

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Monday, 01 October 2018 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.

Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

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>.

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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.

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Monday, 01 October 2018 at 18:00

The Planning Committee Members are:

Councillor Pauline Hazell	Chairman
Councillor Brian Jarvis	Deputy Chairman
Councillor Lyn Barton	
Councillor Vic Flores	
Councillor Theresa Higgins	
Councillor Cyril Liddy	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

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:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Helen Chuah	Nick Cope
Simon Crow	Robert Davidson	Paul Dundas	John Elliott
Andrew Ellis	Adam Fox	Dave Harris	Darius Laws
Mike Lilley	Sue Lissimore	Patricia Moore	Beverley Oxford
Gerard Oxford	Lee Scordis	Lesley Scott-Boutell	Martyn Warnes
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim 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 6 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.

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Have Your Say! (Planning)

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

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 Substitutions

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

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 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 pecuniary interest or non-pecuniary interest.

6 Minutes of 2 August 2018

7 - 16

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 2 August 2018.

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 181579 4 Park Road, Colchester

17 - 26

Application to vary Condition 2 of planning permission 171067.

7.2 181214 Cannock Mill House, Old Heath Road, Colchester

27 - 38

Conversion to three flats.

7.3 181734 Thrupenny Cottage, 3 Pit Lane, Tiptree

39 - 50

Proposed garage/games room.

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51 - 62

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

Thursday, 02 August 2018

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean

Substitutes: Councillor John Elliott (for Councillor Vic Flores), Councillor Gerard Oxford (for Councillor Philip Oxford), Councillor Dave Harris (for Councillor Chris Pearson)

Also Present:

610 Site Visits

Councillors Elliott, Hazell, Higgins, Jarvis, Liddy, Loveland, Maclean and G. Oxford attended the site visits.

611 Have Your Say! (Planning)

A petition, signed by approximately 800 local residents, was presented to the Chairman outlining the concern of the local community in relation to planning application number 180733, on land adjacent to Armoury Road, West Bergholt. The petition sought to protect the identity of the village, called on the Committee to reject the application which was considered to be opportunistic and speculative and requested support for the village to complete its Neighbourhood Plan to deliver houses in a community friendly way.

612 180733 Land adjacent to Armoury Road, West Bergholt, Colchester

The Committee again considered a planning application for a development comprising 26 dwellings, including 30% affordable housing provision, vehicular and pedestrian access from Coopers Crescent, pedestrian access from Armoury Road, public open space and structural landscaping at land adjacent to Armoury Road, West Bergholt. The application had been deferred at the Committee's previous meeting in accordance with the Deferral and Recommendation Overturn Procedure (DROP).

The Committee had before it the report from the previous meeting, updated to include the matters previously contained in the Amendment Sheet and information provided to the Committee during their previous consideration, together with a further report giving details of the risks and implications should the Committee resolve to overturn the officer's recommendation contained in the previous report. In addition information was set out in the Amendment Sheet for this meeting.

The Chairman reminded the Committee members of the convention that had been adopted in the past, when applications subject to DROP had been referred back to the Committee for determination, in that those Councillors who had not been present at the Committee's original consideration of the application had abstained from voting.

Sue Jackson, Planning Project Officer, presented the report and assisted the Committee in its deliberations. The Planning Project Officer explained that a further six letters of objection had been received following the publication of the Amendment Sheet, five of which did not raise any new issues whilst one letter considered that insufficient weight had been given in the Committee report to the Neighbourhood Plan. She explained that the Neighbourhood Plan had just completed the pre-submission consultation phase, as such it was not at a sufficiently advanced stage to give it more than limited weight.

Stephen Scruton, on behalf of West Bergholt residents, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the 800 signature petition which had been presented to the Committee calling on the Council to respect the contents of the West Bergholt Parish Council Neighbourhood Plan. The petition was a demonstration of the strength of local opinion on the application and an illustration of local democracy being put into practice. He considered a dangerous precedent would be set if the wishes of the local community was ignored by the Committee. He was concerned about the impact of the application if it was approved and implemented given that local schools and GP surgeries were already full. He considered the community engagement undertaken by the applicant and their agents had been woeful, consisting of only one consultation event. He also referred to the revision to the application in relation to Coopers Crescent which was originally designated as pedestrian access only but was now proposed to be used as the sole vehicular access to the site. He considered this would lead to considerable risk to the safety of children and older people as well as potential damage to buildings and kerbs. He explained that two accidents had taken place in the last year, the potential increase in vehicle movements was likely to be up to 300 per day and the access route was not suitable for construction traffic. He called on the Committee to support the West Bergholt Parish Council Neighbourhood Plan.

Jay Mehta addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals, for up to 26 dwellings, were modest with approximately 25% of the site allocated as open space and 30% allocated for affordable housing. Only two potential reasons for refusal had been suggested, firstly in relation to the lack of a Section 106 agreement, however the applicant had indicated his willingness to enter into such an agreement and, as such, this would not justify a refusal of the application. Secondly in relation to non-compliance with the settlement boundary policy in the Council's Development Plan which, again, did not justify a refusal of the application as it contradicted a well-established case law principle when the application was compliant with all other Development Plan policies.

He considered the application should be approved on the basis of the planning benefits in terms of the over-provision of affordable housing and because it was not prejudicial to the Emerging Local Plan. He urged the Committee to approve the application subject to the imposition of a Section 106 agreement.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Committee. He was speaking against the application and trusted the Committee would refuse the application for the reasons set out in Section 4 of the further report. He considered the committee's previous consideration of the application had been like going back 30 years in terms of the planning criteria being discussed. The Committee had been advised that the proposal would not cause harm to the countryside, to residential amenity, to the landscape or to the road network. He did not consider this was the appropriate way to determine this planning application. He advocated a policy based approach outlining what is good and what is harmful. He referred to the Council's policy on Defined Settlement Boundaries and the fact that the site Defined Settlement Boundary and, as such, if the site were to be developed, interested parties should have invited consideration of the site in the development of the Emerging Local Plan. The Parish Council had proactively identified sites for development in the community and, after a public consultation exercise, had made an informed choice regarding the best sites for development in the village. The application site was not one of the sites identified in the Neighbourhood Plan and it failed to meet the Council's policies on public benefit with no guarantee of 30% affordable housing. No reference had been made to the importance of the Essex Way to the north of the site. He considered the worst aspect of the application was in relation to the use of existing sub-standard un-adopted estate roads as the sole access to the site. Despite the local Highway Authority indicating they had no objection to the application, residents had themselves used Department of Transport criteria to demonstrate the unsuitability of the road as an access route to the site. In addition, the application contained no proposals to bring the access road up to adoptable standards. He highlighted a deviation from planning policies which required development to be of benefit to the local community. The emerging Neighbourhood Plan had produced an evidence based analysis of the economic benefits to the wider community of site in the village which could provide 120 houses. The application before the Committee was a major deviation from the Council's policy based criteria, it was contrary to the Local Plan and the emerging Neighbourhood and Local Plans, the benefits had been overstated with little benefit to the community, and sustainability criteria were negative, particularly in relation to the sub-standard access road and support for the Essex Way. The only benefit he could see was that it would fill in a gap between existing developments in the community.

