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Item No: 7.4

Application: 210304

Applicant: Mr D Cave

Agent: Mr C Exley, Stanley Bragg Architects Limited

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

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

Ward: Prettygate

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Sue Lissimore who raises concerns on the grounds of “over development and design of the properties being out of keeping. Three storeys out of character with existing properties. Plot is too tight for deliveries and construction vehicles to be off road.”

2.0 Synopsis

- 2.1 The key issues for consideration are the layout and design, and impact upon neighbouring residential amenity, highway safety and vegetation.
- 2.2 The application is subsequently recommended for approval. In summary, the site is within the settlement limits and is in a sustainable location so accords with Local Plan Policy in principle. It is considered the site can adequately accommodate the three proposed dwellings without them appearing cramped, or being out of keeping with the character of the street scene. It is not considered the proposal represents overdevelopment as the sizes of each plot are comparable with other plots in the vicinity. The design, scale and form of the dwellings is considered acceptable and introduces a sharp, contemporary feel to the location. Their scale relates satisfactorily to the scale of other dwellings in the vicinity, being somewhat taller but not excessively so. The main gables are traditional in width and the dwellings themselves have elements of varying roof heights and appropriate fenestration. They are also adequately spaced and set off each side boundary. They are therefore considered to be visually satisfactory in the street scene.
- 2.3 It is not considered the loss of this currently open area can justify a refusal and there is space for frontage landscaping on the frontage of both plots and the retention of the TPO trees. There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site. There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed dwellings, in terms of overbearing, loss of light or overlooking or in respect of noise and disturbance. No vegetation of significance would be affected and the TPO trees can be adequately protected.

3.0 Site Description and Context

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

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of three No. 4-bedroom detached houses, each with integral garage, plus individual private driveways connecting to Marlowe Way. It would include the demolition of brick boundary wall to Lexden Manor. The two protected (TPO) trees at the front of the site would be retained.

5.0 Land Use Allocation

- 5.1 Within settlement limits

6.0 Relevant Planning History

- 6.1 210331 land adj Lexden Manor 1.5 bed house. Approved
- 6.2 192337 5 flat conv. Approved
- 6.3 COL/89/1308, Conversion of the main dwelling into flats and additional cottages and apartments in the grounds. Refused. Appeal dismissed

7.0 Principal Policies

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

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

UR2 - Built Design and Character

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP14 Historic Environment Assets

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

N/A

- 7.5 Neighbourhood Plan:

N/A

- 7.6 Submission Colchester Borough Local Plan 2017-2033:

Adopted Local Plan and Emerging Local Plan Status – March 2021

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to complete examination, with hearing sessions having taken place between 20 and 30 April 2021. The examiner’s report is awaited Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities’ Shared Strategic Section 1 Local Plan is on the council’s website [here](#).

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. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature

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

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

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

Emerging Section 2 Local Plan

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

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 hearing sessions in April and the Examiner's report is now awaited. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to undergo examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

5 Year Housing Land Supply

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

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

Although the Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan which is still to complete examination. Within Section 2 the Council has allocated adequate sites to deliver against the

requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

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

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

The Council's published Annual Housing Position Statement (May 2020) demonstrated a housing supply of 6,108 dwellings which equated to 5.4 years based on an annual target of 1,078 dwellings which was calculated using the Standard Methodology, prior to the Local Plan being adopted. The 5YHLS was tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

This position has been further improved now the Council has an adopted housing requirement of 920. When the 5% buffer is added the annual target is 966. In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan, means that the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

The Council has recently updated its Annual Position Statement in relation to 5-year supply. This shows the Council has a supply of 5564 dwellings against a target of 4830 which equates to a 5.75 year supply over the period 2021/22 – 2025/26.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply, and that the tilted balance at paragraph 11 of the NPPF does not apply.

Appendix 1 provides further background Policy Detail.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Affordable Housing
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
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 Cllr Sue Lissimore raises the following objections:

- Overdevelopment.
- Three storeys out of character with existing properties.
- Plot is too tight for deliveries and construction vehicles to be off road.

