

# Planning Committee Meeting

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

**Thursday, 17 November 2016 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. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

## Information for Members of the Public

### 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, which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

### Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Your Council> Councillors and Meetings>Have Your Say at [www.colchester.gov.uk](http://www.colchester.gov.uk)

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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, 21 Trinity Square, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

### Facilities

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## 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.*

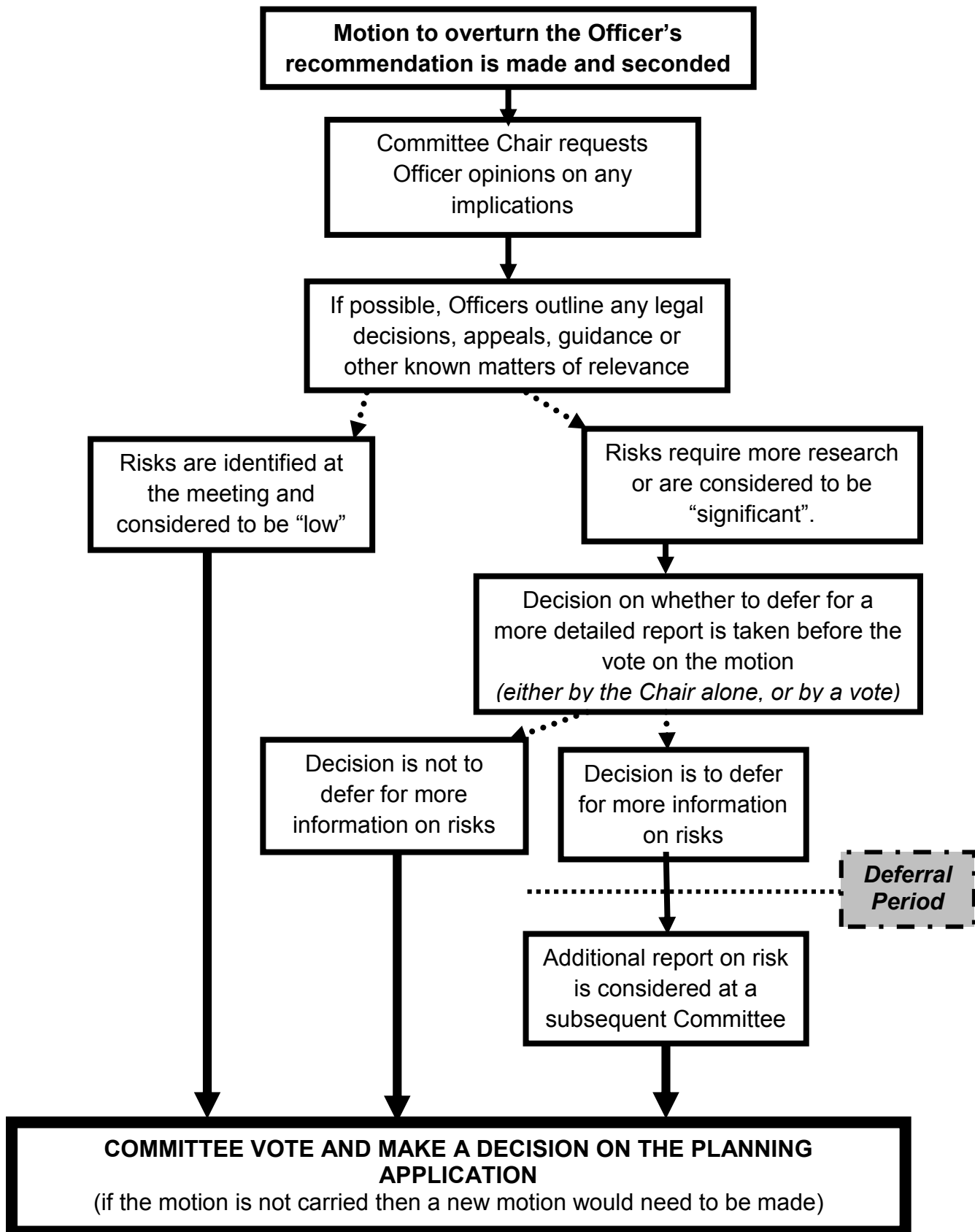
### ***Interpretation of Class C4***

*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*

## 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.*



**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 17 November 2016 at 18:00**

**Member:**

Councillor Theresa Higgins  
Councillor Cyril Liddy  
Councillor Lyn Barton  
Councillor Helen Chuah  
Councillor Pauline Hazell  
Councillor Brian Jarvis  
Councillor Derek Loveland  
Councillor Jackie Maclean  
Councillor Philip Oxford  
Councillor Rosalind Scott

Chairman  
Deputy Chairman

**Substitutes:**

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

Councillors Christopher Arnold, Tina Bourne, Roger Buston, Karen Chaplin, Nigel Chapman, Peter Chillingworth, Phil Coleman, Nick Cope, Robert Davidson, Beverly Davies, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dominic Graham, Dave Harris, Darius Laws, Mike Lilley, Sue Lissimore, Fiona Maclean, Patricia Moore, Gerard Oxford, Chris Pearson, Lee Scordis, Jessica Scott-Boutell, Lesley Scott-Boutell, Paul Smith, Martyn Warnes, Dennis Willetts, Julie Young and Tim Young.

**AGENDA - Part A**  
(open to the public including the press)

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

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Members of the public please note that any further information which they wish the Committee to consider must be received by 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

**1 Welcome and Announcements**

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
  - action in the event of an emergency;
  - mobile phones switched to silent;

- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

## **2 Have Your Say! (Planning)**

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

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

## **3 Substitutions**

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

## **4 Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

## **5 Declarations of Interest**

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

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

the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

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

6.1 **Minutes of 20 October 2016** 17 - 26

6.2 **Minutes of 3 November 2016** 27 - 30

## 7 **Planning Applications**

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

7.1 **160623 Land at Cuckoo Farm West, Off United Way and Via Urbis Romanae, Colchester** 31 - 60

Reserved matters application following outline planning permission O/COL/01/1622 for the erection of Use Class A3 restaurant units (10,400sq m), erection of Use Class C1 hotel (80 beds), provision of a landscaped piazza and associated landscaped areas, erection of an ancillary multi-storey car park and the provision of separate drop off/parking areas.

7.2 **162432 Eastwood Service Station, Ipswich Road, Colchester** 61 - 72

Installation of advertisements.

7.3 **162426 7 Gunfleet Close, West Mersea, Colchester** 73 - 78

Single storey extension to front of house, resubmission of 161426.

8 **Tree Preservation Order - Lisle Road / Hyderabad Close / Brigade Close, Colchester** 79 - 82

See report by the Head of Professional / Commercial Services

## 9 **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, 20 October 2016

**Attendees:** Councillor Lyn Barton (Member), Councillor Helen Chuah (Member), Councillor Pauline Hazell (Group Spokesperson), Councillor Theresa Higgins (Chairman), Councillor Brian Jarvis (Member), Councillor Cyril Liddy (Deputy Chairman), Councillor Derek Loveland (Member), Councillor Philip Oxford (Group Spokesperson), Councillor Rosalind Scott (Member)

**Substitutes:** Councillor Darius Laws (for Councillor Jackie Maclean)

### **390 Site Visits**

Councillors Barton, Chuah, Hazell, Higgins, Jarvis, and Scott attended the site visits.

### **391 Minutes of 6 September 2016**

The minutes of the meeting held on 6 September 2016 were confirmed as a correct record.

### **392 Minutes of 6 October 2016**

The minutes of the meeting held on 6 October 2016 were confirmed as a correct record.

### **393 160906 Land adjoining Church of All Saints, London Road, Great Horkesley**

The Committee considered an application for the removal of the existing glasshouses and ancillary buildings, change of use and replacement with a new residential scheme comprising of 18 private dwellings and four affordable dwellings along with enhancement measures to improve both the surrounding Area of Outstanding Natural Beauty (AONB) and the church and its setting at land adjoining Church of All Saints, London Road, Great Horkesley. The application had been referred to the Committee because the site had a controversial history, objections had been received, the proposals were a departure from the adopted Local Plan and the application involved the signing of a Section 106 agreement. The Committee had before it a report and amendment sheet in which all the 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.

Simon Cairns, Major Development and Projects Manager presented the report and assisted the Committee in its deliberations.

Mike Hunter, on behalf of Nayland and Wissington Conservation Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was concerned that the proposals were a departure from the Development Plan for the area which was, in any event, not designated for residential development in the emerging Local Plan. He considered it was important to bear in mind the higher status of the AONB and he referred to the current use as agricultural land and questioned whether anything further should be done to seek proposals which would accord with this current status. He was very concerned about the potential for further residential development and was of the view that consent should only be granted for this development in very exceptional circumstances. He referred to the proposed covenant to restrict future development and considered insufficient detail was available to assess whether it would be adequate and was of the view it should be made legally binding in perpetuity.

David Rose, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he was one of a team of people who had been working with Borough Planning officers in the on the proposals. The project had been a complex one but the opportunity had been taken to bring forward proposals with very high quality design principles. The history of the church had been assessed together with factors within historical mapping and these had been used to deliver proposals built on the theory of the settlement. The finished design, including careful detailing to buildings, understood the history of the setting, whilst a comprehensive consultation exercise had been undertaken and responses provided had been listened to. He was of the view that there were significant benefits to the scheme, in particular in relation to the church and its setting, which outweighed the concerns. He hoped that the solution proposed would bring an end to the long-standing uncertainty of the site.

Councillor Arnold attended and, with the consent of the Chairman, addressed the Committee. He explained that the argument that the correct status of the land was agricultural had been dismissed by both a Planning Inspector and the Secretary of State and, it was on this basis, that the applicants had come up with their proposals. He was aware that there had been full and frank discussions between the applicants and the Planning officers whereby the applicant's ideas and aspirations had been robustly challenged where appropriate. He was of the view that the consultation process with residents had been exceptionally good as a consequence of which there was much in the proposals which would be of benefit to the community. He thanked all those in the process for their diligence and was reassured that due care was being taken with the setting of the church, such that no harm would be done. He hoped the Committee members would give the scheme their blessing.

Councillor Chapman attended and, with the consent of the Chairman, addressed the Committee. He also thanked all those involved in delivering the scheme. He was passionate about the Dedham Vale and Stour Valley and the need to protect the AONB whilst acknowledging the importance of welcoming new housing where it would contribute well to its surroundings. He commended the design features of the dwellings proposed and also welcomed the affordable housing element which had been much sought after. He was further assured that the countryside around the church would be enhanced for years to come. Finally, he asked the Committee members to consider whether the specification within the proposed light pollution condition needed to be enhanced.

In response to comments raised, the Major Development and Projects Manager explained that the National Planning Policy Framework needed to be considered as a whole and it was not appropriate to rely on certain paragraphs in isolation. He confirmed that Dedham Vale and Stour Valley Masterplan had been adopted and, as such, was a material consideration in the assessment of the application. He was of the view that the proposal, including residential development could be considered exceptional and, as such, there were grounds to approve the application. The site had been the subject of development but, in its current state had been referred to as an 'eyesore' by the Planning Inspector. He considered that it would only be a proposal for residential development which would adequately deliver the much needed enhancements. He explained that the proposed condition relating to light pollution, sought compliance for any lighting feature within the development site, and had been recommended by the Environmental Protection Team. He confirmed that it would be appropriate for this condition to be amended to require a lighting strategy, if the Committee considered it necessary.

Members of the Committee referred to the very poor state of the glasshouses and their very negative impact on the surrounding landscape. The design of the dwellings were highly commendable, they had been located close to the road links and bus route and could not be considered to be over-development of the site. It was considered that the proposals would enhance the location and would be enjoyed by the local community. The affordable housing units were welcomed and assurance was sought that the allocation arrangements would ensure they were available for local people. It was also considered that the benefits of the scheme would outweigh any negative consequences, especially given the length of time that the site had been vacant.

The Major Development and Projects Manager explained that a local lettings policy would be applied to the affordable housing and that this would be included within the conditions of the planning permission. He also confirmed that a covenant would be entered into between the Council and the applicants which would restrict further development in the future and ensure there was no encroachment onto the AONB, such provisions to apply for as long as legally possible.

RESOLVED (UNANIMOUSLY) that the Head of Commercial Services be authorised to approve the planning application subject to agreement being reached regarding a detailed enhancement and biodiversity mitigation strategy for the wider site and detailed wording of an options agreement, together with an additional condition to provide for a lighting strategy and amendments to conditions as set out in the amendment sheet and then subject to the signing of the options agreement and 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 Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide for the following:

- £150,000 to address the outstanding repair issues identified in the quinquennial condition report for the Church of All Saints, Great Horkesley together with the provision of electricity/drainage to the church boundary;
- Transfer of parking area to immediate south of the Chantry to provide church of All Saints with parking to facilitate viable use of the church;
- The provision of Essex County Council Highways requested transport packs for all new residents together with improvements to the bus shelter on the A134 to the south of the site;
- An archaeological contribution of £2,200 towards maintenance of the Historic Buildings, Sires and Monuments Record;
- Essex County Council seek an educational contribution of £16,872 towards secondary education transport costs;
- Four units of affordable housing in compliance with adopted standard (20%) with cascade letting policy giving preference to local residents or those with a demonstrable link to the local area;
- Detailed enhancement strategy for the wider site and biodiversity mitigation strategy.