In discussion, members of the Committee expressed concern that the application site was not allocated for development in the current or emerging Local Plan, nor was it identified for development in the emerging Neighbourhood Plan. In addition, the proposed development site was located outside the settlement boundary which, if approved, may create a vulnerability to other speculative applications. Reference was

also made to the extent of support given by local residents to the petition which demonstrated the strength of local opinion against the proposals.

In response the Planning Project Officer explained that the location of the site outside the Defined Settlement Boundary would not be sufficient grounds for an appeal to be dismissed. The further views of the Highway Authority had been obtained and the view had been maintained that there were no grounds to object to the application. She advised that the suggested grounds for refusal set out in the Committee's further report would provide the Council with the opportunity to defend an appeal with the likelihood of costs not being too great.

Members of the Committee further expressed concern about the unsuitability of Coopers Crescent as an access route for the proposed development and the potential negative impact this would have on the amenity of residents.

RESOLVED (SIX voted FOR and FOUR ABSTAINED) that the application be refused on the grounds set out in paragraph 4 of the further report to the Committee.

613 180940 Development at Severalls Hospital, Boxted Road, Colchester

The Committee considered a planning application and a Listed Building Consent application for the conversion and alteration of the retained buildings (Larch House, The Administration Building and the Echelon Building) to provide 20 residential units, car parking, landscaping and private amenity space at Severalls Hospital, Boxted Road, Colchester. The Listed Building Consent application also sought the alteration of the Administration Building into a single dwelling, car parking / garaging, landscaping and private amenity space. The application had been referred to the Committee because a legal agreement was required to link the proposed development to the outline planning approval for the redevelopment of the former Severalls Hospital site (ref 151401) and its associated legal agreement(s). The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the planning application and Listed Building Consent be approved subject to the conditions set out in the report.

614 170247 Classic Pot Emporium, 30A Straight Road, Boxted, Colchester

The Committee considered a planning application for the demolition of existing buildings and the construction of a new business centre comprising retail, office, general industrial and warehousing units (Use Classes A1, B1, B2 and B8), together with associated car parking, highway works and landscaping at the Classic Pot Emporium, 30A Straight Road, Boxted, Colchester. The application had been referred to the Committee because the application was classified as a major application and objections had been received.

The Committee had before it a report and amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Eleanor Moss, Senior Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. She confirmed that since the publication of the Amendment Sheet updated drawings had now been received which would require a revision to proposed condition 2, Development to accord with Approved Plans, to take account of this.

Stephen Mann addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was one of the residents who would be directly affected by the proposal, living close to the entrance to the site. He was not opposed to business activity on the site but was concerned that the proposal wasn't in accordance with the Bosted Neighbourhood Plan, in particular it would not comply with the requirement to protect the rural character of the area. Currently only occasional deliveries were made to the site by heavy goods vehicles, however the proposal included the possibility of up to 15 business units on the site with the potential for a significant increase in the amount of heavy goods vehicle traffic in what was a rural location and was also not in accordance with the Bosted Neighbourhood Plan. He asked the Committee to consider refusing the application but, if the application was approved, he sought an additional condition to restrict vehicle movements to within normal business hours.

Matthew Letten addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the business was currently operated from a series of glass houses which were difficult to maintain, in a poor condition and no longer made full use of the site. The proposal was to create a new rural business centre with various uses and size and creating up to 60 new jobs. The development would be carefully planned bearing in mind the close proximity of neighbouring houses. He acknowledged that a condition would be acceptable to limit the hours of use in order to address the concerns of neighbouring residents. He was of the view that the proposal would integrate well into the landscape and explained that the building materials and landscaping on the site would be subject to agreement by officers. He also confirmed that the access to the site would be upgraded. Objections had been made to the proposal on the basis of the principle of the development but he confirmed that the site was already designated as an employment zone. He confirmed that access through the site to the businesses at the rear would be maintained. He explained that the development would promote local employment as well as making a positive impact in terms of its economic and social contributions.

The Senior Planning Officer confirmed that the site was allocated as a local employment zone and was not contrary to the Neighbourhood Plan. She further explained that the proposed design was acceptable for the rural location whilst the landscape officer had

found the proposals acceptable. Deliveries to the site had been addressed within proposed conditions 26, Hours of Delivery, and 27, Hours of Operation, and she invited the Committee to consider whether these should be amended.

Members of the Committee acknowledged the concerns of local residents in relation to the permitted delivery hours, suggesting amended permitted hours could be agreed following joint discussions between the residents and the applicant. In addition concern was expressed regarding proposed hours of operation on Sundays. Clarification was also sought in relation to the hours of operation of the business units to the rear of the site and the types of businesses likely to occupy the proposed units.

The Senior Planning Officer wasn't able to comment on the practices in relation to the business units to the rear of the site although she confirmed that a right of access did exist to the commercial area to the rear. She considered that an amendment to the hours of delivery and operation would be possible to achieve by means of negotiation. The designation of the site as a Local Employment Zone supported various types of occupier of the units, however, given the progress of the planning application, actual tenants had yet to be confirmed.

The Development Manager confirmed that the proposed conditions for both Hours of Delivery and Hours of Operation could be amended through negotiation but that a clear indication of what would be acceptable to Committee members would be welcomed.

In response Members of the Committee confirmed that the following would be considered appropriate:

Hours of Delivery: Weekdays 7:30 am to 7:00 pm; Saturdays 9:00 am to 7:00pm; Sundays and Public Holidays not at all and

Hours of Operation: Weekdays 7:00 am to 7:00 pm; Saturdays 7:00 am to 7:00pm; Sundays and Public Holidays not at all

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report, subject to revisions to proposed condition 2, Development to accord with Approved Plans, to take account of updated plans, and to condition 26, Hours of Delivery, and condition 27, Hours of Operation to provide for hours up to 7 pm on Weekdays and Saturdays and none at all on Sundays and Public Holidays.

615 181237 59 West Stockwell Street, Colchester

The Committee considered a planning application for the erection of a shed at the rear of the property at 59 West Stockwell Street, Colchester. The application had been referred to the Committee because the applicant was an employee of Colchester Commercial (Holdings) Ltd. 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 set out in the report.

616 172642 Wakes Hall, Colchester Road, Wakes Colne, Colchester

The Committee considered a planning application and a Listed Building Consent application for the demolition of part of the existing buildings, extension and conversion into twelve dwellings and the erection of ten dwellings (22 dwellings in total), including associated car parking at Wakes Hall, Colchester Road, Wakes Colne, Colchester. The application had been referred to the Committee because planning application 172642 constituted a major application which required a Section 106 legal agreement. The accompanying Listed Building Consent application (172643) was also referred to Planning Committee for completeness as the applications were mutually dependent. The Committee had before it a report and amendment sheet in which all information was set out.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. She confirmed that, notwithstanding the submitted details, the applicant had agreed to further conditions to be applied to the planning application only, firstly to provide for charging facilities for cars and mobility scooters and secondly to provide for increased accessibility for wheelchair users at Wakes Hall.