8.3 Lexden Conservation Group objects on the following grounds:

- Loss of wildlife habitat. This area is rich in wildlife with birds, bats and even the occasional fox and muntjac making their way up from Lexden Park. Wildlife corridor to the woodland at the end to Marlowe Way.
- Gardens of proposed houses very small in relation to the size of the houses.
- Garden of The Manor House has already had the majority of its trees removed before planning permission was sought.
- Overdevelopment of the site.
- Design of the houses is a very different style to others in Marlowe Way having three floors. Do not match the houses either side or opposite. The drawings do not show the three houses in relation to the those either side.
- Strip of land which will become front gardens is a communal piece of land, planted with trees and bulbs, enjoyed by everyone as they walk through Marlowe Way. Losing this could set a precedent for other strips of land, not only in Marlowe Way, but in Poets Corner.
- Losing green spaces at a rapid rate in and around Colchester at a time when we have come to realize how important green spaces are, not only for the planet, but for our mental health.

8.4 Archaeologist states:

“This application affects an area of archaeological interest, being situated some 60m to the north-east of the Lexden Mount Roman burial mound, which is a Scheduled Monument (NHLE No. 1019963). The proposed works would cause ground disturbance that has potential to damage any archaeological deposits which exist.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

In this case, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

The following archaeological condition (Z00) is recommended:

No works shall take place until the implementation of a programme of archaeological work has been secured....”

8.5 Highways Authority states:

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

- Vehicular access 4.5 m width.
- No unbound materials.
- Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays.
- Car Parking
- Bicycle storage
- Construction Management Plan
- Residential Travel Information Packs.
- Informative1:

8.6 Tree Officer states:

With reference to aforementioned application I would like to make the following comments:

1.0 Survey and Analysis

1.1 Regarding the proposed development and updated AIA:

1.2 I am in agreement with the tree report provided and the development.

1.3 Some minor incursion into root protection areas is shown but this is relatively small and therefore unlikely to create any significant issues.

2.0 Conclusion

2.1 In conclusion, I am satisfied with the arboricultural content of the proposal

3.0 Recommendation

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

4.0 References:

4.1 Local Plan Policies - DP1 & UR2

5.0 Recommended Landscape Conditions:

Make the tree report an approved document.

8.7 Environmental Protection state:

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

ZPA – Construction Method Statement

ZPD - Limits to Hours of Work

EV Charging points

9.0 Parish Council Response

9.1 Non-Parished.

10.0 Representations from Notified Parties

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

10.2 62 letters of objection have been received which raise concerns on the following points:

- Loss of wildlife.
- Place of historic interest- Lexden Mount close by.

- Noise disturbance.
- Increased traffic, parking problems. Parking inadequate. (DP19).
- Need double yellow lines opposite junction.
- Opposite T junction- highway safety problems.
- Danger to children during construction.
- Why not have access from Colvin Close.
- Design, materials and 3 storey out of keeping.
- Should be amended to two 4 bed houses.
- Contrary to DP1, DP12 & DP14- not enhance site and surroundings.
- Maximum height should be 2 storey.
- Loss of undeveloped open space. Valuable green space.
- Will set precedent for loss of other open spaces.
- Need starter homes.
- Higher density than elsewhere.
- Solar panels not included.
- Ground or air source heat pumps should be mandatory.
- Should be triple glazed.
- Will change complete structure of this road.
- Should not remove trees with TPO.
- Too close to tree and concerned about their future health.
- Overlooking. Side elevations should be frosted glass. Box windows can overlook.
- Loss of light.
- Needs full archaeological investigation.
- Dwellings forward of building line.
- Concerned about demolition of Lexden Manor wall.
- Looks cluttered.
- Consider previous planning history 192337- trees should be retained.
- Many trees already removed.
- Supposed to be communal garden for Lexden flats.
- Space probably left for 3 houses, but they are too high.

10.3 Four letters of support:

- Support the proposal. I do not object to the proposal. The houses look very much taller than the surrounding houses in the area/street and will likely dominate it. But in the position they are they do not have any houses directly opposite and so will not overlook.
- Walk past site daily- wall is harsh and makes property look like a prison.
- 3 nicely designed houses would be far more welcoming than brick wall.
- Additional lighting will make cul-de sac feel more secure.
- Still plenty of green areas in Lexden for wildlife.
- Looked at documents online and am impressed.
- Has always been space for a few more houses here, so this will not look out of place at all.
- Loss of green open space invalid- was always private land.
- Other house's designs in Marlowe are very limited in architectural merit and dated.

