deposition of the analysis and records of the site investigation.
- e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Local Plan 2017-2033 policy DM16 and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

## **19.1 Informatives**

19.1 The following informatives are also recommended:

### **1. INS – Archaeology Informative**

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

<http://www.colchester.gov.uk>



## **2. INS – Highway Authority Informative**

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

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

## **3. 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.

## **4. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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

## **5. ZTB - Informative on Any Application with a Site Notice**

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



## Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

## **Planning Obligations**

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

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

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

## **Human Rights, Community Safety and Equality and Diversity Implications**

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

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

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

## Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

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

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

### **Parking Standards**

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

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

For residential schemes:

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

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



## **Colchester Borough Council Environmental Control**

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

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

#### **Best Practice for Construction Sites**

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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



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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

## **Class A2. Financial and professional services**

Use for the provision of —

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

## **Class A3. Restaurants and cafes**

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

## **Class A4. Drinking establishments**

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

## **Class A5. Hot food takeaways**

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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

**Sui Generis Uses**

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

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard 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*

## **Supreme Court Decision 16 October 2017**

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

