

Planning Committee Meeting

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

Thursday, 30 June 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 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

Audio Recording, Mobile phones and other devices

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Councillors are permitted to use devices to receive messages and to access papers and information via the internet and viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, 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

Toilets with lift access, if required, are located on each floor of the Town Hall. A water dispenser is available on the first floor and a vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

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

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Colchester, CO1 1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call
e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

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.

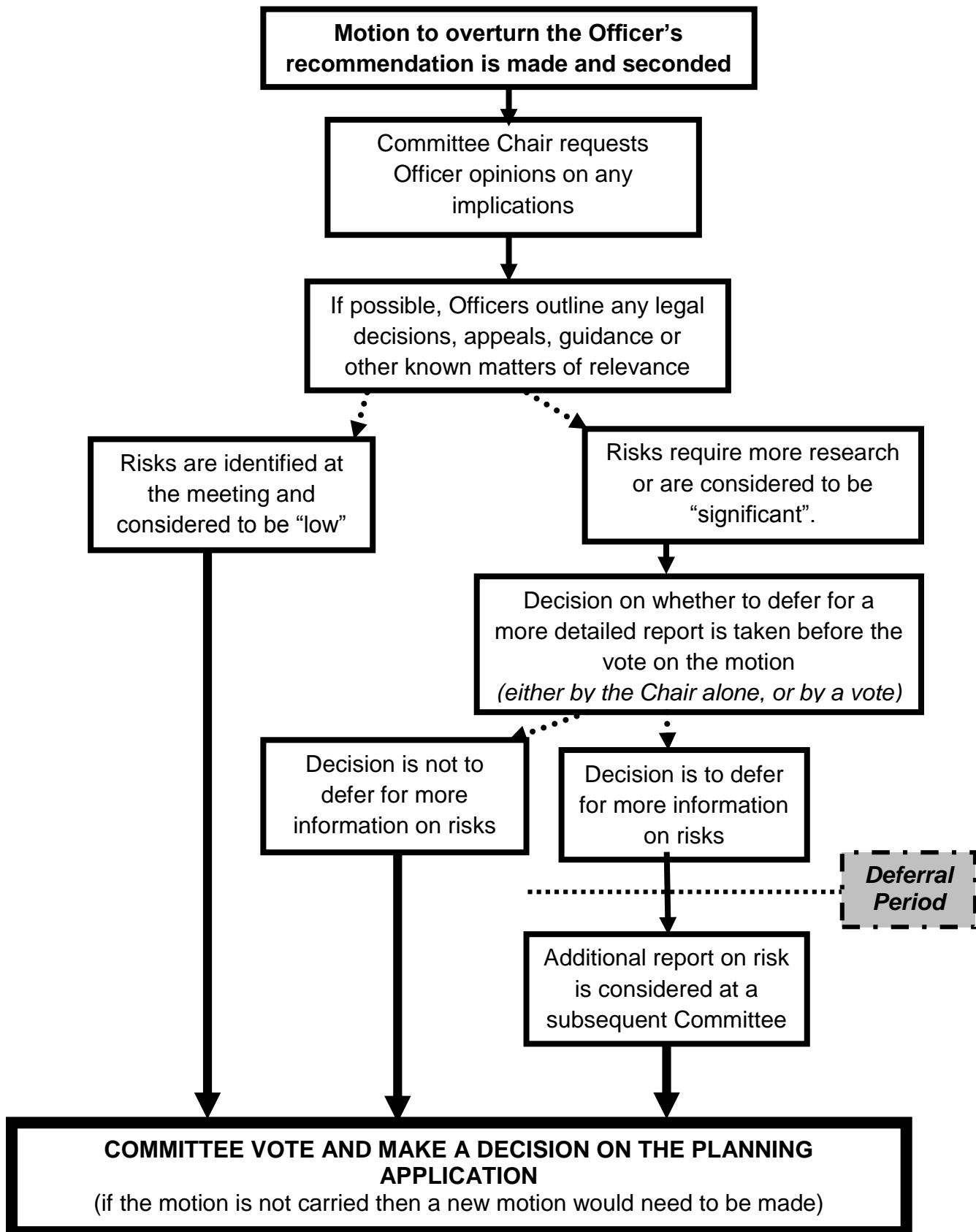
Interpretation of Class C4

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, 30 June 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

Substitues:

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 25 May 2016	19 - 20
	To confirm as a correct record the minutes of the meeting held 25 May 2016.	
6.2	Minutes of 26 May 2016	21 - 28
	To confirm as a correct record the minutes of the meeting 26 May 2016.	
6.3	Minutes of 9 June 2016	29 - 32
	To confirm as a correct record the minutes of the meeting held on 9 June 2016.	
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	160192 Footbridge, Balkerne Hill, Colchester	33 - 46
	The proposal is to remove the existing 1.8m wide footbridge and replace with a similar style bridge 3.0m wide. This is to provide a shared facility for both cyclists and pedestrians to have access via this bridge into Colchester Town Centre.	
7.2	151885 Axial way, Colchester	47 - 74
	Detailed planning application for residential development to provide 87 no. residential dwellings (Use Class C3), associated car parking, cycle parking, public open space and pedestrian/cycle infrastructure, formation of pedestrian and cycle only links to adjacent Public/Footpath/Bridleway and other associated works and improvements at land north of Axial Way, Colchester	
7.3	160551 Rowhedge Wharf, High Street, Rowhedge	75 - 110
	Demolition of existing vacant commercial units and comprehensive residential development comprising 86 no. new residential dwellings, together with associated hard and soft landscaping, access, car parking and servicing, amenity space and associated utility infrastructure.	
7.4	160608 Eastwood Service Station, Ipswich Road, Colchester	111 - 122
	Redevelopment of the existing petrol filling station to include new sales building, canopy, fuel pumps, car wash, boundary treatments, service compound, hard and soft landscaping and ancillary	

rearrangements to the forecourt.

- | | | |
|------|--|--------------|
| 7.5 | 160071 Bourne Court, Colchester | 123 -
138 |
| | Erection of 27 residential units, complete with access and parking provision. | |
| 7.6 | 161336 Old Heath Recreation Pavilion, Recreation Road, Colchester | 139 -
150 |
| | Redevelopment of the Old Heath Tennis Pavilion into a community cafe.
(Resubmission of application 152344) | |
| 7.7 | 161099 Land at 23 Belle Vue Road, Wivenhoe | 151 -
160 |
| | Outline application with all matters reserved for the construction of a new 3/4 bedroom dwelling within the boundary of No 23 Belle Vue Road. | |
| 7.8 | 152814 University of Essex, Wivenhoe Park, Colchester | 161 -
180 |
| | Erection of sports centre extension to include a 3 no. basketball court sports hall (capable of Conversion to 1800 spectator seating), facilities for sports therapy and human performances, classrooms, rehabilitation area, social space and bar, post-graduate study facilities and staff offices. | |
| 7.9 | 160974 Creffield Medical Centre, 15 Cavalry Road, Colchester | 181 -
186 |
| | Erection of commemorative plaque. | |
| 7.10 | 160990 Brickhouse Farm, Lower Road, Peldon | 187 -
192 |
| | General purpose extension to existing farm building to include self-contained and sectioned off wash down area. | |
| 7.11 | 161058 Town Hall, High Street, Colchester | 193 -
198 |
| | Restoration of clock face, including removal of opal glass and replacing with opal perspex. | |
| 8 | Exclusion of the Public (not Scrutiny or Executive) | |
| | In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). | |

Part B

(not open to the public including the press)

Planning Committee

Wednesday, 25 May 2016

Attendees: Councillor Lyn Barton (Member), Councillor Helen Chuah (Member), 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

315 Appointment of Chairman

RESOLVED that Councillor Higgins be appointed Chairman for the forthcoming Municipal Year.

316 Appointment of Deputy Chairman

RESOLVED that Councillor Liddy be appointed Deputy Chairman for the forthcoming Municipal Year.

Planning Committee

Thursday, 26 May 2016

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

Substitutes: Councillor Patricia Moore (for Councillor Pauline Hazell), Councillor John Elliott (for Councillor Derek Loveland)

317 Site Visits

Councillors Barton, Chuah, Elliott, Jarvis, Liddy, J. Maclean, Moore and Scott attended the site visits. Councillor Higgins attended the site visit to the Footbridge at Balkerne Hill only.

318 Minutes of 28 April 2016

RESOLVED that the minutes of the meeting held on 28 April 2016 be confirmed as a correct record.

319 152730 Land west of Brook Street, Colchester

Councillor Higgins (by reason of her 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 after she had made representations as a visiting ward councillor.

The Deputy Chairman, Councillor Liddy, here took the Chair.