**394     160661 Lakelands, Phase 2, Church Lane, Stanway, Colchester**

The Committee considered an application for approval of reserved matters following outline approval 121040 at Lakelands, Phase 2, Church Lane, Stanway, Colchester. The application had been referred to the Committee because it was a major application and objections had been received. The Committee had before it a report in which all the information was set out. The Highway Authority had raised no objection, subject to a condition and revised drawings required the rewording of conditions to reflect new drawing numbers and condition 10 to be amended to provide for agreement to a management company.

RESOLVED (NINE voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report, as amended as set out above.

**395      161296 Jacks, 5 St Nicholas Street, Colchester**

The Committee considered an application for change of use to seven flats and a flexible A1/2 or A3 use, including first-floor extension, three-storey rear extension, and roof extensions at Jacks, 5 St Nicholas Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and amendment sheet in which all the information was set out.

RESOLVED (NINE voted FOR and ONE ABSTAINED) that, subject to the submission of a satisfactory scheme of vibration attenuation, in consultation with the Council's Environmental Protection Team, the Head of Commercial Services be authorised to grant planning permission, subject to the conditions set out in the report and the amendment sheet and any conditions recommended by the Environmental Protection Team, as necessary.

**396      161668 The Philip Morant School, Rembrandt Way, Colchester**

The Committee considered an application for the erection of two-storey teaching block (D1) together with an all-weather sports pitch, amended internal vehicle access route, car parking, cycle racks and associated facilities at the Philip Morant School, Rembrandt Way, Colchester. The application had been referred to the Committee because it was a major application and representations relating to material issues had been received. The Committee had before it a report and amendment sheet in which all the information was set out.

RESOLVED (NINE voted FOR and ONE ABSTAINED) that the application be approved, subject to the conditions set out in the report and the amendment sheet, also to the agreement of Sport England and the Landscape Officer with any conditions they may require, such agreement to be determined within six months from the date of the Committee meeting and, in the event that the agreement of the stakeholders is not forthcoming within that period, authority be delegated to the Head of Commercial Services to refuse the application.

**397      161912 West Stockwell Street, Colchester**

**Councillor Liddy (in respect of his Directorship of Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for replacement of windows and some external doors to flats at 1-9 (odds) Ball Alley, 2-14 (evens) John Ball Walk, 2-16 (evens) Nunns Road, 2- 8 (evens) Shortcut Road, 7-9 (cons) Walters Yard, 1-7 (cons) Wat Tyler Walk, 2-20 (evens) Stockwell and 22-28 (cons) 32, 33, 34a, 34b, 34c, 44, 44a and 45

West Stockwell Street, Colchester. The application had been referred to the Committee because it had been submitted by Colchester Borough Homes. The Committee had before it a report in which all the information was set out.

RESOLVED (NINE voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report.

**398      161543 Town and Country Lighting Ltd, 61-65 North Station Road, Colchester**

**Councillor Laws (by reason of his having expressed a prejudicial view on the application) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination.**

**Councillor Barlow (by reason of him being a resident of Causton Road) declared a non- pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the retention of existing ground floor retail and construction of a two storey block containing nine flats on an existing roof at Town and Country Lighting Ltd, 61-65 North Station Road, Colchester. The application had been referred to the Committee because it had been called in by Councillor Barlow. The Committee had before it a report and amendment sheet in which all the 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.

James Ryan, Principal Planning Officer presented the report and, together with Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations.

Dominic Waggett addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he lived in Albert Street, at the rear of the development and was concerned that work had already started, a tree in his garden had been pruned when scaffolding was being erected and questioned whether correct procedures were being followed. He expressed disappointment that the rear access to residents' gardens had been blocked. He acknowledged that the amended proposals were beneficial in comparison to the original ones but he still considered the scheme to be oppressive and would lead to a loss of light.

Alan Green addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the application had been for nine flats, however but, following consultations, this had been reduced to eight. He considered that the concerns regarding the impact on residents of Albert Street had

been addressed by the revised proposal as well as measures to preserve the original façade of the building.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. He acknowledged the concerns expressed by Mr Waggett and went on to refer to the potential precedent to be set in relation to the rest of North Station Road and whether other buildings would be the subject of applications for two storey flat developments. He asked why it had not been possible to impose a Construction Method Statement in connection with the current works. He was particularly concerned about the negative impact on parking in the area and was of the view that the provision of fewer parking spaces than that required in the parking standards on the basis of an highly sustainable location would not mean that future residents would not be owners of vehicles which would need to be parked somewhere. Being a resident of Causton Road he was aware of the considerable shortage of residents parking spaces in the area and sought the imposition of a condition providing for the sale of the flats with no parking space provision. He also referred to the request from the Highway Authority for the submission of a Transport Plan, asking why this had been considered unnecessary and sought an additional condition to ensure the retail units would be adequately marketed and not subject to subsequent applications for change to residential use.

In response to comments raised, the Principal Planning Officer explained that the applicant had submitted revised plans which residents had been consulted on and the works currently taking place were in relation to a previously approved application. He acknowledged that there would be some impact on residents from the erection of the scaffolding but considered this was within tolerable levels. He considered any loss of light from the proposals would be experienced only in the late winter months and would only be at the end of the day. The proposal was considered to be sustainable urban development and, as such, a lower parking standard had been considered acceptable and a Transport Plan unnecessary. He was also of the view that there were already a number of three storey buildings in the location, whilst existing two storey buildings tended to have pitched roofs and, accordingly, did not consider the application was likely to lead to similar applications for three storey development. He confirmed that the imposition of a Construction Method Statement was not considered appropriate given the advanced stage of the building work. He confirmed that a Transport Plan and a Construction method Statement could be required by condition if considered necessary whilst any change of use of the retail units would be subject to the submission of a formal application.

Some members of the Committee expressed concern regarding the grounds of the previously approved application whilst acknowledging the benefits which would be gained from the current proposal. Disappointment was also voiced in relation to the parking spaces being provided and the likely detrimental impact on the neighbourhood as a consequence of vehicle ownership by prospective residents.

The Principal Planning Officer explained that the Council's parking guidelines had been set by Essex County Council whilst also mentioning that statutory permitted development criteria included office developments without parking provision.

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

**399      161584 Land Adjacent to Coronilla, Little Horkesley Road, Wormingford**

The Committee considered an application for the removal/variation of condition 2 of planning permission 152553 at land adjacent to Coronilla, Little Horkesley Road, Wormingford. The application had been referred to the Committee because it had been called in by Councillor Chapman. The Committee had before it a report and amendment sheet in which all the 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.

James Ryan, Principal Planning Officer presented the report and, together with Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations.

Mark Dobson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained why he had chosen to live in Wormingford and considered that the special rural characteristics of the location had been destroyed as a consequence of the development. The house had been constructed in the wrong location and was higher than the approved plans had allowed. He was of the view that the ridge height of the house stood considerably taller than neighbouring properties and, as such, totally dominated the street scene and the dwelling had a detrimental effect on the landscape. He speculated that the plans had been deliberately drawn up incorrectly, that this was unacceptable and requested the Committee to agree to remedial action as soon as possible.

James Firth addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals were an amendment to the existing permission in order to correct alignment anomalies within the application drawings and to resolve the matter as had been advised. He explained that a full topographical survey had been commissioned to assist in correcting the anomalies which had resulted in the property being constructed two metres north of the original plan. He considered this would, in fact, provide a greater level of light to the neighbour's house at Roseville and a lower ridge height to the roof than originally envisaged whilst remaining fully compliant with relevant planning policies and guidance. In addition a landscaping scheme was being progressed which would enhance the setting even further.



Councillor Chapman attended and, with the consent of the Chairman, addressed the Committee. He was grateful to the Committee for undertaking a site visit and considered this had enabled the Councillors to fully consider all aspects of the proposals and the impact on the neighbours. He acknowledged the need for applications to be accurately measured and speculated whether topographical surveys would be particularly useful for many small scale rural applications.

In response to comments raised, the Principal Planning Officer confirmed that it was not open to the Committee to refuse the application on the grounds of incorrect drawings and, in any event, the topographical survey had provided helpful clarification. If the Committee were minded not to approve the application then a notice for demolition would need to be made.

One member of the Committee was very concerned at the negative impact upon the neighbouring property at Roseville. However, other Committee members were of the view that the development was an acceptable one and the impact upon neighbouring properties would not be significant.

The Major Development and Projects Manager confirmed that the impact of the neighbouring flank wall on the property known as Roseville had, in any event, been a factor within the original application but had not been considered sufficiently detrimental to warrant a refusal. As such, he did not consider that the current application could be considered unacceptable.

RESOLVED (SEVEN voted FOR and THREE voted AGAINST) that the application be approved subject to the conditions set out in the report.

**400      162182 6 St Monance Way, Colchester**

The Committee considered an application for a two storey front extension (a revision to the scheme granted permission under 152311) at 6 St Monance Way, Colchester. The application had been referred to the Committee because it had been called in by Councillor Chuah. The Committee had before it a report in which all the 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.

RESOLVED (NINE voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report.



# **Planning Committee**

## **Thursday, 03 November 2016**

**Attendees:** Councillor Lyn Barton (Member), Councillor Helen Chuah (Member), Councillor Pauline Hazell (Group Spokesperson), Councillor Theresa Higgins (Chairman), Councillor Brian Jarvis (Member), Councillor Cyril Liddy (Deputy Chairman), Councillor Derek Loveland (Member), Councillor Jackie Maclean (Member), Councillor Philip Oxford (Group Spokesperson), Councillor Rosalind Scott (Member)

**Substitutes:** No substitutes were recorded at the meeting

### **401 Site Visits**

Councillors Barton, Chuah, Higgins, Jarvis, Loveland and Scott attended the site visits.

### **402 Minutes**

There were no minutes for confirmation at the meeting.

### **403 162308 Magdalen Hall, Wimpole Road, Colchester**

**Councillor Barton (in respect of her membership of the Liberal Democrats Group) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor Chuah (by reason of her ownership of shares in the Magdalen Hall Company) declared a pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination.**

**Councillor Higgins (in respect of her membership of the Liberal Democrats Group) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for change of use for the rear part of the existing hall from B1 (Business) to D1 (Non-residential Institutions) at Magdalen Hall, Wimpole Road, Colchester. The application had been referred to the Committee because the application site was the local headquarters of the Liberal Democrats Group. The Committee had before it a report and amendment sheet in which all the information

was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

**404      162242 11 Tumulus Way, Colchester**

**Councillor Barton (by reason of having already formed a view on the application) declared an interest in the following item pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination.**

**Councillor Hazell (by reason of having already formed a view on the application) declared an interest in the following item pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination after she had made representations as a visiting ward councillor.**

**Councillor Liddy (in respect of his Directorship of Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the movement of the existing fence line to the site boundary line and the laying of an extended block paved driveway on the existing driveway and part of the side garden at 11 Tumulus Way, Colchester. The application had been referred to the Committee because it had been called in by Councillor Chaplin and the applicant was an employee of Colchester Borough Homes. The Committee had before it a report and amendment sheet in which all the 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, Planning Officer, presented the report and assisted the Committee in its deliberations.

Matt Armstrong addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the application was important for he and his wife as it would mean that they would have an opportunity to enjoy the property to its full potential. Moving the line of the fence would increase the size of the garden by 20% and as such would be of benefit to them as they enjoyed gardening and had a dog. They had lived in the house for eight years and intended to stay on a long term basis. The land outside the boundary fell within the deeds of the property but was currently not usable by them. Nearby residents did make use of the land in order to manoeuvre their vehicles but he was of the view that they had sufficient parking space within their own curtilage, having recently paved the area to the front of their property. He considered a close boarded fence would not negatively impact

the neighbours, in fact he considered the visual impact would be improved and there would be no loss of light as a direct consequence.

Councillor Chaplin attended and, with the consent of the Chairman, addressed the Committee. She explained that she had called in the application so the Committee had an opportunity to consider the views of the neighbours. She explained the neighbours assertion that they needed to use the grassed area adjoining their frontage in order to turn their vehicles and they were also of the opinion that they should be permitted to retain their open view. They considered the application would be a loss of amenity and objected to the erection of a fence close to their lounge window.