- Already many cars parked on street and this will not change that.
- Colchester needs high quality new homes.

10.4 One General letter:

- Fencing at front of houses would not be in keeping.

11.0 Parking Provision

11.1 3 spaces per dwelling

12.0 Accessibility

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

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle

16.1 As the site lies within the settlement limits the proposal should be judged on its planning merits in accordance with the hierarchical settlement elements of the adopted Local Plan policies SD1 and H1 of the adopted Local Plan and Policy SP1 of the Emerging Local Plan which aim to direct such development to the most sustainable locations.

16.2 Settlement policies and the NPPF indicate a presumption in favour of sustainable development (which includes this site).

16.3 The Council is able to demonstrate a five year housing land supply and as such paragraph 11(d) of the NPPF is not engaged.

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

- 16.4 In terms of the planning merits of the proposal, this is considered to be a finely balanced case and careful consideration needs to be given to the layout, design and form of the proposal and its impact in the street scene. It is considered that the proposal represents an acceptable layout that is in keeping with the character of the area and does not represent an overdevelopment of the site. The positioning and layout of the three dwellings is similar to the density of other development in the vicinity and garden sizes comply with the standards outlined in Policy DP16. There will be visible gaps between the dwellings and between the side boundaries so the proposal will not appear cramped or alien. Glimpses of Lexden Manor beyond will also be possible. It should be noted that Lexden Manor is not Listed or Locally Listed and it is not considered that the proposal could be refused on the grounds of the proposal's impact upon its setting, particularly having regard to the presumption in favour of sustainable development embodied in the NPPF.
- 16.5 There will be clearly be some loss of open space although there will still be significant grassed areas retained at the front, punctuated by the driveways. The two TPO trees at the front will also be retained and protected. A condition to ensure the front areas are not fenced off will also be applied and so the site would retain a significant element of open, green spaciousness. It is not considered that the existing open space is of such significance in the street scene in terms of its amenity value or contribution to the character of the area that would warrant its retention in its entirety and the proposal would therefore not conflict with Policies DP1 and DP15 in this respect.
- 16.6 Consideration of the design, scale and form of the dwellings needs particular care given that they differ from the designs of the surrounding properties. Overall the dwellings are considered acceptable in this respect. Whilst the main gables are taller than the neighbouring dwellings by approximately 1.8 metres the other significant element of the roofs is only 0.5 metres higher. The highest part of the gable roof is narrow and so overall it is not considered the dwellings would look over-scaled in their context.
- 16.7 It is clear that the dwellings differ significantly in terms of their design compared to the neighbouring properties. However it is fair to say that, whilst the overall existing environment gives a pleasant visual impression, existing dwellings in the vicinity do not have any particular architectural merit. The proposed dwellings would have a sharp and interesting contemporary appearance whilst retaining a traditional, relatively narrow front gable width and interesting design detailing. With the use of high quality materials it is considered that these dwellings would represent good design that would not detract from the character of the street scene and surroundings. It is considered that one of the dwellings (probably the central one) should have some difference in terms of materials use to introduce an element of variety into the development and this can be conditioned.
- 16.8 Overall, in terms of layout, design and impact on surroundings the proposal it is considered the proposal would therefore comply with Policy UR2 of the Local

Plan Core Strategy which provides that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.

- 16.9 The proposal is considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout.
- 16.10 The proposal is considered to comply with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide. It is also considered to comply with the revised NPPF section 12 which promotes well-designed places.
- 16.11 It should be noted that if the scheme is implemented, the previously approved scheme for the conversion of Lexden Manor to flats (192337) could not be implemented as the sites overlap and the required communal garden could not be provided for the flats. However, it is understood that it is the approved dwelling within the grounds (210331) that is being implemented.

Garden space:

- 16.12 Adequate amenity space for the new dwellings has been shown to be provided in accordance with Policy DP16. Indeed, garden space compares favourably with neighbouring properties. Policy DP16 provides that for dwellings with four or more dwellings, a minimum of 100m² should be provided and in this case the dwellings are provided with over 100m² each (ranging from 140-153m²) which further emphasises that this is not an overdevelopment of the site.