The Committee considered a hybrid planning application comprising of an outline planning permission (with appearance and landscaping reserved) for the development of 58 residential dwellings (26 one bedroom and 32 two bedroom) together with associated car and cycle parking, landscaping and open space access and servicing arrangements and full planning permission for the change of the former rectory building to C3 (residential) to provide five residential dwellings (five two bedroom) and new build (1 one bedroom and 2 two bedroom) together with associated car parking, access and servicing arrangement at land west of Brook Street, Colchester. The application had been referred

to the Committee because it was a major application with material objections had been received and a legal agreement was required. In addition, the application had been called in by Councillor Higgins. 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.

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

Natasha Austin, a resident of George Williams Way, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained her concerns about the prospect of the access route being provided by utilising George Williams Way on the basis that the road was very narrow, with insufficient parking provision which had led to ongoing parking problems and the need for pedestrians to walk in the roads. If access was provided it would require the crossing of existing footpaths and she was of the view that this would not be appropriate or workable, especially given the fact gravel area was currently used by children as a play area. She requested the Committee to refuse any proposal to widen George Williams Way on the basis that it would lead to encroachment and danger to pedestrians.

David Symonds addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals being presented had followed 18 months of discussions with planning officers to provide around 70 homes as well as addressing other challenges associated with the site. The access proposed from Brook Street was considered to be the best solution bearing in mind the grading to the site and the avoidance of impact for the residents of George Williams Way, whilst the transport assessment had also demonstrated that there was sufficient capacity in the Brook Street location. He went on to explain that he had worked closely with the Environmental protection Team and no issues had emerged in relation to air quality. The site was a very sustainable, well designed one which had been deemed to be satisfactory by the Highway Authority. Much needed housing would be provided as well as ecological enhancements, transport movements were being safeguarded and the existing buildings would be retained.

Councillor Higgins attended and, with the consent of the Chairman, addressed the Committee. She explained that she was objecting to the use of Brook Street as the access to the site as she was of the view that the development in George Williams Way had been designed to provide access to the site beyond, by means of the use of the area which was currently gravelled. She still maintained that this was the best option as she was concerned about the prospect of more vehicles utilising Brook Street and had been disappointed that no objection to this effect had materialised from the Highway Authority. She acknowledged the highly sustainable nature of the site but considered

that this was unlikely to lead to a marked absence of car ownership by residents. As such she was of the view that parking provision needed to meet the approved standard, with no exception being made. She also referred to the proposed provision of car ports and was concerned that these may, over time, become used as play areas by children. She considered this eventuality would be avoided by means of the provision of a designated play area for children.

A number of members of the Committee referred to the considerable on-street parking in George Williams Way which had been observed on the site visit and the merit of relaxing of the parking proposals for the development on the grounds of its high degree of sustainability. Mention was also made of the impact on the air quality issues associated with Brook Street and its suitability to provide access to the site given the existing poor air quality in the area , potential drainage issues in relation to the low lying nature of part of the site and the potential for the site to deliver a proportion of affordable housing.

The Principal Planning Officer explained that the parking provision which had been approved in relation to the George Williams Way development had been made at a time when the adopted standard was for a minimum level of provision rather than a maximum. She considered the cycle and car parking provision of one space per unit with additional spaces for visitors for the proposed development, amounting to 94 spaces across 66 units, would be adequate given the close proximity of the site to the town centre. She confirmed that the gravel area was not intended to be used for access and the proposals did include a designated children's play area on site together with public amenity areas and flats with roof gardens . The provision of access from Brook Street had been considered acceptable by the Highway Authority and she confirmed that the proposed underground parking would be located in elevated part of the site and, as such, would not be susceptible to flooding. The viability appraisal had been subject to an independent assessment which had found the conclusions to be acceptable. Anglian Water and Essex County Council, as lead drainage authority had found the surface water and foul drainage proposals to be acceptable. She reiterated that the report included proposed a landscape condition and a condition to provide for electric charging points.

Belinda Silkstone, Environmental Protection Manager, confirmed that Brook Street was an Air Quality Management Area and that Air Quality Impact Assessments had been undertaken to assess the impact of the proposed development on the area. This had predicted a negligible impact due the relatively few additional vehicle movements in relation to the existing levels which had been recorded at 100,000 per week. She went on to explain that there was also existing air quality issues for Magdalen Street due to the high number of Heavy Goods vehicle usage.