Nick Percival addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that Wakes Hall had been built in 1837, his grandfather had worked at the farm on the site and in 1947 the house had come into the ownership of his family. The house had subsequently been sold in the 1960s to the Stars Organisation for Spastics, it later being taken over by SCOPE who had converted the building for use as a care home for 40 residents. In 2012 the care home had been closed and he had acquired the property in 2016. The planning application had been submitted in the autumn of 2017 to provide for a housing development for the over 55s. He asked the Committee to support the recommendation for approval of the application but sought the removal of the proposed condition requiring the retention of the remaining the service staircase on the second floor of Wakes Hall. He explained that the parts of the staircase on the ground and first floor had been removed many years previously and, as such, the remaining section served no purpose. The retention of the staircase would mean that the size of the bathrooms to the apartments would need to be reduced, however, he did confirm that it would be accommodated if the Committee insisted on its retention.

Councillor Chillingworth attended and, with the consent of the Chairman, addressed the Committee. He explained that, as ward councillor, he had taken an interest in the development which affected a local listed building. The property had been used a care home and subjected to numerous alterations and additions over many years which were

not in-keeping. He considered it important that the scheme was fully scrutinised, given the house was prominent in the local landscape and confirmed that the proposal was supported by local residents and the Parish Council. The development would provide generously sized retirement homes for older people, giving an opportunity to downsize in their local area. There would also be a commuted sum for affordable housing. He welcomed the competent and well-reasoned report but was concerned regarding the requirement for the service staircase to be retained, particularly given the lower floor sections had been removed in the past. The stairs had no functional use and he asked the Committee members to consider removing proposed condition 12 as a consequence.

The Principal Planning Officer explained that the service staircase was considered to be an important element of the building's evolution and past experience had shown that it could be blocked off and used as a storage area, with the bathrooms re-arranged accordingly. The guidance from Historic England was that the planned form of a building was frequently one of its most important characteristics, internal partitions, staircases, and other features were likely to form significant elements and, as such, it was considered important that the staircase be retained.

Members of the Committee warmly welcomed the proposal but were concerned that the proposed condition to retain the staircase didn't make sense, given that its lower levels had previously been removed and it would serve no useful purpose.

The Development Manager explained that the retention of the staircase did not prejudice the delivery of the scheme as it could be sealed off and used as shelving within the bathrooms. He also indicated that, because it was a service staircase, it did not mean it had less significance than a principal staircase. Historic England's guidance was clear in that such staircases were of equal significance and even though they may not be pretty, they were of equal narrative value in terms of understanding how buildings were used in the past. A proposal to remove any staircase in a Listed Building was required to be referred to Historic England for approval, as such, it was considered to be a red line issue over which the Council should not cross. He further considered there was no justification for the removal of the staircase, other than the additional few square metres it would provide in the bathroom areas, however, the bathrooms were of large proportions in any event. He further reminded the Committee that the statutory presumption was that all harm was undesirable and this would have a degree of harm within it as it would be a loss of historic fabric. He therefore strongly advised that the Committee should not remove the proposed condition as it would set a very poor precedent in other areas.

The Committee members acknowledged the view expressed in support of the retention of the staircase but were not supportive of the option to box it in for storage purposes. Clarification was sought regarding the potential to remove the staircase and to either fully record and photograph it for historical purposes or for it to be placed on display. In

addition assurances were sought regarding provision of internal lifts to enable wheelchair users to access the top floors of Wakes Hall.

The Development Manager referred to the staircase now comprising only one flight of what had previously been a two flight staircase, and was of the view that half a staircase could be considered twice as precious. He considered that if the staircase was allowed to be removed it would be a sad occasion and may disintegrate in the process of removal. In his view it either had to be retained, in situ, and used as bathroom shelves or it should be preserved by recording its features prior to removal. The building had already lost a lot of its original features and every piece retained would help in giving it back its personality. He acknowledged that the scheme did offer many public benefits but the retention of the staircase did not get in the way of the successful delivery of the scheme and working with the features would give the scheme added value.

The Principal Planning Officer confirmed that, whilst not being able to provide dimensions of the bathrooms, they were sufficiently large to each accommodate a bath, toilet, basin and shower. She also confirmed that it would be possible to add a condition to provide for wheel chair accessibility to all floors of Wakes Hall.

The Committee members concluded that the proposed condition to provide for the retention of the service staircase should not be removed, with a preference for it to be used as feature shelving within the bathrooms.

RESOLVED (UNANIMOUSLY) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application and the Listed Building Consent subject to the conditions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to provide for the following:

- That the development is for the over-55's (as this is the basis on which the application has been made and has a bearing on the contributions being sought);
- That the on-site facilities (tennis courts, allotments, communal gym and lounge area) are provided and maintained for use by the residents (as the provision of on-site facilities has resulted in no community facilities or open space contributions being sought);
- A review mechanism for the viability review (in order to ascertain whether there is any monetary surplus from the development that can be contributed towards affordable housing, as no affordable housing is being provided); and
- A clause to ensure that the works to the listed building are carried out as part of the development (as the premise of the application is that the overall development of residential units will fund additional works to the listed building in order to improve its

character and setting).

(ii) The planning application approval set out in (i) above also be subject to two additional conditions to require the submission of a scheme to deliver wheel chair accessibility to all floors of Wakes Hall conversion and to require electric charging points for cars and mobility scooters.



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Item No: 7.1

Application: 181579

Applicant: D G Rose Limited

Agent: Mr P Johnson

Proposal: Application to vary condition 2 of planning permission 171067.

Location: 4 Park Road, Colchester, CO3 3UL

Ward: Lexden & Braiswick

Officer: Chris Harden

Recommendation: Approval subject to conditions

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 Barber who states “This has been called in primarily because of 'design, appearance and layout' but also because it is important for committee to be aware of the wider planning and enforcement breaches involved in the original application.”

2.0 Synopsis

- 2.1 The key issues for consideration are the differences between the approved scheme for the replacement dwelling compared to the revised scheme. The revisions, which have partly already been implemented relate to the following:
- (i) the addition of a 1st floor obscure glazed window on the side (South) elevation serving a landing.
 - (ii) the rear facing first floor bedroom window serving the main bedroom being wider than as approved.
 - (iii) the rear first floor window serving bedroom two being wider than as approved.
 - (iv) the ground floor rear facing window being wider than as approved.
 - (v) The omission of the ground floor French windows serving the living room on the North elevation.
 - (vi) the enlargement of the front porch compared to what was approved.
- 2.2 It will need to be assessed whether the windows are visually acceptable and also whether there is any detriment to neighbouring residential amenity from overlooking.
- 2.3 The application is subsequently recommended for approval. The amendments are considered acceptable in design terms and would not detract from the character of the replacement dwelling, street scene or nearby Conservation Area. It is not considered there would be any significant impact upon neighbouring residential amenity from overlooking compared to the previously approved scheme subject to conditions.

3.0 Site Description and Context

- 3.1 The site lies within the physical limits, is directly adjacent to the Conservation Area and in an Area of High Archaeological Potential. There are neighbouring dwellings either side. A replacement two storey dwelling is in the final stages of construction on the site.