Councillor Hazell attended and, with the consent of the Chairman, addressed the Committee. She was of the view that the application did not transgress any planning policies. She was confident in supporting the applicant as there would be no material harm to the amenity or privacy of the neighbours, no diminution of daylight and no negative impact. She could not understand the views expressed by the neighbours as she couldn't see why the removal of the grassed area would impact upon them in any way. She considered matters of highway safety were concerns for all road users and, as such, it was the responsibility of all to ensure that vehicle movements were undertaken appropriately with due regard for other road users. She was also aware that there had been no reports of traffic accidents in the area whilst the applicant could not be held responsible for cars parked on the highway by other road users. The neighbouring residents had recently paved the front garden of their property to provide additional parking space and, as such, there was no need for them to transgress to the grassed area adjacent which was, in any event, causing detriment to the applicant.

In response to comments raised, the Planning Officer confirmed that the application would not infringe on access or affect neighbouring parking spaces. In terms of amenity, the line of the fence would move two metres closer to the neighbour's property but as the height of the fence was 1.8 metres, the loss of light would be minimal and there would be no overbearing impact.

Members of the Committee were of the view that the application accorded with all necessary planning policies.

RESOLVED (UNANIMOUS) that the application be approved subject to the conditions set out in the report.

#### **405     162360 32 Dyers Road, Stanway, Colchester**

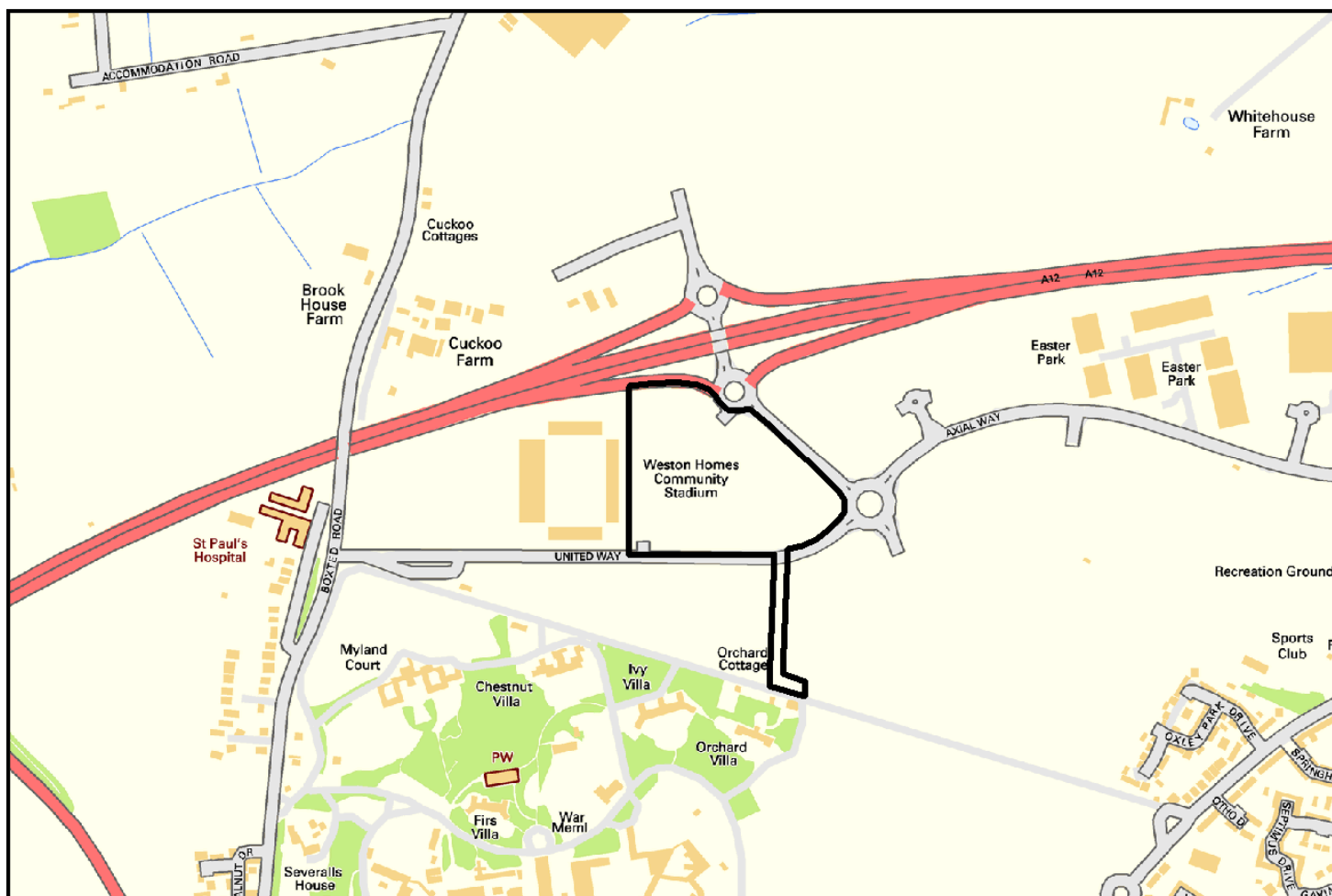
The Committee considered an application for a two storey front extension and part single storey rear extension at 32 Dyers Way, Stanway, Colchester. The application had been referred to the Committee because the agent worked for the Council on a consultancy basis. The Committee had before it a report in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

**406      162372 64 Kingsland Road, West Mersea, Colchester**

The Committee considered an application for the variation of condition 2 of planning permission 151820, to permit amended elevations at 64 Kingsland Road, West Mersea, Colchester. The application had been referred to the Committee because the agent works for the Council on a consultancy basis. The Committee had before it a report in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.



**Application No:** 160623

**Location:** Colchester Northern Gateway, Land at Cuckoo Farm West, off United Way & Via Urbis Romanae, Colchester, Essex

**Scale (approx):** NOT TO SCALE

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## Committee Report

Agenda item

7

To the meeting of **Planning Committee**  
on: **17<sup>th</sup> November 2016**  
Report of: **Head of Professional/Commercial Services**  
Title: **Planning Applications**

**7.1 Case Officer: Bradly Heffer Due Date: 24/11/2016**

**MAJOR**

**Site:** Land at Cuckoo Farm West, off United Way & Via Urbis Romanae, Colchester, Essex

**Application No:** 160623

**Date Received:** 16 March 2016

**Agent:** Mr Paul Belton, Carter Jonas (incorporating Januarys)

**Applicant:** Mr Chris Goldsmith, Turnstone Colchester Ltd

**Development:** Reserved matters application following outline planning permission O/COL/01/1622 for the erection of Use Class A3 restaurant units (10,400sq m), erection of Use Class C1 hotel (80 beds), provision of a landscaped piazza and associated landscaped areas, erection of an ancillary multi-storey car park and the provision of separate drop off/parking areas.

**Ward:** Mile End

**Summary of Recommendation:** Conditional Approval

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

- 1.1 This application is referred to the Planning Committee because it is a major reserved matters application that has given rise to material planning objections and which is recommended for permission, subject to the conditions as set out in this report.



## **2.0 Synopsis**

- 2.1 The key issues explored below are the fact that the site to which this application relates forms part of a larger area of land which has the benefit of outline planning permission. This proposal seeks approval for reserved matters that were not proposed at the time of the outline planning application.
- 2.2 Notwithstanding the objections to the proposal that have been received it is considered that the reserved matters application submission is acceptable in planning terms and approval is recommended to Members.

## **3.0 Site Description and Context**

- 3.1 The application site for this reserved matters proposal is an area of undeveloped land (4.54 hectares) the main part of which is bounded to the east by the third phase of the Northern Approach Road (NAR) – identified as Via Urbis Romanae, and to the south by United Way, which links the NAR with Boxted Road. A linear section of the application site extends from United Way to Tower Lane to the south. The site falls within a larger area of land (20.2 hectares) that was covered by the outline planning permission granted under O/COL/01/1622.
- 3.2 Generally the application site is level, but graded land is found where the site abuts the adjacent roads which are set at a higher level. The majority of the site is grassed, having been used previously for agricultural purposes. The larger part of the site also contains an established hedgerow that runs in a north-east/south-west alignment, augmented by established deciduous trees. The southern linear part of the site runs across land that appears to have been used for agricultural purposes in the recent past.
- 3.3 Immediately to the west of the northern part of the application site is the Weston Homes Community Stadium and associated land uses including a car park. To the north is the A12 trunk road and associated junction with the NAR (junction 28) – and to the north of these is a petrol filling station, restaurant/takeaway building and the Colchester Park and Ride facility. To the east of the site, on the opposite (east) side of the NAR is undeveloped land also allocated as Strategic Employment Zone land in the adopted Local Plan. To the south of the site is Tower Lane – a public right of way incorporating a bridleway – and to the south of this is the site of the former Severalls Hospital which has the benefit of outline planning permission for a mixed use redevelopment (including detailed planning permission for residential development).
- 3.4 The application site forms part of an extensive area to the north of the town which is identified as the Colchester Northern Gateway. Within the adopted Local Plan the application site is located in the North Colchester Strategic Employment Zone and a Regeneration Area as well as forming part of the defined Northern Growth Area.

## 4.0 Description of the Proposal

- 4.1 Under outline planning application ref. O/COL/01/1622 planning permission was granted for the following development:

‘Outline application for community stadium, health and fitness centre, hotel, pub/restaurant, A3 units, two storey business unit, employment use, associated parking, transport interchange facilities and landscaping.’

- 4.2 Among the conditions attached to the grant of planning permission by the Council was a condition (no.5) that specifically limited the amount of floor space that could be provided on the site as follows:

‘The development shall not exceed the maximum size, for buildings within the specified Use Class of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to these Classes in any statutory instrument revoking or re-enacting that Order), for each class shown below:-

### Use Class Maximum Size

- a) Community Stadium 10 000 seats
- b) Class C1 (Hotel) 80 bedrooms
- c) Class D2 (Health & Fitness Centre) 9 290 sq. metres
- d) Class A3 (Restaurant, Pub, Cafe, Wine Bar) 10 400 sq. metres
- e) Class B1 (Business Unit) 9 600 sq. metres

Reason: To ensure that the A12 trunk road will continue to fulfil its purpose as part of a national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980, and for the safety of traffic on that road. The proposed improvement to the A12 trunk road has been assessed on the basis of a total floor areas and building sizes shown above. An increase in the total might invalidate the assessment.’

- 4.3 The permission also allowed for the submission of details of the first phase of development within 4 years of the date of the permission, and details of further phases within a 10 year period. The first phase of reserved matters approval was for the Community Stadium. As the outline planning permission was granted via decision notice dated 21<sup>st</sup> March 2006 this, in effect, enabled the submission of further reserved matters applications until 20<sup>th</sup> March 2016. This current application was validated by the Council on 16<sup>th</sup> March 2016 and seeks reserved matters approval for the following development:

‘Reserved matters application following outline planning permission O/COL/01/1622 for the erection of Use Class A3 restaurant units (10,400sq m), erection of Use Class C1 hotel (80 beds), provision of a landscaped piazza and associated landscaped areas, erection of an ancillary multi-storey car park and the provision of separate drop off/parking areas.’

- 4.4 The submission therefore seeks reserved matters approval for the quantum of A3 (restaurant) and C1 (hotel) uses approved at the outline application stage, together with ancillary parking provision and a landscaped open space area that would serve the development. The proposed development would take the form of blocks of built form that would be located on the northern section of the application site. Of these, the eastern-most building would contain the proposed hotel accommodation, and adjacent to this a larger building would contain some of the proposed A3 floor space. An extensive landscaped open space area would be located between this building and the remainder of the A3 buildings located to the west of the site. The multi-storey car park to serve the proposed development would be located adjacent to the western group of A3 units. Members will note that a rectangular space is created by the arrangement of the western A3 units and the adjacent car park building. It is proposed that this space would contain a cinema building, but it is important to emphasise that the proposed cinema is not an element for which planning permission is being sought under this particular planning application. Rather, the cinema element is being applied for as part of a separate, full planning application for development on the same site as this application and which has the reference 160825. This planning application will be presented for determination by Members as a separate item.
- 4.5 The design of the proposed buildings follows a contemporary architectural approach, whereby curved forms and roofs are used, and the palette of materials includes metal panels, timber, glazed screens etc. The following extracts are taken from the Design and Access Statement in relation to the design approach taken in the case of each of the proposed buildings:

#### Hotel

‘...The form of the Hotel is designed to rise out of the elevated verge between the Via Urbis Romanae and the site rising up to its full five storey scale on United Way – the orientation of the building means that its form is gradually revealed as visitors move south from the junction of the A12...The expression of the form is amplified in scale by the positioning of a reflecting pond to its front mirroring the profile as it rises...’

#### Leisure Curve

‘...Similar to that of the hotel, the Leisure Curve form rises out of the elevated verge at its northern end revealing its full scale within the central piazza before dipping slightly at the southern end onto United Way...’