The Major Developments and Planning Projects Manager acknowledged the parking problems associated with the development at George Williams Way which had been as a consequence of particularly low adopted standards at the time the development was

given approval, the current lack of traffic regulation measures and the site's close proximity to the town centre. However, he confirmed that the proposed site under consideration was in a highly sustainable location and the proposed parking provision was considered adequate.

RESOLVED (FIVE voted FOR, THREE voted AGAINST and ONE ABSTAINED) that consideration of the planning application be deferred for further negotiation to be undertaken to seek revisions to achieve a greater number of parking spaces in compliance with adopted standards and for the outcome to be reported back to the Committee in due course.

320 160192 Footbridge, Balkerne Hill, Colchester

The Chairman, Councillor Higgins, here resumed the Chair.

The Committee considered an application for the removal of the existing 1.8m wide footbridge at Balkerne Hill, Colchester and replacement with a similar style bridge 3.0m wide to provide a shared facility for both cyclists and pedestrians to have access via this bridge into Colchester Town Centre. The application had been referred to the Committee because former Councillor Frame had called it in. 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.

Daniel Cameron, Planning Contributions Officer, presented the report and, together with the Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered the existing footbridge to be a shared facility for both cyclists and pedestrians whilst the proposal being considered by the Committee was for a separate segregated facility. He explained that cyclists were currently prevented for using the bridge, other than on foot whilst the proposal was intended to link existing cycle routes. He was not clear how this would be achieved given each end of the bridge was accessed by means of footways. He was of the view that the Committee should refer the proposals back to Essex County Council with a request for further clarification regarding the detailed access arrangements proposed for cyclists and pedestrians across the bridge.

The Planning Contributions Officer was of the view that the bridge was intended to be used as a shared facility with segregation provided by a delineating white line. He confirmed that aspirations had existed for a number of years to widen the footway and that any improvements to facilities for cyclists were to be welcomed. He explained the need to provide alternatives to the roundabouts at either end of Balkerne Hill as these

were considered to be unsafe other than for very experienced cyclists and he was of the view that alternative solutions involving a separate bridge was likely to require considerable additional engineering work. In addition, he was not aware of any Health and Safety reasons to challenge the suitability of a three metre width shared bridge facility.

A number of Committee members voiced their concerns regarding the proposed width of the bridge, its intended design in relation to how access would be adequately shared between pedestrians and cyclists. Further assurances were sought regarding the safety implications of a shared facility on a bridge and whether the proposed three metre width was adequate given the restriction provided by the retaining barriers.

Other Committee members were of the view that the current arrangement, which allowed for an ebb and flow of pedestrians and cyclists, seemed to work very adequately. Reference was made to the lack of direct linkage to designated cycle paths and whether alternative options for a cycle crossing had been considered such as the underpass at Crouch Street or a separate bridge across Balkerne Hill designated for cyclists only.

The Major Developments and Planning Projects Manager confirmed that three metre width shared facilities were not uncommon and that the proposal would provide a missing link to one of the significant cycle routes in the town centre.

RESOLVED (UNANIMOUSLY) that consideration of the planning application be deferred for further clarification / investigation in relation to;

- (a) Details of relevant cycle routes in the vicinity of the bridge;
 - (b) Removal of Traffic Regulation Orders from the existing bridge and from the nearby pedestrian underpasses to allow use by cyclists and/or the provision of alternative solutions;
 - (c) Need for white line separation of cyclists and pedestrians to segregate users;
 - (d) Implications of a separate second bridge alongside the existing footbridge, dedicated for use by cyclists;
 - (e) Details of a safety assessment of the proposal with particular regard to a shared provision in the context of a three metre wide elevated bridge;
- and for the outcome to be reported back to the Committee in due course for further consideration.

321 160687 Waitrose Food Store, St Andrews Avenue, Colchester

The Committee considered an application for the variation of condition 15 (permitted delivery times) of planning permission 080900 (Use of existing retail premises as a food store including ancillary coffee shop and customer toilets together with works of refurbishment and associated alterations, reconfiguration of car park and service arrangements, reconstruction of retaining wall and erection of new delivery bay,

entrance lobby and mezzanine) at Waitrose Food Store, St Andrew's Avenue, Colchester. The application had been referred to the Committee because it was a major application which had been subject to an objection. 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.