4.0 Description of the Proposal

- 4.1 The proposal is for variation of Condition 2 (approved drawings) of Planning Permission 171067 which was for the demolition of the existing dwelling and its replacement with a two storey dwelling in a similar in location but with a larger footprint, projecting further rearwards.

- 4.2 The variation involves the widening of the rear facing windows serving 1st floor bedroom windows and the introduction of an additional first floor obscure glazed landing window on the side (South elevation). The ground floor rear facing kitchen window would be widened and the front porch would be wider, as listed in the synopsis above.

5.0 Land Use Allocation

- 5.1 Settlement Limits
Adjacent to Conservation Area
Area of high Archaeological Importance.

6.0 Relevant Planning History

- 6.1 171067 - Demolition of existing dwelling and replacement with new dwelling. Approved

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
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
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards
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 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
Sustainable Construction
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.
- 8.2 **Highways Authority** have no objections to the application.
- 8.3 **Environmental Protection** has no objections.
- 8.4 **Archaeologist** states: No material harm will be caused to the significance of below-ground archaeological remains by the application to change condition 2 of 171067. The applicant is, however, reminded of condition 4, relating to archaeological investigation. This condition has been partially discharged subject to implementation compliance.
- 8.5 **Tree Officer**: “No comments required.”

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.

5 letters of objection (from the neighbours at number 4) have been received and these make the following points:

- Variations have already been made to the dwelling and have had considerable impact on our privacy and loss of amenity.
- Feel unable to use en-suite bathroom - window installed directly opposite. No privacy.
- Drawing is inaccurate. Window is larger than other approved windows.
- Adverse overshadowing contrary to Policy DP12.
- Size of window on East elevation has already been increased without correct planning consent. This has resulted in our rear garden being significantly

overlooked. Planting scheme offered on original application offers little if any privacy.

- Applicant has already breached conditions on original application with some breaches still being managed by Enforcement Officers. These breaches included removal of trees without consent.
- Another breach is that the windows on the South elevation should be non-opening but they open and two windows look into our bathroom. Original conditions were applied for a reason.
- Applications have been made to remove conditions 3 and 4 (172689) and to remove conditions 6 and 7 (172773). Sends message that applicant can pick and choose which conditions they adhere to.
- Retrospective nature of applications should be material consideration.

11.0 Parking Provision

11.1 Two spaces.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

Principle:

15.1 The main issues for consideration are the differences between the approved scheme for the replacement dwelling compared to the revised scheme. The revisions to the replacement dwelling relate to the addition of a 1st floor obscure glazed window on the side (South) elevation serving a landing and the widening of the rear facing first floor bedroom windows, the widening of the rear facing kitchen window and the increase in size of the porch. French windows serving the living room on the ground floor have been omitted. Accordingly, the principle of the replacement dwelling in this location and of this scale and layout has already been agreed. It will now need to be assessed whether the windows are visually acceptable and also whether there is any detriment to neighbouring residential amenity from overlooking.

Design and appearance :

- 15.2 The design and appearance of the window revisions and enlarged porch is considered acceptable and would not detract from the character of the dwelling, streetscene or nearby Conservation Area. The first floor side window serving the landing is modest in size and is similar in style to the other two obscure glazed side windows serving bathrooms on this elevation. It is therefore not visually out of keeping.
- 15.3 Similarly the alterations to the two rear facing bedroom windows and rear facing kitchen window are in keeping with the character of the dwelling and are not obtrusive. The porch, whilst larger than that approved, is of an appropriate design, scale and form for the front elevation of the property.
- 15.4 The revisions therefore represent appropriate design and accord with Policy DP1 and DP12 of the Local Plan in respect of the quality of detailed design features.
- 15.5 The scale of the replacement dwelling itself remains as before.

Impact upon neighbouring residential amenity:

- 15.6 It is not considered the revised proposal incorporating window revisions would have any significant impact upon neighbouring residential amenity from overlooking. The first floor side window serving the landing is to be obscure glazed and a condition will be applied to ensure this is obscure glazed to level 4 obscurity and retained as such and also that the window is non-opening (as per the other windows on that side elevation). This will ensure there will be no overlooking of the neighbour's property from this window, including side windows and rear garden.
- 15.7 Similarly, the enlarged rear facing first floor windows are not considered to make a significant difference in respect of the overlooking of neighbouring property compared to the previously approved windows. There were already planned to be rear first floor windows facing down the garden of the dwelling and an increase in width does not alter the fact that the occupants of the dwelling can still have views out of this window. It is normal for properties to have first floor rear facing bedroom windows including when dwellings are located side by side in a street. There is therefore no reason to object to the proposal on the grounds of detriment to neighbouring residential amenity from overlooking.
- 15.8 The enlarged porch does not have any impact on neighbouring residential amenity and neither does the omission of the ground floor side facing French windows that were to serve the living room.
- 15.9 The proposal therefore accords with Policy DP1 and DP12 of the Local Plan in respect of impact upon residential amenity.

Other:

15.10 It should be noted that a planting scheme has been implemented for both side boundaries of the site.

15.11 Two parking spaces are provided, as before.

15.12 There were some other Enforcement issues relating to commencement of development prior to clearance of the original conditions. The details reserved by condition were subsequently submitted and cleared.

16.0 Conclusion

16.1 To summarise, the revised proposal is acceptable in terms of impact on street scene and Conservation Area and there would be no significant detriment to neighbouring residential amenity subject to conditions. The same conditions can be applied as before subject to adaptation to reflect the fact that the development has already commenced and conditions have been previously cleared.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAM - Development to Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: location plan, 120/D received 11/7/18 and 121/F received on 24/8/18.

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

2. Non-Standard Condition: Materials

All materials used in terms of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall accord with the submitted details approved by the Local Planning Authority on 10/11/17. Only those materials 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.

3. Non-Standard Condition: Removal of PD Rights

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification), the first floor windows in the South and North elevations shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

4. Non Standard Condition: Tree/Hedge Retention

Notwithstanding the submitted details none of the existing trees and hedgerows on the North, South and East boundaries (side and rear boundaries) shall be removed unless specifically agreed in writing by the Local Planning Authority. Unless their removal is agreed in writing these trees and hedgerows, shall be retained throughout the development construction phases, and shall be protected from damage as a result of works on site in accordance with the Local Planning Authority's guidance notes and the relevant British Standard.

Unless agreed to be removed in writing these 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 and in the interests of neighbouring privacy.

5. Non-Standard Condition: Replacement Planting

The replacement planting that has been undertaken as approved on 22/1/18 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 standard of visual amenity in the local area and in the interest of neighbouring privacy.

6. Non Standard Condition: Hours of Work

No demolition or construction work shall take outside of the following times; Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

7. Standard Condition: Vehicular Access

Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the 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.

8. Standard Condition: No Unbound Surface 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.

9. Standard Condition: Parking

Prior to the first occupation of the development hereby permitted, two car parking spaces (min 5.5 m x 2.9 m) shall have been laid out within the site in accordance with drawing 120/D. The agreed parking spaces shall thereafter be maintained free from obstruction and available for parking use at all times.