*Officer comment: the use of the term ‘Leisure Curve’ is appropriate here as a way of identifying the building. The phrase itself, however, refers to the range of uses that are proposed under the separate full application – including predominantly D2 uses.*

#### Inline Units

‘...The form of the inline units uses a subtler, undulating roofline to draw the line of movement into the space...The profile of the southern inline block is designed to resolve two edge conditions. In order to present a well-defined active frontage to United Way the curve of the roofline begins at the first apex drawing the eye along a strong southern eaves elevation...’

## Car Park

‘...The decked car park has a low profile, the maximum height it reaches along the south and west elevations is 7.5m (including parapet) and therefore is largely screened from the public realm spaces by the other built forms...Where the north and south elevations are revealed as one moves closer to the site, the horizontal form will be broken down by a layering of façade cladding, greening to the elevation and trees and landform in front...’

- 4.6 Members are advised that the original outline planning application submission that established outline planning permission for the development was accompanied by an Environmental Statement. Given the age of this outline planning application (approved in 2006) it was the case that much of the information in that Statement was out of date. As part of this reserved matters submission an updated Environmental Statement has been included, together with a range of supporting documents including a Planning Statement. These are available to view on the Council’s website. The following extracts are taken from the Planning Statement for Members’ information:

‘The proposal does not include any D2 space. This is because legal advice has been obtained which confirms that there is probably no scope to include any further D2 space within the development via the reserved matters route. The description of development on the outline planning permission is specific that the permitted D2 use within the development is for a ‘health and fitness centre’. A health and fitness centre has already been granted RMA [reserved matters approval] and is in the course of construction (David Lloyd). The wording in the outline permission description implies that there will be one health and fitness centre so it is not possible to promote a further one and be in compliance with the outline permission.

The applicant is seeking to deliver a leisure/restaurant led scheme on the RMA application site. The ultimate scheme therefore includes a multiplex cinema and other active leisure uses. As these elements cannot be secured via the outline permission supplemented by this reserved matters application, a separate, full planning application is being submitted for the entire development which it is ultimately hoped to deliver but which, importantly, will include the proposed cinema and additional active leisure uses provided within internally reconfigured buildings that are all proposed as entirely A3 uses within this RMA and which will result in less A3 floor area than currently proposed...The approach being adopted results in the reserved matters submission leaving a ‘void’ within the set of buildings at the western end of the proposed pizza (sic) into which it is proposed the cinema building being pursued under a full application would be ‘slotted’ in...’ *(Officer note: the David Lloyd development referred to above has now been completed and is open to the public).*

- 4.7 In summary, therefore, this current application seeks to secure elements of development already permitted at the outline stage. A separate full planning application has been submitted that proposes a cinema on this site, together with a variation in the mix of uses proposed, and this application will also be presented to Committee for determination.

## 5.0 Land Use Allocation

- 5.1 Within the adopted Local Development Framework the site for this proposal is located within a Strategic Employment Zone which itself forms part of the North Colchester Growth Area.
- 5.2 Within the Local Development Framework Adopted Site Allocations document the defined Strategic Employment Zone is subject to a specific policy - SA NGA 3 Employment Uses in the North Growth Area. This policy states:

Within the Strategic Employment Zone allocated on the Proposals Map and falling partly outside the Growth Area boundary, the following uses will be considered appropriate;

- a) Research and Development, Studios, Laboratories, Hi-Tech (B1b), Light Industrial (B1c), General Industrial (B2), Storage and Warehousing (B8). Any such development will be restricted by way of condition to prevent change of use to B1a.
- b) Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans
- c) Indoor sport, exhibition and conferencing centres
- d) A limited amount of retailing only where this is ancillary to another main use in Class B1b, B1c, B2 or B8
- e) Services and facilities to meet the needs of employees in the Employment Zone
- f) Business uses (B1, B1a) only where already consented
- g) At Cuckoo Farm planning permission exists for a range of uses including an hotel (C1), a public house/restaurant (A3/4), a health and fitness centre (D2) and business units (B1) (*officer emphasis*).**

## 6.0 Relevant Planning History

- 6.1 As mentioned elsewhere in this report, the outline planning permission to which this reserved matters proposal relates was granted under planning application reference O/COL/01/1622. This outline planning application was one of a number of proposals submitted at the same time and which related to the Colchester Northern Gateway area. These other applications are listed below for Members' information:

- O/COL/01/1623  
Outline application for employment uses
- O/COL/01/1624  
Residential development (approximately 1500 dwellings including conversion of some retained hospital buildings) mixed uses, including community facilities, employment and retail, public open space, landscaping, new highways, transport improvements, reserved route of the Northern Approach Road Phase 3 (NAR3), and associated development.
- O/COL/01/1625  
Outline application for replacement roadside services to include petrol filling station comprising associated Class A1 retail shop, refuelling facilities, car wash and Class A3 roadside restaurant and lorry park.

- F/COL/01/1626  
Detailed application for the construction of the Northern Approaches Road Phase 3 (NAR3) including a new grade separated junction with the A12 and east/west link road to Severalls Lane plus all ancillary highway works (including segregated bus corridor)

A subsequent planning application was submitted for an identical development as proposed under O/COL/01/1622 as follows:

- O/COL/03/0998  
Outline application for community stadium, health and fitness centre, hotel, pub/restaurant, A3 units, employment uses including 2 storey business unit, associated parking, park and ride, transport interchange facilities and landscaping.

This application was determined at the same time as the other applications mentioned above.

6.2 Subsequent applications that relate to the site covered by application ref. O/COL/01/1622 are included below:

- F/COL/06/1727  
'Section 73 application to vary Conditions 9 and 10 of application O/COL/01/1622 which relates to the need for the implementation of a new junction with the A12 trunk road and Northern Approach Road Phase 3 in advance of commencement or occupation of any of the development elements granted by that consent (i.e. the football stadium in this instance).
- F/COL/07/0294  
Variation of condition 47 of application no. O/COL/01/1622
- 071539  
New 10 000 seat capacity community stadium with associated facilities and 2no. 5-a-side football pitches, plus associated landscaping, roadworks and car parking.
- 081644  
Variation of condition 37 attached to O/COL/01/1622 to allow use of the stadium's internal concourses for the holding of a monthly farmers' market on the first Thursday and an annual Christmas fayre and the variation of condition.
- 151216  
Application for approval of reserved matters following outline approval (O/COL/01/1622) (layout, scale, appearance, landscaping, access) for the construction of a racquets, health and fitness complex with associated parking, access and ancillary facilities.
- 152370  
Application for removal or variation of condition 27 following grant of planning permission (O/COL/01/1622). Resubmission of 151682.

## **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 also be taken into account in planning decisions and sets out how the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE3 - Employment Zones
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 – People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP2 Health Assessments
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP10 Tourism, Leisure and Culture
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

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

- SA NGA1 Appropriate Uses within the North Growth Area
- SA NGA3 Employment Uses in the North Growth Area
- SA NGA4 Transport Measures in North Colchester Area

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

Community Facilities  
Vehicle Parking Standards  
Sustainable Construction  
Open Space, Sport and Recreation  
External Materials in New Developments  
Cycling Delivery Strategy  
Sustainable Urban Drainage Systems Design Guide  
North Colchester Growth Area Supplementary Planning Document

Myland Village Design Statement

As well as the above documents the Myland and Braiswick Neighbourhood Plan is due to be adopted by the Council at a forthcoming meeting.

## **8.0 Consultations**

- 8.1 The following comment has been received from the Council's Spatial Policy Team

'The reserved matters application is associated with a partially implemented planning permission originally granted in 2006 providing for a community stadium along with a range of leisure and business uses. The construction of the stadium has maintained the validity of the planning permission as a basis for further development for a 10 year period. The reserved matters application has been submitted within this 10 year period.

The Council as landowner is now working with the developers Turnstone to bring forward unimplemented elements of the permission. The full development envisaged includes a multiplex cinema and other active leisure uses, but as those elements cannot be secured via the outline permission supplemented by the reserved matters application, a separate full planning application has been submitted for this development which will need to be assessed for its planning policy implications. The current reserved matters application accordingly only covers those elements of the 2006 approval that are explicitly covered by that permission.

As the application is for reserved matters rather than planning permission, the issue of the principle of development is not in question. This point is reinforced by Site Allocations Policy NGA3 (Employment Uses in the North Growth Area) which lists appropriate uses for the area, and in point g) states 'At Cuckoo Farm planning permission exists for a range of uses including an hotel (C1), a public house/restaurant (A3/4), a health and fitness centre (D2) and business units (B1).

The applicants have submitted a Planning Statement in support of their application which notes the lack of relevance of the strategic policy framework given that the principle of use has been established. Planning policy concurs with this view and does not wish to raise any objections to the application.'

- 8.2 Essex County Council as Highway Authority has not raised any objections to date but its final comments are awaited and will be reported verbally.



- 8.3 Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. Additionally it is identified that the proposal would take place in an area that could benefit from enhanced green infrastructure provision and Natural England would encourage the incorporation of provision into the development. Also, the Council's attention is drawn to standing advice in relation to protected species, together with other advisory comments.
- 8.4 Anglian Water Authority has requested the inclusion of conditions on a grant of planning permission.
- 8.5 The Environment Agency has confirmed it has no comment to make.
- 8.6 When initially consulted on the application submission Essex County Council as SUDS authority raised an objection to the proposal on the basis of inadequate information as follows:
- ‘...The Drainage Strategy submitted with this application does not comply with the requirements set out in Essex County Council's Detailed Drainage Checklist. Therefore the submitted drainage strategy does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development...’
- Subsequent submission of additional information has led that authority to revise its comment to one of no objection subject to the imposition of conditions.
- 8.7 Environmental Control has confirmed no objection to the proposal subject to the imposition of conditions on a grant of planning permission.
- 8.8 Highways England, as the authority with responsibility for the trunk road network, has no objection to the submitted application. Furthermore it does not require any conditions to be imposed on a grant of permission.
- 8.9 The Contaminated Land Officer would require the imposition of conditions on a permission.
- 8.10 Historic England responded to advise that it did not have any comments to make on the proposal.
- 8.11 The Council's arboriculturalist originally expressed some concerns about the potential impact of the development (specifically the curved building adjacent to the hotel) on the trees that are proposed to be retained on the site. The design and position of the identified building has since been amended. The arboriculturalist's latest comments will be reported at the meeting.
- 8.12 The Landscape Officer originally requested additional information to demonstrate the impact of the proposed development on the landscape – including additional viewpoints. Following the submission of this information the officer has confirmed no objection to the proposal subject to the imposition of conditions.

- 8.13 The Archaeological Officer originally requested a condition requiring the submission of a written scheme of archaeological investigation, prior to the commencement of development on the site. However, during the period of consideration of this application further investigative work has taken place on site via trenching and geophysical examination. The works have not revealed any archaeology of note. On the basis of the findings of this additional work the Officer has advised that a condition is no longer considered necessary.

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

## **9.0 Parish Council Response**

- 9.1 The following comment has been received from Myland Community Council:

'MCC has concerns regarding the decision to proceed with this planning application without inclusion of the cinema complex. We do not feel that the site without the cinema will attract the required number of visitors to make it viable. We take the view that this application should have been stayed until the cinema could be included. MCC have concerns over the proposed entrance slip road to the car park. On busy days this has the potential to cause gridlock on what is now a major gateway to Colchester. MCC is also puzzled as to why the Scoping Report for this application is separately listed as 160499. There are references in that report under transport that do not appear to make sense. It refers to this project alleviating traffic flows and environmental concerns regarding Mile End Road, Mill Road, Turner Road. We are at a loss to see how this can be stated or verified. Whilst MCC has overall support for the project because of these concerns we must confine our response to 'comment' only.'

*Officer comment: Following receipt of this comment your officer contacted the Community Council to advise that the proposed cinema would be the subject of a separate application (previously referred to in this report). The Council has been consulted on this application in the normal way. Furthermore the concerns expressed about the potential traffic impacts were relayed to the Highway Authority and the applicant's agent. Members will note the comments from the Highway Authority and Highways England in this regard.*

## **10.0 Representations**

- 10.1 As a result of local notification and advertising one objection has been received to the proposal - received on behalf of the Colchester Bus Users Group (C-BUS); the comments of which are summarised below:

- The application submission fails to address national and local planning policy with regard to transport. A large percentage of cinema users are under 25 and have limited car access. The site would be largely inaccessible to these users.
- The proposal is in conflict with policy and a positive recommendation would be open to legal challenge.
- The pre-application consultation process was flawed.
- The site is not a sustainable location and Colchester is already too car-dependent.

- The transport considerations are different from those that were relevant in 2006 (when the outline planning application was approved).
- The use of the Park and Ride facility will not be relevant given that the proposed uses will operate at different times. It is unlikely that Park and Ride buses would serve the development.