322 160379 Clarendon Way, Colchester

The Committee considered an application to remove / vary conditions 2 and 17 of planning permission 145356 (erection of 18 residential apartments, access and car parking) at Clarendon Way, Colchester. The application had been considered by the Committee at its meeting on 28 April and had been deferred for further discussions in relation to parking provision, a landscape scheme and the provision of charging points for low emission vehicles. The Committee had before it a report and an 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.

323 160502 Town Hall, High Street, Colchester

The Committee considered an application for the installation of a new bench on raised platform in front of the existing bench in the Council Chamber at the Town Hall, High Street, Colchester, including new access ramp to provide wheelchair access and associated re-positioning of adjacent fixed seating and benches, the works to be fully reversible so that the Chamber can be returned to its existing configuration. 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 (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

324 161060 Holly Cottage, Straight Road, Boxted

The Committee considered an application for the replacement of three window frames at Holly Cottage, Straight Road, Boxted, Colchester. The application had been referred to the Committee because the applicant was a Borough Councillor. 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.

325 Changes to Scheme of Delegation

The Committee considered a report from the Head of Professional Services concerning a change to the Scheme of Delegation to Officers to transfer the powers related to Tree Preservation Orders back to Professional Services after some internal staff changes. It was confirmed that the actual powers remained unchanged. The Committee had before it a report in which all information was set out. Andrew Tyrrell, Planning Manager, attended to present the report and assist the Committee.

RESOLVED (UNANIMOUSLY) that the Scheme of Delegation be amended as set out in paragraphs 5.1 of the Head of Professional Services' report.

PLANNING COMMITTEE
9 June 2016

Present:- Councillor Higgins (Chairman)
Councillors Barton, Chuah, Hazell, Jarvis, Liddy,
Loveland, J. Maclean, P. Oxford and Scott

Substitutes:- Councillor Lilley for Councillor Liddy

326. Site Visits

Councillors Barton, Chuah, Elliott, Higgins, Loveland and Scott attended the site visits. Councillors Hazell and Jarvis attended the site visit to Chapel Road, West Bergholt only.

327. Minutes

There were no minutes for confirmation at the meeting.

328. 152730 – Land west of Brook Street, Colchester

Councillor Higgins (by reason of her having expressed a prejudicial view on the application) declared an interest 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.

In the absence of the Chairman, this item was chaired by Councillor Scott.

The Committee considered a hybrid planning application comprising of an outline planning permission (with appearance and landscaping reserved) for the development of 61 residential dwellings (27 one bedroom and 34 two bedroom) together with associated car and cycle parking, landscaping and open space access and servicing arrangements and full planning permission for the change of the former rectory building to C3 (residential) to provide five residential dwellings (five two bedroom) together with associated car parking, access and servicing arrangement at land west of Brook Street, Colchester. The application had been called in by Councillor Higgins and then deferred by the Committee at the meeting on 26 May 2016 for further negotiations to achieve a greater number of parking spaces in compliance with adopted standards. The Committee had before it a report and amendment sheet in which all the information was set out.

The report explained that a revised plan including a further 24 parking spaces, making 114 in total had been submitted which represented four fewer than the adopted parking standard.

RESOLVED (UNANIMOUSLY) that the planning application be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months authority be delegated to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- (a) A review mechanism in respect of financial viability;
- (b) Provision of a private management company
- (c))Provision of open space plus submission and approval of scheme for the setting out and landscaping and management/ maintenance of this area
- (d) Provision of footpath and cycle way for public use
- (e) 12metre area along the north boundary to be reserved for Rapid Transport Route

and on completion of the legal agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions set out in the report, as amended in the amendment sheet.

329. 160531 – 91 Chapel Road, West Bergholt

The Chairman, Councillor Higgins, here resumed the Chair.

The Committee considered an application for the demolition of an existing bungalow and garage and the construction of a detached four bedroom house (subsequently amended to three bedroom) with detached garage at 91 Chapel Road, West Bergholt. The application had been referred to the Committee because former Councillor Harrington had called it in. 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.

Mark Russell, Principal Planning Officer, presented the report and, together with the Simon Cairns, Major Development and Projects Manager.

Bob Tyrrell, on behalf of West Bergholt Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the Village Design Statement that the Parish Council had been working on and explained that the Parish Council weren't against the development but were seeking a compromise. The application site was in a prominent location on Chapel Road which had been occupied by a very small bungalow. He considered that the proposed new house would dominate the bend in the road as he was of the view that it was situated too close to the road, in front of the building line of the bungalow. He also considered the proposal to be contrary to the Village Design Statement, particularly in respect of the ridge level for the roof. He sought the removal of permitted development rights and potential problems as a consequence of the number of springs in the area.