Reason: To ensure that a suitable parking layout is agreed and that there is satisfactory parking provision at the site at the time when the development becomes occupied.

10. Non-Standard Condition: Design Details

Prior to the installation of the relevant following works, precise details of the following (Scale 1:20 where applicable) shall be submitted to and agreed in writing by the Local Planning Authority:

- (i) Hard surfaces to the front of the new dwelling
- (ii) Any frontage boundary enclosures/walls/fences
- (iii) windows and doors, including materials and finishes and glazing bars/cills and surrounds.

Only the approved details shall be implemented and the doors and windows shall thereafter be retained as such.

Reason: To ensure the satisfactory appearance of the development.

11. Non-Standard Condition: Archaeological Programme of Works

The Archaeological Programme of Works received on 19/10/17 shall be implemented in complete compliance with the submitted details during the lifetime of the development works.

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).

18.0 Informatives

18.1 The following informatives are also recommended:

(1) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

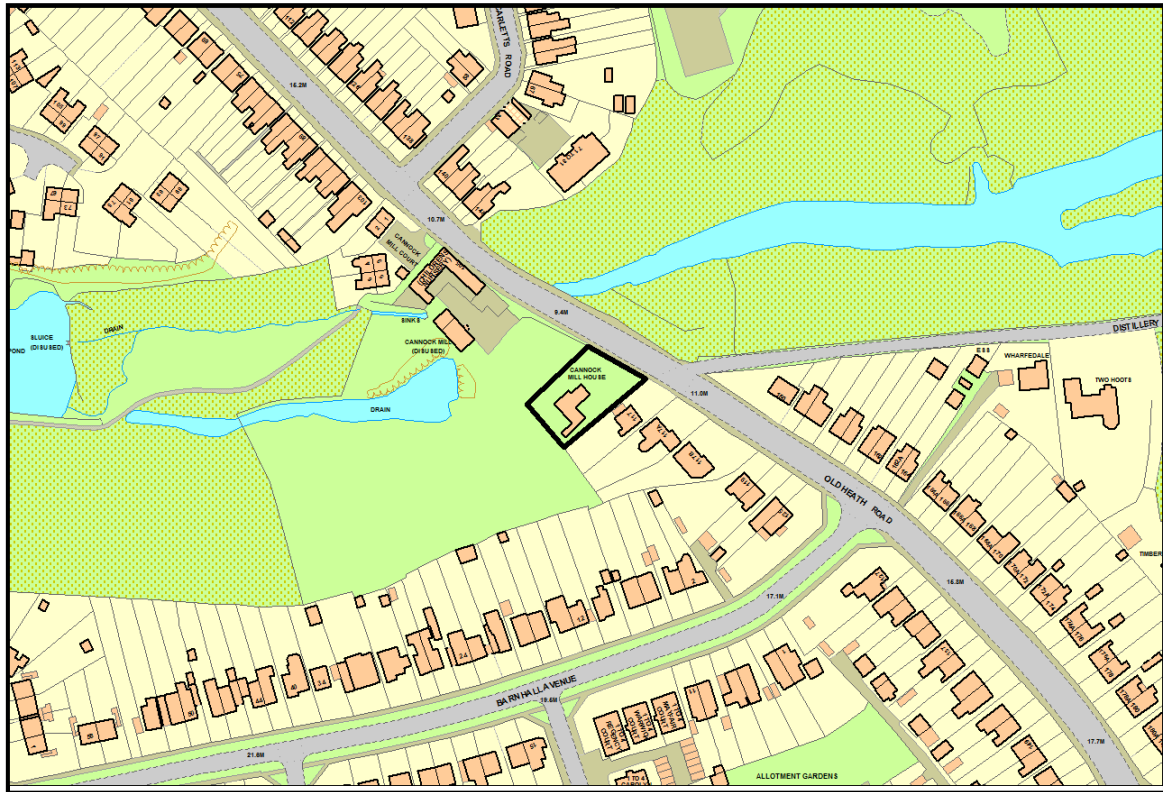
or by post to: SMO1 – Essex Highways Colchester Highways Depot, 653 The Crescent, Colchester. CO4 9YQ. The applicant should note that any damage to the public highway from construction works should be made good by the applicant.

(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) 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.



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Item No: 7.2

Application: 181214

Agent: Ms Anne Thorne, Anne Thorne Architects LLP

Proposal: Conversion to three flats.

Location: Cannock Mill House, Old Heath Road, Colchester, CO2 8AA

Ward: Old Heath & The Hythe

Officer: Sue Jackson

Recommendation: Approval subject to the signing of a linking legal agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because a legal agreement is required to link this application to a legal agreement with application 150492

2.0 Synopsis

- 2.1 The key issues for consideration are the conversion works, parking and the provisions of the linking agreement.
- 2.2 The application is subsequently recommended for approval subject to a legal agreement.

3.0 Site Description and Context

- 3.1 The area is predominantly residential and comprises 2 storey semi-detached and linked, terraced houses principally inter war, and some Edwardian properties on the opposite side of the road and adjacent to the site. There is private and former public housing along the south boundary in Barn Hall Road.
- 3.2 Cannock Mill House occupies an elevated position along Old Heath Road within the former grounds of Cannock Mill.

4.0 Description of the Proposal

- 4.1 Cannock Mill House is included in the approved list of buildings of local importance. It is an undesignated heritage asset. It is an attractively detailed traditionally formed brick dwelling with a slate roof. It has a raised position on the site due to the contours of the ground and is set back from the road frontage.
- 4.2 The proposal is to convert the building into three flats. The residential accommodation will form part of the Co-Housing development under construction within the grounds of Cannock Mill. Cannock Mill is a grade II listed former watermill that is currently undergoing a scheme of residential conversion.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 150492 Cohousing residential development of 23 no. 1,2 and 3 bedroom homes and the conversion of Cannock Mill, a listed building, to a cohousing common house with associated outdoor and parking spaces.
- 6.2 150493 application for listed building consent for the conversion of Cannock Mill.

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
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA5 - Parking

- 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
- DP11 Flat Conversions
- 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
- DP19 Parking Standards

- 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:

SA H1 Housing Allocations

- 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
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.
- 8.2 Archaeologist: No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.
- 8.3 Heritage Officer: has raised no objection
- 8.4 Highway Authority: from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions.
- 8.5 Environmental Protection: no objection subject to a condition limiting hours of work and advisory notes setting out best practice to protect resident's amenity during construction

9.0 Parish Council Response

- 9.1 N/A

10.0 Representations from Notified Parties

- 10.1 No representations have been received

11.0 Parking Provision

- 11.1 Three parking spaces are proposed. Further explanation on car use and parking provision is provided in the main report.

12.0 Open Space Provisions

- 12.1 There is no requirement for public open space. The private amenity space is described in the main report.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.1 Report

- 15.1 The main issues in this case are:

The Principle of Development

- 15.2 The site is within an area allocated for residential development, and surrounded by residential properties the principle of the development is therefore acceptable. The NPPF recognises the importance of conserving and enhancing heritage assets including locally listed buildings (undesigned heritage assets).