*Officer comment: Members are advised that the comments forwarded by C-BUS also relate to the full application submission that includes the cinema proposal. This current proposal seeks reserved matters approval for elements of development that already benefit from outline planning permission. Additionally the application is accompanied by an updated Transport Assessment as part of the submitted Environmental Statement.*

10.2 An objection has also been received on behalf of Tollgate Partnership. The following points of objection are made:

- Since the grant of outline planning permission the site has been allocated as a Strategic Employment Zone and is the highest rated employment site in Colchester
- The submitted scheme forms part of a wider scheme that includes D2 leisure uses – as evidenced by the full application submission
- The Environmental Statement submitted with the application does not take account of the wider scheme
- The impact of the car parking provision on the wider road network cannot be properly quantified in this reserved matters application
- There is no 'residual' D2 floor space that can be used to justify additional floorspace
- The applicant should be asked to withdraw the current application and the full application should be assessed on its merits and against current planning policy.

*The following officer comments are made in response to the points raised:*

- *It is acknowledged that the site forms part of an overall area that has an allocation as a Strategic Employment Zone in the adopted Local Plan. Nevertheless the specific area policy for the site (SA NGA3 – Employment Uses in the North Growth Area) recognises the uses established under the outline application O/COL/01/1622 as being appropriate for this site – criterion (g) refers*
- *The report to Members identifies that the application site is also subject to a planning application that proposes a different mix of uses together with the provision of a cinema. This is a separate proposal that would have to be considered on its own merits*
- *This point is noted and following the initial submission of this application the applicant was advised that the Environmental Statement accompanying the submission needed to be updated to reflect the impacts that would arise from the full application submission. The Statement has been amended accordingly.*
- *As part of the application submission a traffic impact assessment has been submitted that deals with the traffic impacts of the development.*
- *This reserved matters application does not propose additional floorspace above that established at the outline planning permission stage.*

- *This submission of details following the grant of outline planning permission is a valid application, submitted within the permitted timescale established at the outline application stage.*

10.3 Ward Councillor Goss has made the following general points with regard to this proposal:

1. If the application is recommended for approval it should be heard before the Planning Committee.
2. The proposal must ensure that ample bus and cycling provision is made, including the provision of cycle paths and safe cycle storage.
3. The Park and Ride Service should call at the development as should other bus services in the area, and bus stops and shelters provided.

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

## **11.0 Parking Provision**

11.1 The application submission advises that the proposed development would be served by 750 spaces in the proposed multi-storey car park. It is noted that the adopted parking standards of the Council would require the following *maximum* provision in relation to the proposed uses:

- C1 Hotel - 1 space per bedroom which would equate to a *maximum* provision of 80no. spaces
- A3 (Restaurant) – 1 space per 5 square metres gross floor space which would equate to a *maximum* provision of 2 080 spaces.

11.2 Members should also note that the amount of spaces proposed would be the same for the development scheme proposed under the full application (that includes a cinema together with a range of D2 uses in lieu of a proportion of the A3 floor space that is proposed under this scheme). The supporting documentation for the full application includes a Traffic Assessment, which itself includes an assessment of parking provision. This indicates that the proposed level of parking is acceptable.

## **12.0 Open Space Provisions**

12.1 There is no specific open space requirement for the type of development that is shown under this reserved matters proposal. That said, Members will note that a significant area of publicly-accessible open space is proposed as part of the submitted scheme. The responsibility for maintenance of this space would remain with the applicant – rather than being transferred to the Council.

## **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. It should be noted that the issue of impacts of the proposed development on air quality is an element that was considered in the Environmental Statement submitted as part of the planning application. Furthermore this has not given rise to concerns from the Environmental Control team.

## **14.0 Development Team and Planning Obligations**

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was agreed by the Team that as this proposal is an application to approve reserved matters following the grant of outline planning permission, and as an overarching S106 agreement was secured as part of the approval of the various suite of applications of which O/COL/01/1622 formed part, Planning Obligations should not be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### **Introduction**

- 15.1 This proposal is a reserved matters submission that seeks approval for details of development. The previous approval of the outline planning application ref. O/COL/01/1622 established the acceptability of the development on this site. At the time of the outline approval all matters of detail were reserved for future consideration. Members will note that subsequent reserved matters proposals on the overall site covered by the outline application have been submitted – including those for the stadium and also a health and fitness centre. Members should also note that the time period for the submission of reserved matters applications has now expired – the cut-off date being 21 March 2016. This current submission was made prior to the identified date, when the outline application was still extant and the application is therefore valid.
- 15.2 In terms of providing context for this application submission, Members are advised that the Applicant’s ultimate aim is to create a leisure/restaurant led scheme on the application site – including the provision of a multiplex cinema and other leisure uses. The full application has been submitted to seek planning permission for this development. The following explanation has been included in the Planning Statement accompanying the planning application:

‘...The applicant is seeking to deliver a leisure / restaurant led scheme on the RMA (Reserved Matters Application) site. The ultimate scheme therefore includes a multiplex cinema and other active leisure uses. As these elements cannot be secured via the outline permission supplemented by this reserved matters application, a separate, full application is being submitted for the entire development which it is ultimately hoped to deliver but which, importantly, will include the proposed cinema and additional active leisure uses provided within internally reconfigured buildings that are all proposed as entirely A3 uses within this RMA, and which will result in less A3 floor area than currently proposed...’

### **Policy**

- 15.3 Members will be aware that as this is a reserved matters submission the acceptability in principle of the development proposed is not an issue to be considered. Nevertheless, Members are advised that within the adopted Local Plan a specific policy relates to this part of the Colchester Northern Gateway site. Site allocation policy SA NGA3 states, inter alia, that ‘Within the Strategic Employment Zone allocated on the Proposals Map and falling outside the Growth Area boundary, the following uses will be considered appropriate...At Cuckoo Farm planning permission

exists for a range of uses including an hotel (C1), a public house/restaurant (A3/4), a health and fitness centre (D2) and business units (B1)...'

- 15.4 Members will note the policy recognition of the terms of the outline planning application. This reserved matters proposal includes details of the hotel and A3 units which is considered to be in accordance with the terms of the policy. In reaching this conclusion it is the case that the description of proposal refers specifically to a public/house restaurant in the singular. However the terms of the relevant floorspace restriction condition (included previously in this report) the A3 element of the approval covers restaurant, pub, café and wine bar uses. At the time the outline planning permission was granted the Use Classes Order included all these uses within the same use class. The Order was subsequently amended in 2005 when separate A3 (Food and Drink), A4 (Drinking Establishments) and A5 (Hot Food Takeaways) use classes were established.

### **Design and Layout**

- 15.5 The location of this site at a 'gateway' to the town, requires a development of appropriate presence and quality in order to enhance the overall character of the area and ensure its attractiveness as a destination, both locally and regionally. This is reflected in the relevant Core Strategy policy UR2 – Built Design and Character which states the Council's aim to secure high quality and inclusive design in all developments. Specifically the following statement is made in the policy '...High-quality design should also create well-integrated places that are usable, accessible, durable and adaptable. Creative design will be encouraged to inject fresh visual interest into the public realm and to showcase innovative sustainable construction methods...'
- 15.6 Members will note that the architectural approach taken with the submitted scheme follows a contemporary character. In the context of the surroundings it is considered that this approach is appropriate. Firstly because the surrounding form of development follows, generally, a contemporary approach (for example the Community Stadium, David Lloyd Health and Fitness Centre, commercial development along Axial Way to the east and the restaurant facility to the north of the A.12 trunk road). Secondly, because the use of this type of architecture, within an extensive green 'parkland' setting has sufficient drama and presence. Elements such as curved forms and roofs give the buildings an 'organic' appearance. Furthermore the provision of a high-quality public realm, as part of a bespoke landscaping approach, would further augment the overall visual value of the scheme as a development proposal in this location.
- 15.7 Members will note that the position of buildings is such that important spaces such as United Way and also Via Urbis Romanae are directly addressed by built form. Additionally the proposed open space area in the centre of the development is directly addressed by built form of substantial scale. Given the overall size of the open space area it is considered that the proposed built form provides sufficient 'enclosure', to ensure the space does not feel amorphous for users
- 15.8 Since the initial submission of this application further discussions have taken place with the applicant in order to further improve the design and appearance of the proposed development. Changes to the proposal that have been secured include variation to the design of the hotel in order to increase the curvature of the roof of the building, bringing it closer to the United Way public realm. Additionally the building

adjacent to the hotel has been moved closer to the hotel. This has the dual benefit of reducing its impact on a tree to be retained and also lessening the amount of space afforded to the service access between this building and the hotel. The design of the southern end of this building has also been amended to ensure that it relates better to the United Way frontage.

- 15.9 Other minor changes that have been secured include the use of muted colour tones for the finishes of the buildings in lieu of the primary colour palette that was originally proposed. This will have the effect of ensuring that the overall appearance of the development is more sensitive in the landscape.

### **Impacts on Neighbouring Properties**

- 15.10 The nearest existing development to the site for this proposal is the Community Stadium – located immediately to the west of the site – and the David Lloyd Health and Fitness Centre which is located immediately to the south of the main part of the site, and adjacent to the proposed footpath and cycleway link between United Way and Tower Lane. As a planning judgement it is considered that the proposed development would not have a deleterious impact on the amenity of these existing developments – not least due to their shared commercial nature. In terms of the nearest residential development, this is located along Boxted Road to the west. Members will also be aware that significant residential development is located to the south east of the site – the nearest of which are the dwellings located at Oxley Parker Drive. In both cases it is considered that the relative remoteness of the development would mean that the amenity of the occupiers of these dwellings would not be unacceptably impaired by the proposed development. The future development of the former Severalls development to the south of the site will bring residential development nearer to the application site. Nevertheless it is not anticipated that the proposed development would have a detrimental impact on the amenity of the future occupiers of these dwellings. Again, the site is relatively remote and the Severalls site benefits from significant tree planting that would assist in filtering views. Additionally, hours of operation for uses that were imposed under the outline application (and which would apply to this reserved matters proposal) would assist in protecting the amenity of local residents. For Members' information the hours of operation secured under the outline planning permission are as follows:

*'No customers shall enter any Class A3 or A5 premises before 1000 hours on any day; no customers shall remain on the premises after 2300 hours on any day nor shall any food or drink be provided to customers off the premises after these times except with the prior written consent of the Local Planning Authority.'*

*Reason: To protect the amenity of the locality.'*

### **Amenity Provisions**

- 15.11 Due to the nature of the development there is no provision of private amenity as such. The key public element that would be secured as part of the proposal would be the extensive area of open space located at the centre of the proposed development. As part of the overall development concept the open space would define the character of space between built forms. The treatment of this space is therefore of fundamental importance as it has to have attractiveness as a facility, in which visitors would want to spend time.

- 15.12 The proposed open space consists of a variety of soft and hard landscape treatments that would include waterbodies, sculptures and street furniture that would also make an aesthetic contribution. The following extracts are taken from the Landscape Strategy that forms part of the application submission:

‘...Soft landscaping will dominate the space, consisting of grassed landscape mounds and hollows, forming informal play areas and serving as a water storage area at times of heavy rainfall. Structure planting will provide a sense of scale to the space and form a microclimate. Seasonal variation in the planting will provide year round interest...The tree planting strategy is divided into five categories: avenue trees, street trees, waterside trees, buffer trees and ornamental trees...The aim is to plant 169 new trees that will complement the retained tree structure, proposed development, hierarchy of spaces and individual character...the furniture strategy seeks to reinforce the unique image of Colchester Northern Gateway and be robust, monolithic and fun in character. The furniture will articulate the brick, timber, metal palette of the buildings and hard landscape and create a contemporary look for the scheme...Public art strategy will form a large part of the public realm, providing a series of interactive pieces that encourage the public to linger, sharing the space with others and increasing a sense of community. Other pieces will provide links through the site to aid pedestrian legibility and orientation. The emerging art strategy aims to include opportunities for an open call to all artists to create artworks inspired by Colchester’s past, present and future for the site. Elements will include interactive art pieces and water fountains, playful benches enabling small children to play on. The landscape will also accommodate some of the internal activities externally, for example adventure golf or bouldering could spill outside...’

- 15.13 As well as the main landscaped open space to the north of the site, the submitted reserved matters includes details of the proposed footpath and cycleway link between the main (northern) part of the site and Tower Lane to the south. This would consist of a shared cycle and pedestrian ‘meandering’ route set amidst landscaping. The Landscape Strategy document comments on this overall space as follows:

‘...The new sinuous cycle and pedestrian path is an off-road route for users that provides a link to the Northern site, Severalls, the stadium as well as residential communities locally. To help enhance the existing ecology, the route is punctuated by patterned planting of grass, wildflowers and wild shrub species to create a habitat that will increase biodiversity in the area...The mass planting of trees to the new cycle/pedestrian path has been created to emulate the woodland effect of Severalls Hospital...’

- 15.14 The provision of this feature would be a practical feature to encourage non-car based trips to the development. This is particularly important bearing in mind that the redevelopment of the Severalls site for *inter alia* residential purposes includes the provision of a link to Tower Lane.