Impact on Neighbour Amenities:

- 16.13 It is not considered there would be a significant impact upon neighbouring residential amenity from the proposal. The dwellings are positioned far enough from the boundaries of neighbouring properties to avoid an overbearing impact. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.14 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.15 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. With regard to 1st and 2nd floor openings on the side elevations of the dwellings adjacent to existing dwellings, conditions can be applied to ensure that openings, including rooflights, are obscure glazed and non-opening where they are not above 1.7 m above floor level. The same condition can be applied to the

rear openings which have been minimised in any case in order to avoid overlooking the amenity space of Lexden Manor and its rear windows. The residential amenity of the occupants of the new dwellings would still be acceptable with the application of the obscure glazing condition.

- 16.16 The objections received regarding construction works are noted and appropriate conditions can be applied to minimise disruption including a construction management plan and control over hours of working. Environmental Protection have made no objections.
- 16.17 The proposal would thus comply with Policy UR2 (better places for residents and visitors expected) and DP1 which provides that all development should avoid unacceptable impacts upon amenity, including the protection of residential amenity with regard to noise and disturbance and overlooking.

Highway Matters:

- 16.18 The Highway Authority have raised no objection to the scheme subject to conditions which can be applied. Revised plans have been submitted showing the driveway avoiding a lamp post and the trees. The proposal now complies with, and indeed exceeds, Policy DP19, with space for 3 car parking spaces for each dwelling.
- 16.19 Appropriate visibility splays in either direction have been provided for the access points. The neighbour's concerns have been noted. However, given the lack of objection by the Highway Authority it is not considered the proposal could be refused on the grounds of intensification of vehicular activity in this location which it is noted is opposite a junction. The Highway Authority can be advised of the request made about the introduction of double yellow lines and it will be down to the Highway Authority to determine whether this is required.
- 16.20 The Essex Design Guide provides that "The overarching aim is to ensure that in new residential and mixed-use environments, the circulation and movement of people is pleasant, convenient, safe, responds to local context and combines with good place-making. Motorised vehicle movement must efficiently service development without predominating..." It is not considered the proposal contravenes these aims of the Essex Design Guide. It would also not cause a severe impact upon the Highway network, as referred to in the NPPF (para.111).
- 16.21 A Construction Management Plan condition can be applied.

Impact Upon Vegetation:

- 16.22 There was initial concern that the originally submitted scheme would have an unacceptable impact upon the two TPO trees at the front of the site. Accordingly the scheme was revised to move the driveways further from the root protection areas and the dwellings repositioned to avoid future pressure for removal/trimming of the trees. A revised Arboricultural Impact Assessment (AIA) was also submitted and this concludes:

“Tree protection and method statements have been provided within this report to reduce the risk of direct and indirect development related damage that may otherwise occur to the retained trees. In conclusion, assuming the method statements and tree protection are implemented as part of the development, the proposal can be constructed with reduced disturbance to the trees. Following development, the trees will not be obscured by the development and therefore the development is considered to have a low impact upon visual amenity value.”

- 16.23 It is also concluded within the AIA that owing to the nature of the Raywood Ash trees it is “likely that future cyclical works will be required on a 6- 8-year cycle depending on vigour to maintain the structure of the tree” due to inherent structural weakness caused by weak and tight branch unions. The Council’s tree officer has analysed the revised AIA and confirms agreement with the tree report provided and the development. He states that “some minor incursion into root protection areas is shown but this is relatively small and therefore unlikely to create any significant issues.” Accordingly it is recommended that the contents of the AIA are made an approved document. Overall given the above, it is considered that the impact upon the TPO trees will be very limited and that they can be satisfactorily retained within this development. The proposal is therefore considered to comply with Policy DP1 in this respect which aims to respect such natural assets.
- 16.24 No other trees are affected by this development. Some unprotected vegetation was removed previously outside this planning application.