Design and Layout

- 15.3 The application involves minimal changes to the external appearance of the building. The most significant change is the installation of solar panels on the side roof elevation. Other changes include new windows, replacing existing windows and a new door. Due to its position on the valley side, the building includes a basement as well as two floors of accommodation. The first floor will comprise a single unit, the ground floor a one bed unit and the living/kitchen space for the basement unit. Internal works involve removal of and new partition walls.

- 15.4 The conversion works are sympathetic to the character and appearance of the building and are considered acceptable thereby bringing an undesignated asset back into use.

Scale, Height and Massing

- 15.5 The proposal relates to the internal works of conversion of an existing building, no extensions are proposed.

Impact on the Surrounding Area

- 15.6 The proposal involves the renovation of a locally listed building and the works will have a positive impact on the area.

Impacts on Neighbouring Properties

- 15.7 The proposal involves the conversion of a dwelling into three flats. The changes to the existing fenestration are minimal. No new windows are proposed facing the neighbouring dwelling although two bath room windows on the first floor will change to a single bedroom window.
- 15.8 It is considered there will be no adverse impact on neighbouring properties

Amenity and Public Open Space Provision

- 15.9 There is no requirement for public open space. The flats will have private amenity space and access to the communal gardens, including allotments, on the Co-Housing site.

Landscape and Trees

- 15.10 There is no adverse impact on landscape or trees.

Highway Safety and Parking Provisions (including Cycling)

- 15.11 A new driveway from the access to the larger Co housing site will lead to three parking spaces at the front of the site. The Highway Authority has raised no objection to the access or parking arrangement.
- 15.12 The parking provision is, however, two space below that required by the Council's adopted minimum parking standards.
- 15.13 The applicant has confirmed the flats will be occupied by members of the Cohousing Group.
- 15.14 The supporting information for the Co- Housing application stated... "that one of the essential elements of the project vision is "environmentally aware travel arrangements. The group prioritise walking, cycling and using public transport. A special feature of Co-Housing is that unlike general needs housing residents are identified before development takes place and residents can take part in travel plan measures. Everyday living arrangements will include lift sharing, car pooling, combine shopping group walks and cycle rides.
- 15.15 A detailed Travel Plan has been submitted and agreed with the Highway Authority, this sets out ways cycling, walking, bus use, reduction in travel, lift sharing and car sharing will be encouraged.

- 15.16 The Cohousing Board, as the freeholder owner of the site and the dwelling units (which will be held on leases), will be responsible for monitoring the spaces and for taking members to task under site byelaws if this is not complied with. Responsibility for the implementation of the travel plan measures will lie with the Cohousing Board”.
- 15.17 A legal undertaking secured the occupation of the dwellings by members of the London Countryside Co-Housing Group and a scheme of additional parking to be submitted to and approved by the Local Planning Authority prior to any of the dwellings being occupied by non-members.
- 15.18 A linking agreement is proposed to ensure the three flats are also bound by these provisions.
- 15.19 The applicant’s commitment to low car ownership and non-car modes of transport are acknowledged and the parking provision is considered acceptable.

Other Matters

15.20 N/A

16.0 Conclusion

- 16.1 To summarise, the proposal involves a sensitive conversion of a locally listed building and permission is recommended.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:
- 17.2 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.
- 17.3 An agreement is required to link this application to the provisions of the agreement with application 150492 to secure “The dwellings to be occupied only by members of the London Countryside Co-Housing Group. Prior to any of the dwellings being occupied by non-members a scheme of additional parking to be submitted to and approved by the Local Planning Authority the approved scheme to be implemented in accordance with an agreed timetable”

17.4 The Permission will also be 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. ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

3. Non Standard Condition - Bicycle Provision

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

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

4. Non Standard Condition - Refuse recycling provision

Prior to the occupation of the proposed development the applicant shall provide a communal refuse/ recycling / bin store within 15m of the vehicular access within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To limit and reduce the time a refuse freighter is left waiting within the highway causing congestion and obstruction in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5. ZAM - *Development to Accord with Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers; 040, 110, 210, 310 and 311A.

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

6. ZFC - Simple Landscape Scheme

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

7. ZFD - Simple Landscape Scheme

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

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

8. Non Standard Condition - Hard and Soft landscape Scheme

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

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

9. ZFE - Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules 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.

10. ZFR - Tree and Natural Feature Protection: Entire Site

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

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

11. ZFQ - Tree and Natural Feature Protection: Protected Areas

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

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

12. Non Standard Condition - Provision of parking spaces

Prior to the first occupation of the development hereby permitted, the parking spaces shall have been laid out within the site in accordance with the approved plan. The approved parking spaces shall thereafter be maintained free from obstruction and available for parking use at all times.

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

13. Non Standard Condition - Making Good

Prior to the occupation of any dwelling all external surfaces which have been disturbed by the works shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

Reason: In order to preserve the historic character of the locally listed building.

18.0 Informatives

1. 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.

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

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

3. 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)

4. Noise Control

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

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

Best Practice for Demolition Sites

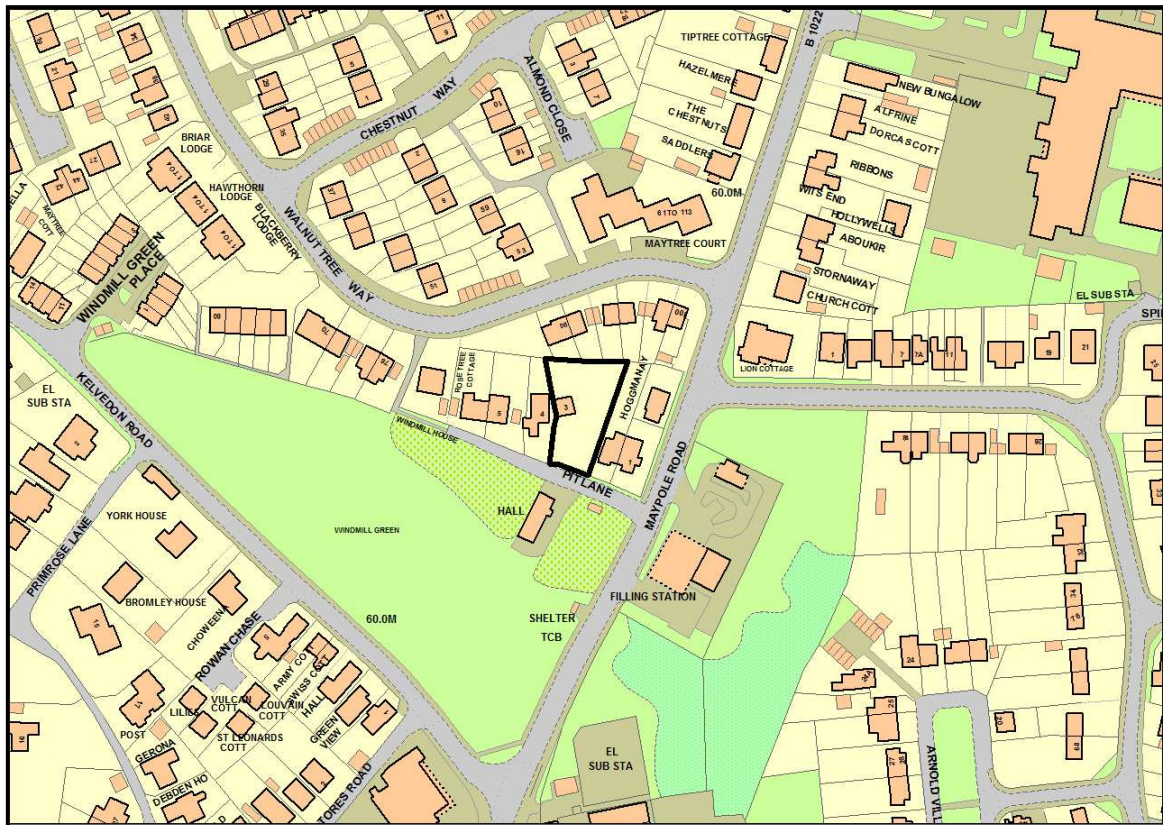
Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above,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