## Highway Issues

- 15.15 The impact of traffic arising from the proposed development was a factor considered at the time of the outline planning application. That said, the information that supported the outline application (including the Environmental Statement) was produced over a decade ago and therefore it is the case that it required updating as appropriate in order to reflect the current situation, not least to enable the Council to base any decision on a robust information base.
- 15.16 In the case of the impacts of the development on the highway network, this has been considered through the provision of a revised Traffic Assessment, which also factors in the range of developments that are proposed under the full application that has also been submitted to the Council. Members are advised that following the submission of the application the detail of the traffic assessment report was reconsidered and an amended report produced. This amended report has been considered by the Highway Authority and it has been confirmed that the reserved matters proposal would not create adverse highway impact issues.

## 16.0 Conclusion

- 16.1 This reserved matters application submission seeks the Council's approval for details of development for which the principle was established under outline planning application approval ref. O/COL/01/1622. Through the approval of this application the Council has formally accepted that a community stadium, health and fitness centre, hotel, pub/restaurant, A3 units, two storey business unit, employment use, associated parking, transport interchange facilities and landscaping can be provided on the area of land that is covered by the outline planning permission. Members will also be aware that some of the elements identified in the outline planning permission have already been constructed such as the Weston Homes Community Stadium and the David Lloyd Club. In addition, the relevant, extant site specific policy that relates to the Cuckoo Farm site (of which the current application site forms part) contains a specific reference to the range of uses that are deemed acceptable in this location, and which are established by the outline planning permission granted under O/COL/01/1622.
- 16.2 On this basis it is considered that this reserved matters proposal would be fully compliant with the terms of development that were established at the outline stage – both in the range of uses that are proposed and also the *floorspace* amount that is sought, which is specifically controlled by a condition imposed at the outline stage.
- 16.3 Following on from the acceptability of the principle of development that is sought, it is considered that the form and appearance of development that is proposed would be appropriate to this important 'gateway' location in the town. Policy SA NGA1 – Appropriate Uses within the North Growth Area states inter alia that '...All new development should seek to draw on the character of the existing landscape, within and adjacent to individual sites. Proposals should seek a comprehensive integration of identified existing and new green links and desire lines which link both public and private open spaces. All new development will be expected to provide on-site infrastructure as well as provide or contribute towards off site infrastructure improvements to ensure the North Growth Area objectives are achieved.'

16.4 It is considered that the proposed development submitted under this application for reserved matters accords with the policies that are applicable (as highlighted in this report) and also the terms of the outline planning permission granted under O/COL/01/1622.

## **17.0 Recommendation**

17.1 APPROVE subject to the following conditions

## **18.0 Conditions**

### **1 - \*Reserved Matters Applications**

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference O/COL/01/1622 relating to this site and the conditions attached thereto remain in force.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

### **2 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers as follows:

- C133 P104 pl1 - Site Plan
- C133 P105 pl1 - Detailed Site Plan
- C133 P114 pl1 - Leisure Curve Ground Floor
- C133 P115 pl1 - Leisure Curve First Floor Plan
- C133 P116 pl1 - Leisure Curve - Sections AA and BB
- C133 P117 pl1 - Leisure Curve - West and South Elevations
- C133 P118 pl1 - Leisure Curve - East and North Elevations
- C133 P119 pl1 - Hotel Ground Floor Plan
- C133 P120 pl1 - Hotel - First and Second Floor Plans
- C133 P121 pl1 - Hotel - Third Floor Plan
- C133 P122 pl1 - Hotel - Fourth Floor Plan
- C133 P123 pl1 - Hotel - East and South Elevation
- C133 P124 pl1 - Hotel West and North Elevation
- C133 P125 pl1 - Leisure Curve and Hotel - Roof Plan
- C133 P126 pl1 - Site Sections 1 and 2
- C133 P127 pl1 - Site Sections 3 and 4
- C133 P132 pl1 - Detailed Part Elevations - Leisure Curve West Elevation 1
- C133 P133 pl1 - Detailed Part Elevations - Leisure Curve West Elevation 2
- C133 P134 pl1 - Detailed Part Elevations - Hotel West Elevation (entrance)
- C133 P135 pl1 - Detailed Part Elevations - Hotel South and East Elevations
- C133 P137 - South and North Elevations (roof overhang cutback)
- 595\_PL\_001 Rev P02 - General Arrangement Plan
- 595\_PL\_002 Rev P02 - Rendered Landscape Plan
- 595\_PL\_004 Rev P02 - Site Wide Rendered Plan
- 595\_PL\_005 Rev P02 - Cycle Expansion Plan

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

### 3 - \*Access for Disabled Persons

No works shall take place until a scheme indicating the provisions to be made for disabled people has been submitted to and approved, in writing, by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason: To ensure that convenient provisions to facilitate access for all.

### 4 - Materials to be Agreed

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

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

### 5 - Surfacing Material to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

### 6 - Non-Residential BREEAM (Part 1 of 2)

No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

### 7 -Non-Residential BREEAM (Part 2 of 2)

Within 6 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

### 8 - Refuse and Recycling As Shown

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

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

## 9 - Communal Storage Areas

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

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

## 10 - Litter

Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order.

Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment where the application lacks sufficient information.

## 11 - Non-Standard Condition/Reason – Foul Water Strategy

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No development shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

## 12 - Non-Standard Condition/Reason – Detailed Surface Water Drainage Scheme

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

Reason:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment.

## 13 - Non-Standard Condition/Reason – Minimisation of offsite flooding risk

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented. The scheme shall be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be

discharged. Furthermore the removal of top-soils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

#### 14 - Non-Standard Condition/Reason – Surface Water System Maintenance Plan

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

#### 15 - Non-Standard Condition/Reason – Maintenance Plan Logs

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

#### 16 - Non-Standard Condition/Reason – Restrictions on Changes of Use

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 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 development hereby approved shall be used solely as described in the planning application submission documents and supporting materials and for no other purpose(s) in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent in any Statutory Instrument revoking and re-enacting that Order with or without modification).

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further full consideration to the appropriateness of a different use or uses on this site at such a time as any future change of use were to be proposed.

#### 17 - Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for: the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

#### 18 - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to 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.

#### 19 - Food Premises (Control of Fumes and Odours)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

#### 20 - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

#### 21 - \*Light Pollution for Major Development

Prior to the first use of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ3 SMALL TOWN CENTRES OR URBAN LOCATIONS; shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

Reason: In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

#### 22 - Details of Floodlighting

No works shall take place until details of any floodlighting have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to the surroundings area.

### 23 - Illuminated Signs

Any externally illuminated sign shall comply with the guidelines in the current “Institution of Lighting Engineers Guidance TR5 Brightness of Illuminated Advertisements”

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

### 24 - Non-Standard Condition/Reason – Restriction on hours of illumination

All external lighting serving the buildings hereby approved shall only be illuminated during the authorised hours of opening of those buildings.

Reason: To control periods of illumination in order to reduce risks of any undesirable effects of light pollution.

### 25 - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency’s “Model Procedures for the Management of Land Contamination, CLR 11” and the Essex Contaminated Land Consortium’s “Land Affected by Contamination: Technical Guidance for Applicants and Developers”.

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

### 26 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site

will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

#### 27 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

#### 28 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 25, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 26, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 27.

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

#### 29 - \*Validation Certificate

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 23.

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



### 30 - Oil Interceptor Required

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

### 31 - \*Full Landscape Proposals TBA

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

### 32 - 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.

### 33 - Earthworks

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

### 34 - 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.

### 35 - 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.

### 36 - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

### 37 - Public Art

No works shall take place until a scheme indicating the provision of public art and including a timetable for implementation has been submitted to and approved, in writing, by the Local Planning Authority. This scheme shall thereafter be carried in accordance with the detail approved and retained as such thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that this development scheme makes a contribution to the Borough in the field of arts and culture and to enhance the appearance of the development and visual amenity.

## 19.0 Informatives

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

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

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

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

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

(4) An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence. Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

(5) It should be noted that discharge rates are higher than current best practice advises. Rates are based on a previous agreement with the environment agency. It is recommended that wherever possible further reductions in discharge rates should be sought.

(6) Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place.

(7) Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ Guidance Notes LIS/C

(8) 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.

(9) PLEASE NOTE that, with regard to and noise measurement and sound insulation, a competent person is defined as 'someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience'.

(10) PLEASE NOTE that the outline planning permission reference number O/COL/01/1622 together with this approval constitute the planning permission for this development. All of the conditions imposed on both the outline permission and this approval must be complied with.

(11) PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631, or via email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.

(12) PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

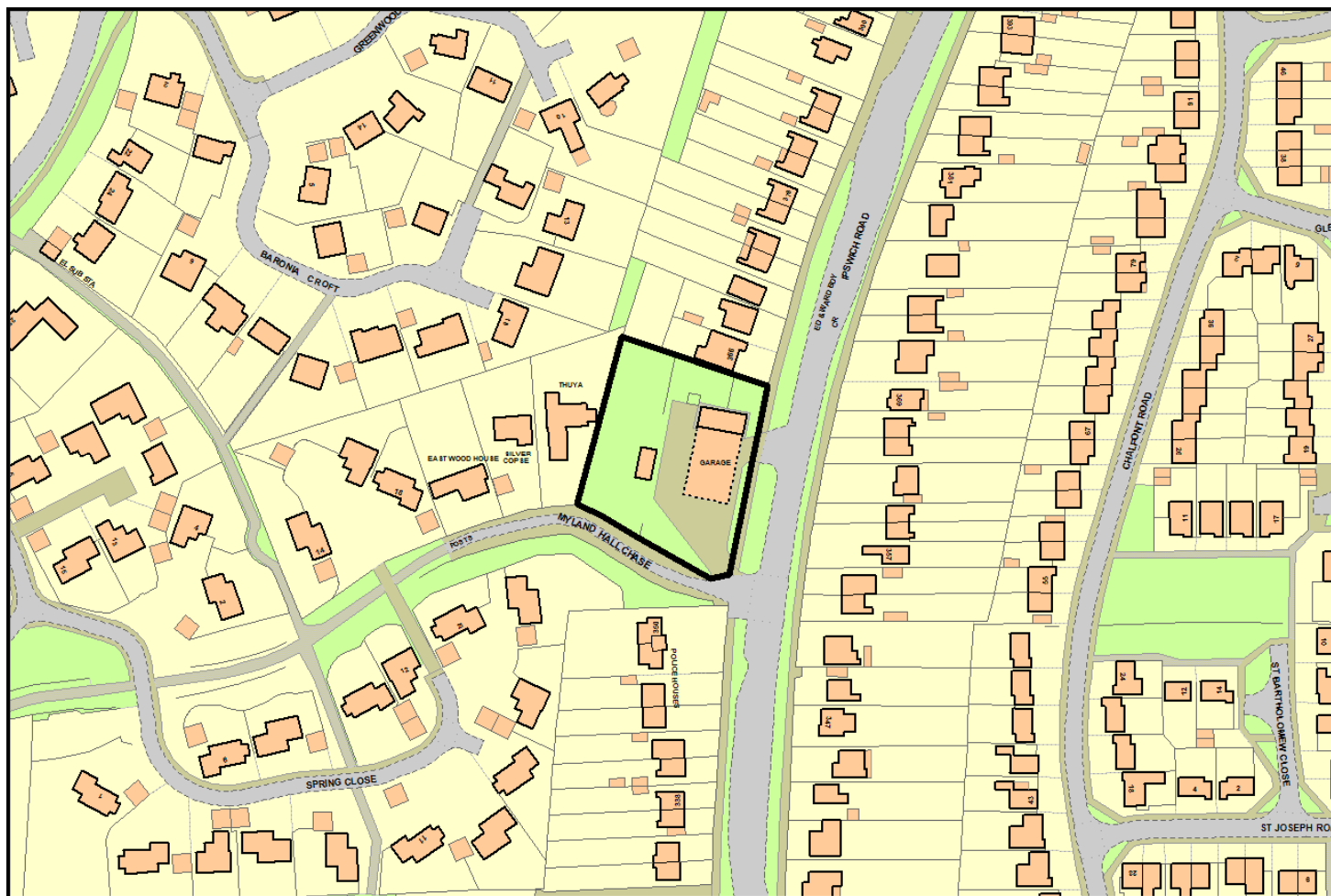
(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563.

(ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.

(iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).

## **20.0 Positivity Statement**

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



**Application No:** 162432

**Location:** Eastwood Service Station, Ipswich Road, Colchester, CO4 0EX

**Scale (approx):** 1:1250

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**Site:**                      **Eastwood Service Station, Ipswich Road, Colchester, CO4 0EX**

**Application No:**   **162432**

**Date Received:**   29 September 2016

**Agent:**                Hannah Thomas-Davies, Rapleys LLp

**Development:**     Installation of advertisements

**Ward:**                 Highwoods

**Summary of Recommendation:** Conditional Approval

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

- 1.1      This application is referred to the Planning Committee because it was called in by Councillor Gerrard Oxford for the following reason: "I want the above application called in because the site on Junction 28 has two entrances which means the impact of the signage is halved in comparison to the tight largely residential site. The keel of signage is effectively double that of junction 28. Also the environmental impact of the signage on local residents is high given most of the boundary trees have been removed exposing the properties to the light problems."