Wildlife issues:

- 16.25 As the site is not overgrown and no older or timber framed buildings would be demolished it is not considered that a phase 1 Ecological survey is required. Whilst the comments about impact upon a wildlife corridor are noted it is not considered there is a justification to refuse the proposal in this respect given the nature of the site and its surroundings, particularly as the site is a mixture of existing garden land and maintained space. Accordingly it is not considered the scheme is contrary to policy DP21 which aims to protect and enhance biodiversity.
- 16.26 In any case, a RAMS wildlife payment has been made as new dwellings would be created in a Zone of Influence for coastal sites subject to national designations as required by the Habitat Regulations to mitigate any adverse impacts. An appropriate Habitat Regulation assessment has been undertaken.

Unilateral Undertaking:

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

Environmental and Carbon Implications

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

Other

- 16.29 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. An archaeological programme of works condition can be applied. (Policy DP14). The site is not within a flood zone so there is no flood risk issue (DP20). A surface water drainage condition can be applied.

17.0 Conclusion

- 17.1 In conclusion the proposal is considered acceptable for the following reasons:

- The site is within the settlement limits and is in a sustainable location so accords with adopted and emerging Local Plan Policy.
- The site can adequately accommodate the three proposed dwellings without them appearing cramped or being out of keeping with the character of the street scene.
- It is not considered the proposal represents overdevelopment as the sizes of each site are comparable with other sites in the vicinity.
- The design, scale and form of the dwellings is considered acceptable and introduces a sharp, contemporary feel to the location. Their scale relates satisfactorily to the scale of other dwellings in the vicinity, being somewhat taller but not excessively so. The main gables are traditional in width and the dwellings themselves have elements of varying roof heights and appropriate fenestration.
- The dwellings are also adequately spaced and set off each side boundary.

- It is not considered the loss of this currently open area can justify a refusal and there is space for frontage landscaping on the frontage of both plots and the retention of the TPO trees.
- There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site.
- There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed dwellings in terms of overbearing, loss of light or overlooking or in respect of noise and disturbance.
- No vegetation of significance would be affected and the TPO trees can be adequately protected.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions

1. ZAA - Time Limit for Full Permissions

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

2. ZAM – Development In accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 6817-1103B, 1104 Rev A, 1202-C, 1302 Rev E, 1601 E., Arboricultural Impact Assessment (which shall be complied with throughout the lifetime of the development works) Rec'd 21.5.21.

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

3. ZBC- Materials To Be Agreed

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

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

4. Non Standard Condition- Vehicular Access

Prior to first occupation of the proposed development, each of the proposed vehicular accesses shall be constructed at right angles to the highway boundary and to a width of 4.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

5. Non Standard Condition - Visibility Splays

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

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

6. Non Standard Condition - Parking/Turning Area

The development shall not be occupied until such time as the car parking areas for each dwelling, indicated on the revised drawings has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

7. Non Standard condition - Cycle storage.

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

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

8. Non Standard Condition- Travel Information Packs.

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

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

9. Non Standard condition- No Unbound Materials

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

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

10. ZPA Construction Method Statement

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

details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative

displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

11. Non Standard Condition - Construction and Demolition

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

12. Non Standard Condition - Refuse and Recycling

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

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

13. ZFI- Tree or shrub planting

The development hereby permitted shall not be occupied until details of tree and/or shrub planting and an implementation timetable have been

submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

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

14. Z00 – Electric Charging Points

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

Reason: To encourage the use of sustainable transport.

15. ZDF- Removal of PD- Obscure Glazing.

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the 1st and 2nd floor windows and rooflights in the outer side elevations (facing numbers 7 and 15 Marlowe Rd respectively) of plots 1 and 3 shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity both to a level a minimum of 1.7 m above floor level before the development hereby permitted is first occupied and the same applies to the 1st and 2nd floor windows and rooflights on the rear elevations of plots 1, 2 & 3 and all shall thereafter be permanently retained in this approved form.

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

16. ZNL- Full 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 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 with

Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

17.ZCL- Surface Water Drainage

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

Reason: To minimise the risk of flooding.

18. ZDD- Removal of RD Rights- Frontage.

Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes E of the Town and Country Planning (General Permitted Development)

(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of enclosures or other

structures shall be erected forward of the houses hereby approved except in accordance with drawings showing the design and siting of such enclosures/structures which shall previously have been submitted

to and approved, in writing, by the Local Planning Authority.