- Noise Control
 - 1) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.
 - 2) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- Emission Control
 - 1) All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

5. Highway 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



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Item No: 7.3

Application: 181734

Applicant: Mrs D Wright

Proposal: Proposed Garage / Games room

Location: Thrupenny Cottage, 3 Pit Lane, Tiptree, Colchester, CO5 0EG

Ward: Tiptree

Officer: James Ryan

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because a call-in request has been received from Councillor Loveland, to enable the Committee to consider the proposals. The following comments are made by Councillor Loveland:

‘Overbuilding on the site, the height of the proposed building is too high which would dominate the site, some concern regarding the proposed use of the building.’

2.0 Synopsis

- 2.1 The key issues for consideration are the design, location and impact of the proposed development, both on the amenity of the area in general and that of the adjoining neighbours. It is considered that the development would be acceptable in planning terms, subject to the imposition of conditions as listed at the end of this report.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site for this proposal currently forms part of the curtilage area of No. 3 Pit Lane, originally a modestly-sized cottage, that has been extended. The dwelling sits in an approximate central position within a curtilage that is irregularly-shaped and relatively level. Notable features include large trees within the front garden. The site is located within an established residential area within the village of Tiptree. To the south of Pit Lane is a large open space known as Windmill Green. The lane itself is unmade and links to Maypole Road.

4.0 Description of the Proposal

- 4.1 This planning application seeks permission to erect an outbuilding in the front garden area of the existing dwelling. It would have dimensions of 7m x 7m floor area and an overall height of 6 metres (scaled from the submitted plans). The application drawings show the building containing a garage, WC and ‘Chill Out Zone’ on the ground floor and a games room at first floor level, accessed via an internal stair at the northern end of the building.
- 4.2 The building would be constructed using Eternit weatherboarding walls in conjunction with a pitched roof clad in clay plain tiles. In terms of location, the proposed building would be positioned towards the south-eastern corner of the application site, adjacent to the shared boundary with the neighbouring dwelling at No. 2 Pit Lane. The submitted plan shows the building being in line with the dwelling at No. 2 and the provision of a 6 metre space between the front (south-west) facing wall and the front boundary of the site with Pit Lane. The plan also shows a gap of 1.75 metres being provided between the proposed building and the shared boundary with No. 2.

In order to provide space to erect the proposed building, it would be necessary to remove an existing single garage on the site, and an established tree (identified on plan as a magnolia) and associated vegetation.

5.0 Land Use Allocation

- 5.1 The site for this proposal is located in an area that identified as predominantly residential within the adopted Local Plan.

6.0 Relevant Planning History

- 6.1 Prior to the submission of this application the site has been subject to a series of planning applications as follows:

- 080745 – Erection of two storey side extension – approved via notice dated 13th May 2008.
- 110271 – Demolition of existing pre-cast concrete single garage and erection of replacement double garage with store over – approved via notice dated 11th April 2011.
- 121374 – Alteration of existing conservatory – approved via notice dated 17th September 2012.
- 144898 - Demolition of existing pre-cast concrete single garage and erection of replacement double garage with store over – approved via notice dated 4th August 2014.

- 6.2 Members are advised that the permissions granted under application refs. 110271 and 144898 proposed a double garage and associated store in approximately the same position as that proposed under the current application. The size of the building under these previous applications was smaller than the current proposal, having a height of 5.764 m and floor dimensions of 6 m x 6 m.

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
UR2 - Built Design and Character
TA5 - Parking

- 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
DP19 Parking Standards

- 7.4 Some “allocated sites” also have specific policies applicable to them. However, there are no adopted Site Allocations (adopted 2010) policies that are applicable to the consideration of this planning application.

- 7.5 The application site is not within an area currently included within a neighbourhood plan

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

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

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 Adviser states that:

‘No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.’

- 8.3 The Arboricultural Officer has advised that a tree protection condition should be added to a grant of planning permission.

9.0 Parish Council Response

9.1 The following comment has been received from Tiptree Parish Council:

‘Tiptree Parish Council objects to this planning application on the ground that it is overdevelopment of the site.

If the application is permitted, the Parish Council would like the following conditions placed on the permission:

That soundproofing should be installed to prevent a noise nuisance to the neighbouring property

That the building remains ancillary to the existing property’

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 As a result of notification two representations of objection have been received – from the occupiers of no.s 1 and 2 Pit Lane. The objections received from the occupier of no. 1 relate to the size of the proposed building, and the possibility that a future change of use may cause an increase in traffic movements along Pit Lane. Concern is also expressed regarding the potential impact of the building on the amenity of the occupiers of no. 2 Pit Lane.

10.3 The objections raised by the occupiers of no. 2 Pit Lane may be summarised as follows:

1. The use of the building, including a games room, would impact adversely on amenity, particularly when the proximity to no. 2 is considered.
2. The proposal would create an unacceptable degree of overlooking of the rear garden of no. 2.
3. The building would create an unacceptable level of overshadowing.
4. The proposal would be unacceptable overdevelopment of the site, involving the loss of garden land.
5. The development proposes the loss of a modest garage and its replacement with a large new building which will impact detrimentally on visual amenity.
6. The loss of trees in the front garden is not acceptable.
7. The development is overbearing and out of scale and character with its surroundings.
8. The result of the development taking place would be that the occupiers of no. 2 would feel hemmed-in, the building would constantly be in their eye line and would reduce the usability of their garden.

10.4 Members are advised that the representation from no. 2 also includes photographs that can be viewed on the Council’s website.

11.0 Parking Provision

- 11.1 The submitted plan shows the provision of a parking space within the proposed garage that has dimensions of 3.2m x 6.4m (as scaled from the submitted plans). In addition a 6m space, across the width of the building, would be available between the front wall of the garage and the boundary of the site with the lane.

12.0 Open Space Provisions

- 12.1 The nature of the scheme means it does not generate a need for public open space provision.