## **2.0      Synopsis**

- 2.1      The key issues explored below are the impact on visual amenity and public safety. It is held that the scheme is acceptable in both regards and therefore an approval is warranted.

## **3.0      Site Description and Context**

- 3.1      Eastwood Service Station is a petrol station which is located on the western side of Ipswich Road. Previously the station consisted of a high canopy above the petrol pumps, a shop, a drive-in car wash and parking areas but now it is a fenced off building site as the planning approval for the new BP Petrol Station is being implemented. To the north of the site is a grassed area with some pollarded trees and a wooden fence that forms a boundary with the dwelling of 366 (a bungalow) beyond. To the east is a strip of grass, a footpath and wide grassed verge with various telegraph poles and telecoms masts and then the highway of Ipswich Road – with dwellings on the opposite side of the road.

- 3.2 To the south of the site a footpath/cycleway/vehicle access leads to the dwellings of Myland Hall Chase. To the west is an area that is separated from the petrol station but is in its ownership; beyond the boundary is the neighbouring property 'Thuya'.

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

- 4.1 This application comprises a number of advertisements as listed below:

- 1 no. Building Helios
- 1 no. M&S Fascia Signage (BP-UK-502),
- Wild Bean Illuminated Lozenge (BP-UK-412)
- 5.2M MID Sign (Totem sign) (BGB T1 7M)
- Canopy Fascias
- Canopy Helios (BGB-CN-001)
- Car Wash Exit Sign (BGB-CW-172)
- Car Wash Entry Sign (BGB-CW-171)
- Car Wash Side Sign (BGB-CW-170)
- Air/Water/Vac Signage (BGB SS-52)
- Air/Water (BGB-SS-13)
- 1 no. Green BP Poster Frame
- 2 no. White BP Poster Frame.

- 4.2 It is noted that the application form shows one White BP poster frame however the plans clearly show two. This has been clarified with the agent who confirms that the plans are correct. The description has been updated and the scheme has been assessed on that basis. The plans also show a 'building awning' in the table title 'details of proposed advertisements'. This does not constitute an advertisement and did not form part of the description. It was approved as part of the previous planning application.

#### **5.0 Land Use Allocation**

- 5.1 The site is within the defined settlement limits. Myland Hall Chase is a 'green link'. It has no other particular planning policy designation.

#### **6.0 Relevant Planning History**

- 6.1 A/COL/95/0733 - Advertisement consent granted for non-illuminated poster boxes, free standing poster box, car wash menu sign and car was instruction sign. Approved 20/10/1995.

A/COL/01/1324 - Advertisement consent granted for 2no. non-illuminated canopy fascias, 2no. illuminated canopy fascias and 1no. internally illuminated pole sign. Approved 4/1/2002.

A/COL/05/0004 - Application to retain internally illuminated pole mounted sign. This application relates to amendments to the pole mounted sign permitted under application A/COL/01/1324. Consent was refused and an appeal was dismissed.

A/COL/05/0140 - Application for car wash signage comprising of 2no. illuminated and 1no. non-illuminated fascia on the car wash building, 2no. non-illuminated pole mounted signs, 1no. non-illuminated direction sign and a vinyl banner attached to the front of the car wash. Consent was refused and an appeal against this refusal was dismissed.

150105 – New image forecourt signage – Approved 20/3/2015.

- 6.2 In addition to the above there have been many planning applications over the years on or adjacent to the site however the most relevant application is the recently approved proposal for the full redevelopment of the site for a new petrol station ref: 160608.

## **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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
UR2 - Built Design and Character  
ENV1 - Environment

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity

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

Shopfront Design Guide

## **8.0 Consultations**

- 8.1 Environmental Protection: No objection subject to the following condition:

ZGW - Illuminated Signs

Any illuminated sign shall comply with the guidelines in the current "Institution of Lighting Engineers Guidance TR5 Brightness of Illuminated Advertisements"

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



Note: This area is considered to be EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS

## 8.2 Highway Authority:

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

The maximum luminance of the signs M & S Simply Food and the Monolith totem shall not at any time exceed the standards contained within the Institution of Lighting Professionals, Professional Guide No. 5, which in this case is 300 Candelas per square metre (300cd/m<sup>2</sup>).

Reason: To ensure that glare and dazzle is not caused to traffic in the adjoining highway, in the interests of highway safety.

## 8.3 Natural England: No objection.

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

## 9.0 Parish Council Response

### 9.1 Non-parished.

## 10.0 Representations

### 10.1 Eleven representations have been received from seven addresses. Some of these were very detailed and the full text can be read on the website, however in summary these objected to the scheme on the following basis:

- The scheme is excessive.
- The scheme constitutes harmful advertisement clutter.
- This is a residential area.
- The Council have a duty to protect the visual amenity of the area and not just give BP what they want.
- Everyone knows there is a petrol station there so the signs are not needed.
- If the totem/monolith is acceptable there is no need for the other signage.
- There is sign duplication.
- There is no need for the case wash signs – Esso used to have those painted on the floor.
- There are more signs than at the BP at the A12 Junction 28 services.
- We object to the concurrent licencing application for a number of reasons.
- If there are allowed they must only be illuminated in business hours.
- LED illumination should not be allowed at all.
- No illumination should be allowed at all.
- There is already a great deal of phone masts and related equipment in front of the site cluttering the street scene.
- This will harm our outlook.
- This will impact on our quality of life and sleeping.
- This will cause light pollution and the removal of trees exacerbates this.
- The green numerals will be harmful to visual amenity.

- In the past the Planning Inspector has concluded that this is a residential area which must be treated with sensitivity.
- The shop should not be cluttered with signage.
- The previous monolith was not illuminated.

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

## **11.0 Parking Provision**

- 11.1 As an application for advertisement consent this is not relevant.

## **12.0 Open Space Provisions**

- 12.1 As an application for advertisement consent this is not relevant.

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

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

## **15.0 Report**

- 15.1 As an application for advertisement consent the proposal can only be assessed in terms of public safety and visual amenity:

### Public Safety:

- 15.2 In terms of public safety, regard should be had to the effect upon the safe use and operation of any form of traffic or transport. In assessing the public safety implications of an advertisement display, one can assume that the primary purpose of an advertisement is to attract people's attention, therefore it should not automatically be presumed that an advertisement will distract the attention of passers-by. The vital consideration in assessing an advertisement's impact is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety.
- 15.3 The majority of the signs would be visible from Ipswich Road and could, therefore, have an impact upon highway safety. However, they are very much typical of the type of adverts that are seen in similar positions at service stations across the Borough and are not considered to be distracting to highway users. This view is supported by the Highway Authority, who has not raised an objection to this application. As the recognized experts in highway safety and efficiency, the opinions of the Highway Authority must be given considerable weight. On this basis, it is considered that the

proposal is appropriate in relation to functional need and is not detrimental in terms of safety and distraction to either highway traffic or pedestrians. Therefore this scheme raises no public safety concerns.

#### Visual Amenity:

- 15.4 Paragraph 67 of the NPPF seeks to ensure that advertisements are appropriate for their setting. It states that control of advertisement should be efficient, effective and simple in operation. Adverts that have an appreciable impact on a building or its surroundings should be subject to the LPA's detailed assessment, and subject to control only in the interest of amenity and public safety.
- 15.5 Furthermore, Core Strategy Policy UR2 states that developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported while Development Policy DP1 requires that all development be designed to a high standard.
- 15.6 In assessing an advertisement's impact on amenity, consideration should be given to the effect on the appearance of the building or on visual amenity in the immediate neighbourhood where it is to be displayed. It is, therefore, necessary to consider what impact the advertisement, including its cumulative effect, will have on its surroundings. The relevant considerations for this purpose are the local characteristics of the neighbourhood, including scenic, historic, architectural or cultural features, which contribute to the distinctive character of the locality.
- 15.7 The application site is located within a residential area with a strong residential character. The service station is the only commercial premises in the immediate vicinity, however there are a number of commercial premises further north and south on Ipswich Road. Residential properties along Ipswich Road are a mix of detached and semi-detached dwellings set back from the road.
- 15.8 With regards to amenity, it is understood that different groups perceive the application site and the associated advertisement in different ways. For motorists, including those using the service station and others just driving along the road, their view of the signage is transient as they see it for a maximum of a few minutes. However, the service station and the signage is a permanent feature for residents who therefore have a completely different perception of it.
- 15.9 This is the key consideration with this application. The agent is aware of the concerns from the neighbours and advised the client to apply for the minimum level of advertising.

#### The Canopy:

- 15.10 Unlike many BP garages, the fascia of the canopy does not have an illuminated 'Helios' BP symbol – the Helios proposed in this instance is non-illuminated. Further to this the scheme does not have the green LED strip on the canopy edge that most BP garages have – this was removed following the initial public consultation. The canopy will have a green fascia which comprises green vinyl applied to the edge of the canopy. This is held to be acceptable in visual amenity terms and shows that the applicants are treating this site with a degree of sensitivity.

#### Air and Water Signage:

- 15.11 The two free standing Air and Water signs are set towards the rear of the site near to the entrance to the car wash. They are not illuminated. These are considered to be acceptable in visual amenity terms.

#### Shop Signage:

- 15.12 The illuminated 'Wild Bean Café' lozenge, the BP 'Helios' (circular symbol) and the 'M&S Food' fascia sign face the forecourt and are standard illuminated corporate signage. The agent submits that they are of a typology that is designed to sit on the shop frontage under the curved sections of the shopfront either side of the main glazed central section.
- 15.13 As the sections of the totem/monolith (see below) that also show 'M&S' and 'Wild Bean Café' are to be conditioned to be non-illuminated, it is considered reasonable to allow these building mounted signs to be illuminated. Therefore these adverts are held to be acceptable in visual amenity terms.

#### Totem/Monolith:

- 15.14 As set out in the planning history section, in 2005 the previous operator applied for the illumination of the totem, including the illuminated numbers demonstrating petrol prices. This was refused and the Council's decision was upheld at appeal. This means the Esso garage had manually changeable plastic petrol price numbers until the sign was removed for the current redevelopment.
- 15.15 The main illuminated monolith/totem advertisement that displays the petrol prices is a 5.2 metre high model whereas many BP stations have a 7 metre high version. This comprises the BP 'Helios', the digital green petrol price numbers and then three panels showing 'Wild Bean Café', 'M&S' and 'BP Ultimate fuel', however it is understood that these three panels are designed to be interchangeable.
- 15.16 Whilst in 2005 manually adjusted petrol pricing with interchangeable plastic digits was still relatively common, this is not now the case. The price of petrol is now even more important to many motorists and it could be argued that clear digital pricing is something one expects to see at petrol stations. It is not held to be materially harmful to visual amenity. The illuminated BP Helios is considered to be acceptable but the three interchangeable panels are held to be excessive in illumination terms and will be conditioned to be non-illuminated.

#### Car Wash:

- 15.17 The same appeal decision noted above dealt with a selection of freestanding car wash signage and illuminated car wash fascia signs. These were refused by the Council and as before the decision was upheld by the Inspector. In this submission the car wash fascia sign and the car wash entry and exit signs are considered operationally essential by BP but in this instance the advertisements are only fascia mounted and are not illuminated. They are considered to be acceptable.

### The Poster Panels:

- 15.18 The flank of the shop that faces Ipswich Road has been kept free of advertisements.
- 15.19 The three poster advertisement frames where shop offers will be advertised are located on the shop front that faces the forecourt – one under the BP ‘Helios’ and two under the ‘Wild Bean Café’ sign. The agent was asked to remove these but their client considered the scheme as submitted to be the minimum level of advertising they would accept. On balance, these signs do not constitute advertisement clutter that is materially harmful to the point that a refusal of these elements would be sustainable at appeal. On that basis they are also held to be acceptable in visual amenity terms.
- 15.20 Whilst the objectors consider that the scheme is excessive and constitutes advertisement clutter officers consider that the scheme comprises a reasonable level of advertising and does not cause material harm to neighbouring amenity.