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

19.0 Informatives

19.1 The following informatives are also recommended:

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

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

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

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

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

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

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

APPENDIX 1 – Policies Superseded from the Core Strategy Focused Review 2014 by the Shared Strategic Section 1 Local Plan

General Local Plan Status

The Colchester emerging Local Plan (eLP) was submitted to the Planning Inspectorate in October 2017. The Plan is in two parts with Section 1 being a shared Strategic Plan for the North Essex Authorities (Colchester, Braintree, and Tendring). Following Examination in Public (EiP) the Section 1 Local Plan was found sound and Colchester Borough Council adopted the Section 1 Local Plan on 1 February 2021 in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004.

Policy SP2 should be referred to when applying the Habitats Regulations requirements to secure RAMs contributions where appropriate. This does not update the approach that the Council have been implementing but the Policy context has updated status with the adoption of Section 1 which includes a specific policy covering this issue.

A few policies in the Core Strategy are superseded in part by the adopted Section 1 Local Plan, and SD2 in full only. This is outlined below in detail and a summary table for all Section1 Policies.

Policy SD2 – Full

~~The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community.~~

~~New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. Development will also be expected to contribute, as appropriate, to strategic projects that support sustainable development and the wider community.~~

~~The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. This will either be through a planning obligation (usually contained within a Section 106 agreement) and/or, if applicable, through a Community Infrastructure Levy (CIL) payment, following adoption of a CIL charging schedule.~~

~~A CIL charging schedule would set a specified charge for each square metre of gross internal floorspace, related to the use class of the development. CIL payments will contribute to the provision of infrastructure to support development. Planning obligations and s278 agreements will continue to be used to make individual applications acceptable. The Council will publish a list of infrastructure to be funded through CIL to ensure developers do not pay twice for the same item of infrastructure. The viability of developments will be considered when determining the extent and priority of development contributions.~~

Is replaced by SP6.

Policy SD2 is no longer relevant.

Policy SD1 – In Part

~~Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.~~

~~When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.~~

~~Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.~~

Is replaced by SP1.

All other parts of SD1 remain relevant.

Policy H1 – In Part

~~The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.~~

Is replaced by SP3 and SP4.

All other parts of H1 remain relevant.

Policy CE1- In part

~~The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.~~

Is replaced by SP5.

All over parts of CE1 remain relevant.

Section 1 Adopted Policy	Context of Section 1 Policy	Relevant Core Strategy Policy status
Policy SP 1 Presumption in Favour of Sustainable Development	Restates national Policy	Replaces SD1 - in part. Following text of SD1 is replaced by SP1.

		<p><i>Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.</i></p> <p><i>When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.</i></p> <p><i>Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.</i></p>
Policy SP 2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)	Statutory requirement under the Habitats Regs- Policy provides a new authorisation for contributions	New policy relevant to confirm approach implementing the Habitats Regulations. Full status for decisions post 1.02.2021
Policy SP 3 Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester strategy	High level N/A
Policy SP 4 Meeting Housing Needs	Sets the housing supply figure for the Plan period at 920 per year. Section to	Replaces H1 - in part.

	allocate sites and determine the spatial distribution	<p>Following text of H1 replaced by SP4.</p> <p><i>The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.</i></p> <p>All other parts of H1 remain relevant</p>
Policy SP 5 Employment	Strategic target – relies on Section 2 eLP to allocated sites	<p>Replaces CE1 – in part.</p> <p>Following text from CE1 replaced by SP5.</p> <p><i>The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.</i></p> <p>All other parts of CE1 remain relevant.</p>
Policy SP 6 Infrastructure & Connectivity	<p>Strategic and restates national policy</p> <p>Section 2 covers matters specifically</p>	<p>High level/Garden Community – Section A</p> <p>Sections B, C, D and E of policy apply to all allocations and development proposals in the North Essex Authorities area.</p> <p>These sections replace SD2.</p>
Policy SP 7 Place Shaping Principles	Strategic / restates national policy and eLP Section 2 covers matters specifically	High level N/A
Policy SP 8 Development & Delivery of a New Garden Community in North Essex	New- specific to the Garden Community	Garden Community N/A
Policy SP 9 Tendring/Colchester Borders Garden Community	New- specific to the Garden Community	Garden Community N/A

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

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