13.0 Air Quality

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

14.0 Planning Obligations

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

15.0 Report

- 15.1 The key planning issues to be considered in this case are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy.
- 15.2 The proposed position of the building would mean that it had some prominence in the street. In consideration of the design of the building itself, this follows a vernacular approach incorporating a simple plan form with a pitched roof. It is noted that several dwellings along Pit Lane (including No. 3) have a traditional form and appearance. On this basis it is considered that the design of the building would be an appropriate response to the context of the surroundings. In further consideration of its position on the application site, it would sit forward of the existing dwelling. However, it would be in line with the adjacent dwellings at No.s 1 and 2, and would therefore continue this ‘frontage’ of development having a visually-immediate relationship with the lane. Therefore, it is considered that the building would not appear overly prominent, particularly when viewed from the east. Its prominence would increase when viewed from the west, but it would be viewed against the built form that comprises No.s 1 and 2 Pit Lane. Overall, it is considered that the appearance of the building, and its location, would be satisfactory in planning terms. As identified previously in this report, the proposed building on the site would be of larger size than that previously approved, but its cumulative impact would, in your officers view, not be harmful as a result.
- 15.3 Turning to the impacts of the development on the amenity of neighbours, the comments received from the residents of adjoining properties are fully acknowledged and appreciated. As well as a site visit, undertaken following

receipt of the application, a visit to the neighbour's property at No. 2 Pit Lane has also taken place, following a request from the occupiers.

15.4 Concerns regarding potential noise nuisance are noted. The proposed building is close to the shared boundary and whereas the previously-approved schemes under planning applications 110271 and 144898 proposed a garage and associated first floor storage area, this scheme does propose ancillary residential use in lieu of storage. It is also noted that the scheme proposes the inclusion of a W.C. facility on the ground floor. The issue of noise nuisance could, it is felt, be reasonably dealt with by way of condition and it is therefore proposed that a condition could be imposed that would require the submission of sound attenuation details. It is noted that the Parish Council does recommend the inclusion of this type of restriction, in the event that a planning permission is granted contrary to its recommendation.

15.5 The position of the rear facing window is such that immediately to the rear (within the building) would be a stairwell, providing access to the first floor games room. On this basis, it is considered that the potential for overlooking from this position would be limited. That said, the potential to overlook is acknowledged and on this basis it is recommended that this particular opening incorporates obscure glazing and the frame of the window is fixed shut. Such an approach would enable light to be gained within the stairwell while protecting amenity. As regards other openings at first floor level it is considered that the position of these i.e. facing Pit Lane and across the front gardens of No.s 3 and 4 would mean that privacy etc. was not adversely affected. A condition precluding further openings could also be imposed on a grant of planning permission.

15.6 Impacts in relation to overshadowing are noted and it is apparent that the building would be located adjacent to a door serving the kitchen area of No. 2. However, the kitchen is not lit solely via the identified door; the room gaining the majority of its light from the window/conservatory to the rear of the dwelling. While there would be an impact on the amount of light gained by the door, it is considered that the position of the proposed building would mean that light levels obtained by rear facing windows and associated conservatory windows would not be adversely affected. The 45 degree 'test' in the Essex Design Guide would be complied with. In this regard the EDG comments as follows:

'...The Building Research Establishment's report 'Site Layout Planning for Daylight and Sunlight' 1991 suggests that obstruction of light and outlook from an existing *window* (officer emphasis) is avoided if the extension does not result in the centre of the existing window being within a combined plan and section 45 degree overshadowing zone...'

15.7 The existing dwelling on the site has been extended previously. It is apparent from the site visit that the original dwelling that comprised No. 3 was a modest cottage set in a relatively substantial curtilage. The extension that was granted under application ref. 080745 did extend it significantly to the east. A conservatory enlargement has also taken place. Notwithstanding these enlargements, it is the case that a large curtilage area remains and, in the case of No. 3, there is a large front garden area in comparison with the other dwellings in the lane. It is considered that the new building, although substantial in size, could be accommodated in this location without it appearing cramped in the street scene. Furthermore a feature tree in the front garden would remain; a feature that would continue to enhance visual amenity in this location.

15.8 The proposed development would include the removal of a magnolia and two elders (as indicated in the drawing) and their loss will impact on the appearance of the site. This aspect of the development has been considered by the Council's Arboricultural Officer and no objection is raised. It is also the case that the largest tree off the frontage (identified as a 7 metre high cherry on the submitted plans) would remain. The Arboricultural Officer has requested this tree is protected by fencing during the construction process and this aspect could be secured by condition.

15.9 As noted, the size of the building is substantial but it could be accommodated on the site without appearing cramped or incongruous in its setting. Its location in relation to No. 2 will mean that the environs of that dwelling will be altered. However, the overall impact would not, it is felt, be harmful. The building would be seen but it is not agreed that it would be '...constantly in [the occupiers'] eye line...' In addition, it would not be possible to sustain an objection to the proposal on the basis that usage of the neighbour's garden may reduce as a result.

15.10 Finally, in terms of other planning considerations the proposed development does not raise any concerns. The neighbour's objection received regarding traffic generation is noted but the proposal has been considered on the basis of the submission and, as an ancillary building serving an existing residential use, it is not expected that traffic generation would be excessive. Were a change of use proposed at a later date that could potentially alter traffic levels, this would be properly judged via a new planning application. The ancillary nature of the current development proposal could be reinforced by condition. In addition, it is felt that the on-site parking provision that would result from the development i.e. 3 spaces, would meet the adopted standards of the Council.

16.0 Conclusion

16.1 To summarise, it is considered that a conditional planning permission for this development proposal can reasonably be granted, subject to the imposition of conditions. The concerns of neighbouring residents and the Parish Council are fully acknowledged and appreciated. However, the individual and cumulative impacts are deemed to be acceptable and where appropriate, can be properly mitigated through use of conditions.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 2124-01, 2124-02 and 2124-03.

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

3. ZBB - Materials As Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

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

4. ZDF - *Removal of PD - Obscure Glazed & Non-Opening *

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor window in the rear (north-facing) elevation shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

5. ZDI - *Removal of PD for Windows Above Ground Floor Level*

Notwithstanding the provisions of Classes A, B and C 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 windows, rooflights or other openings shall be installed above ground floor level within the rear (north facing) or side (east facing) elevation WALL(S) or roof FACE(S) of the building hereby permitted unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

6. ZDR - *Ancillary to Host Dwelling*

The development hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as no. 3 Pit Lane Tiptree.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

7. ZFQ - Tree and Natural Feature Protection: Protected Areas

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

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

8. ZFS - Tree and Hedgerow Protection: General

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.

9. ZGI - Sound Insulation on Any Building

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

10. Z00 – Non-standard condition

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

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

18.0 Informatives

18.1 The following informatives are also recommended:

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

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

(3) Non Standard Condition

In relation to conditions 07 and 08 it should be noted that any technical interpretation of the detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional (i.e. Arboricultural consultant – details of local practices available through Arboricultural Officer on 01206 282469 (am only). In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Arboricultural Consultant and the Council's Arboricultural Officer.

(4) Non Standard Condition

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

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.