### Other Matters:

- 15.21 The Ward Member has noted the advertisements at the large BP filling station on the new Cuckoo Farm A12 Junction 28 and submits that in effect this proposal is more cluttered. Each case must be assessed on its own merits. In this instance the Junction 28 BP station is not directly relevant as it is a larger petrol station on a trunk road services, however it is noted that this BP has a taller totem, has the green illuminated LED strip running around the canopy fascia on both canopies, has illuminated canopy fascia ‘Helios’ symbols and has advertisements on the flanks of the building. It is therefore held that the proposed signage is less obtrusive than the A12 Junction 28 BP garage.
- 15.22 Many of the representations state that if the totem is acceptable there is simply no need for the other advertisements. It is not held that the other advertisements constitute clutter that is harmful to visual amenity and therefore this does not warrant a refusal.
- 15.23 It is vital to condition that the signs are not illuminated outside of opening hours. The Highway Authority and the Environmental Protection Team’s luminance condition is suggested to be combined into one condition for clarity.
- 15.24 It is not held that the removal of some of the trees and scrub to the rear of the site results in a situation that makes the proposed advertisements materially more harmful in visual amenity terms as the majority of the signs are designed to be seen from either Ipswich Road or inside the site. It is not held that this scheme will harm the outlook of residential neighbours nor the general living or sleeping conditions. The level of luminance will be dealt with by condition.
- 15.25 It is noted that comments relating to the concurrent licence application are not relevant to this scheme but have been passed to the licencing team. There is no planning reason to delay the determination of this advertisement consent application until licensing matters have been determined.

## **16.0 Conclusion**

- 16.1 Having regard to the above, it is your Officer's opinion that with the conditions set out below, the proposed signs would not result in material harm to the character and appearance of the wider area in visual amenity terms nor would they have a materially detrimental impact on public safety and are therefore considered acceptable.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions:

## **18.0 Conditions**

### **1 - Standard Advert Condition**

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

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

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

### **2 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 15198-28 Rev C and 15198-A3-28 Rev D.

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

### **3 - Non-Standard Condition/Reason – Luminance**

The maximum luminance of the illuminated signs shall not at any time exceed the standards contained within the Institution of Lighting Professionals, Professional Guide No. 5 for Zone E2 which in this case is 300 Candelas per square metre (300cd/m<sup>2</sup>).

Reason: To ensure that glare and dazzle is not caused to traffic in the adjoining highway in the interests of highway safety and to prevent excessive illumination in the interests of visual amenity.

#### 4 - Flashing or Intermittent Display

Notwithstanding any details shown on the approved drawings, this permission does not authorise any flashing, intermittent or recurring form of illumination.

Reason: It is considered that these forms of illumination may cause harm.

#### 5 - Non-Standard Condition/Reason – No illumination of sections of Totemtem/Monolith

The signs permitted by this consent shall only be illuminated during the opening hours of the premises to which it relates.

Reason: This is an area where illumination is not common and where unlimited or excessive use of lighting could be detrimental.

#### 6 - Non-Standard Condition/Reason – Sign illuminated only during opening hours

All of the signs shall be constructed in such a way as to make the sides impervious to the passage of light and shall be retained in this manner permanently.

Reason: To ensure that the signs do not spill light sideways to the detriment of visual amenity.

### 19.0 Informatives

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

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

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

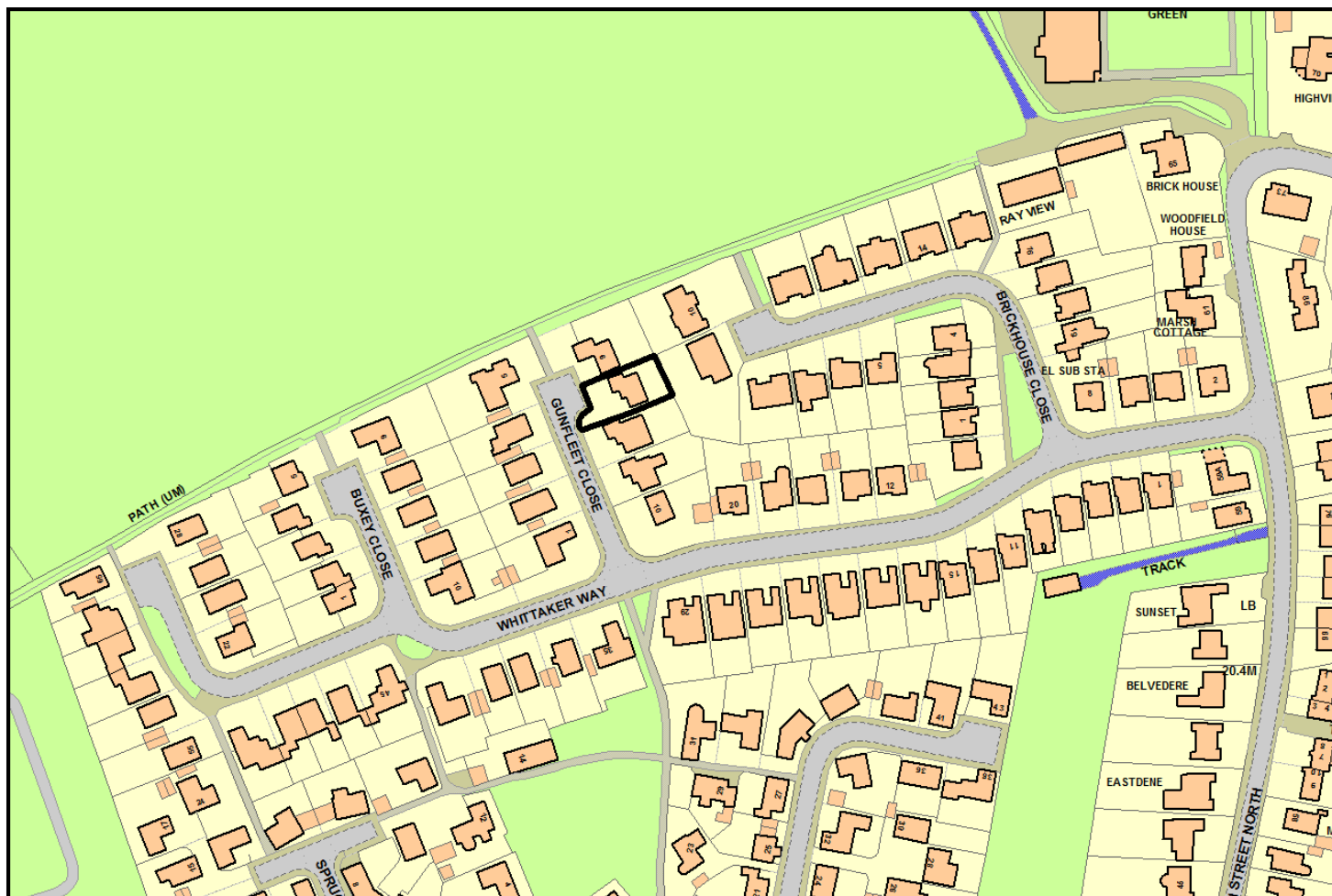
(3) PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either BEFORE you commence the development or BEFORE you occupy the development. **\*\*This is of critical importance\*\***. If you do not comply with the condition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

### 20.0 Positivity Statement

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







**Application No:** 162426

**Location:** 7 Gunfleet Close, West Mersea, CO5 8LE

**Scale (approx):** 1:1250

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**7.3 Case Officer: Chris Harden**

**Due Date: 22/11/2016**

**HOUSEHOLDER**

**Site:** 7 Gunfleet Close, West Mersea, CO5 8LE

**Application No:** 162426

**Date Received:** 27 September 2016

**Agent:** Jamie Kelly

**Applicant:** Mr & Mrs Bixby

**Development:** Single storey extension to front of house. Resubmission of 161426.

**Ward:** Mersea & Pyefleet

**Summary of Recommendation:** Conditional Approval

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

- 1.1 This application is referred to the Planning Committee because the applicant is a member of staff.

### **2.0 Synopsis**

- 2.1 The key issues explored below are the visual impact of the proposed front extension and its impact upon neighbouring residential amenity in terms of overlooking and any overbearing impact. It is concluded that the front extension and railing is visually acceptable and would not detract from the character of the dwelling or from the street scene. The balcony area has been reduced from that shown on the previously refused scheme (161426) and this has minimised any overlooking of neighbouring property to an acceptable level. The scheme is therefore recommended for approval.

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

- 3.1 The site lies within the physical limits of West Mersea and comprises a detached dwelling within an estate of similarly styled properties. There are neighbouring properties either side.

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

- 4.1 The proposal is for the erection of a flat roofed extension at the front of the property attached to part of the existing flat roofed front garage. Part of the flat roof of the original garage would have a balcony added, constructed of glass.

### **5.0 Land Use Allocation**

- 5.1 Physical limits.

## **6.0 Relevant Planning History**

- 6.1 161426 Front extension and balcony- refused on the grounds of the larger balcony being out of keeping with the prevailing character of the area and on the potential overlooking of neighbouring properties.

## **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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
UR2 - Built Design and Character

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards

- 7.4 Regard should also be given to the following adopted Supplementary Planning

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

## **8.0 Consultations**

- 8.1 Archaeologist states: "No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. I have no objection to this application."

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

## **9.0 Parish Council Response**

- 9.1 The Parish Council have stated "Following discussion it was agreed to recommend CONSENT be granted in respect of this application."

## **10.0 Representations**

10.1 No observations received.

## **11.0 Parking Provision**

11.1 2-3 spaces are retained.

## **12.0 Open Space Provisions**

12.1 N/A

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

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

## **15.0 Report**

### Design, Scale and Layout

15.1 It is considered that the design, scale and form of the front extension and associated balcony is now visually acceptable and would not detract from the character of the existing dwelling and street scene. The flat roofed extension would relate satisfactorily to the form and style of the existing flat roofed garage and is a relatively modest addition. The balcony, which is now to be glazed, has been significantly reduced in size and would now be a relatively small and unobtrusive element that would not be visually detrimental to the character of the street scene. The previous reason for refusal in this respect is now considered to be overcome. The alterations to the garage to allow its conversion to a lounge would also be visually acceptable.

### Impacts on Neighbouring Properties

15.2 As the balcony has been significantly reduced in size, the opportunity to overlook neighbouring properties from the side and rear has been minimised so that it is no longer considered to be a problem. There would also be no overbearing impact or loss of light to the neighbours. It is therefore considered there would not be a detriment to neighbouring residential amenity.

### Amenity Provisions and Highway Issues

15.3 Adequate amenity space and parking space would be retained on site. At least two car parking spaces would be available.

### Other Matters

15.4 No vegetation would be affected by the proposal. There would also be no archaeological impact.

## **16.0 Conclusion**

16.1 The proposal is considered to be visually acceptable and would not be detrimental to neighbouring residential amenity.

## **17.0 Recommendation**

17.1 APPROVE subject to the following conditions:

## **18.0 Conditions**

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

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

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

### **2 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 09/PA001, 09/PA002, 09/PA003, received 4/10/16. Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

### **3 - Materials as Stated in Application**

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

### **4 - \*Removal of PD - Obscure Glazed & Non-Opening (Check Building Regs)**

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the Northern and Southern side elements of the balcony shall be glazed 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.

## **19.0 Informatives**

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

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

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

## **20.0 Positivity Statement**

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

17 November 2016

<b>Report of</b>	<b>Head of Professional/ Commercial Services</b>	<b>Author</b>	<b>Liam McKarry</b>
<b>Title</b>	<b>Lisle Road/Hyderabad Close/Brigade Grove, Colchester</b>		
<b>Wards affected</b>	<b>New Town and Christ Church</b>		

**This report concerns a Tree Preservation Order to protect: 6 Copper Beech;  
4 Beech; 7 Norway Maple and 1 Sycamore**

## 1.0 Reason for Referral to the Planning Committee

- 1.1 This tree preservation has been referred to the planning committee as a result of an objection received regarding the confirmation of the order.

## 2.0 Synopsis

- 2.1 The key issues explored below is whether the trees listed have sufficient amenity value to merit the confirmation of the tree preservation order 02/16

## 3.0 Site Description and Context

- 3.1 The trees in question are situated within the rear gardens of Hyderabad Close & Brigade Grove and within the public open space between the two roads.
- 3.2 The trees in question have been in place for a number of years and previously marked the southern boundary of the Hyderabad barracks.
- 3.3 The trees in question are thought to be in excess of 100 years old and form a pleasant sylvan back drop to the new development adding age, differing texture and colour to the development now in place. The trees also provide pleasant screen between Lisle Road and the new development.
- 3.4 As individuals some of the trees are of limited value but given the extent of public visibility from numerous locations, including glimpsed and partial views creating a back drop to the development and given their age and size they are considered to be of high value as a group.

## 4.0 Description of the Proposal

- 4.1 To confirm the Tree Preservation Order 02/16

## 5.0 Representations

- 5.1 There has been one letter of objection which raises the issue of visibility and quality of the Sycamore tree.

## **6.0 Conclusion**

- 6.1 The objection raised to the confirmation of the order is accurate in so much as the value of the individual tree in question is limited but taking that tree in context as part of a longer line of trees it is afforded a higher value.
- 6.2 The group as a whole are of significant value to the immediate residents but also to the public as a whole and therefore do merit the protection afforded by the tree preservation order.

## **7.0 Recommendation**

- 7.1 Confirmation of Tree Preservation Order 02/16





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08-Nov-2016

Hyderabad

**Map Legend**

Tree Preservation Orders

Tree Preservation Orders