Joseph Greenhow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the scale of the proposal had been reduced compared to the 2014 proposal which had been refused at Appeal and had been reduced still further in the light of discussions

with the planning officer. The current proposal had a lower ridge height and reduced rear projection compared to the refused application and, as such, he considered no material harm would be caused. He acknowledged that the dwelling would project marginally further forward than the existing bungalow but not so when the front porch was taken into account. He did not consider the proposal to be out of character with the area and confirmed that a condition had been agreed for the removal of permitted development rights.

Councillor Barber attended and, with the consent of the Chairman, addressed the Committee. He supported the views expressed by the Parish Council, and its proximity to the road particularly in relation to the size of the proposed dwelling. He was of the view that the building should respect the existing building lines and boundaries and was concerned that the replacement dwelling would look considerably out of character in the area. He referred to application drawings being out of date and that the proposal contravened the Village Design Statement.

Some members of the Committee referred to the prominent nature of the proposed dwelling in conjunction with its location at the apex of a blind bend in the road.

The Principal Planning Officer confirmed that planning application drawings were not required to be up to date, given the site inspections which would be undertaken in considering of an application and that the existence of springs in the area was not of concern as the site was not in a flood zone. He explained that consideration could be given to discussing with the applicant the removal or redesign of the gable to the front elevation in order to reduce the dwelling's prominent appearance.

RESOLVED (UNANIMOUSLY) that consideration of the planning application be deferred for further negotiations to seek the removal of the projecting gable from the front elevation or, alternatively, a flush gabled frontage design to the proposed replacement dwelling and authority be delegated to the Head of Professional Services to determine the application subject to the conditions set out in the report and as amended in the amendment sheet.

330. 160603 – Ivy Cottage, 4 Leech's Lane, Colchester

The Committee considered an application for the demolition of an existing large detached residential unit split into two flats to create a site for two new one and half storey dwellings, resubmission of application number 152594 at Ivy Cottage, 4 Leech's Lane, Colchester. The application had been referred to the Committee because it had been called in by Councillor Goss. The Committee had before it a report and an 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.

Carl Allen, Planning Officer, presented the report and assisted the Committee in its deliberations.

Mike McGarr addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the location of the site along an unadopted road and disputed concerns raised by neighbours in

relation to the proposal's negative impact on two visitor parking spaces and a hedgerow at the end of Leech's Lane. He acknowledged that no adverse comments had been submitted by the Highway Authority nor any recommendation regarding the provision of a turning head. He was of the view that the proposed dwelling was of very good, functional and clean design.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He explained that the road was owned and maintained by the residents, who considered it would be impossible to reverse in and out of the proposed driveway. He mentioned a suggestion to realign the layout of the site which would enable the parking spaces to be moved away from the visitor parking spaces and the hedgerow at the end of the road. Concern had also been expressed regarding the external to the neighbouring house which needed to be protected for the duration of any construction works.

The Planning Officer explained that the ownership of the road was not a material consideration in the determination of the application. He did not consider the hedgerow to be of sufficient merit to be protected and was of the view that any realignment of the site layout would create more significant issues for neighbouring residents in relation to the closer proximity of the dwelling to their boundaries. He also confirmed that standard conditions would adequately control the construction phase of any development.

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

331. 160935 – 8 The Lane, West Mersea

The Committee considered an application for a single storey rear extension at 8 The Lane, West Mersea. The application had been referred to the Committee because it had been called in by Councillor Moore. 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 (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.



Application No: 160192

Location: Footbridge, Balmerne Hill, Colchester, Essex

Scale (approx): 1:1250

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Committee Report



Agenda item

7

To the meeting of

Planning Committee

on: **30 June 2016**

Report of: **Head of Professional/Commercial Services**

Title: **Planning Applications**

7.1 Case Officer: Daniel Cameron Due Date: 15/07/2016

MINOR

Site: **Balkerne Hill, Colchester, Essex**

Application No: **160192**

Date Received: 16 February 2016

Agent: Mr Mauricio Jardim

Applicant: Mr Paul Mclean

Development: The proposal is to remove the existing 1.8m wide footbridge and replace with a similar style bridge 3.0m wide. This is to provide a shared facility for both cyclists and pedestrians to have access via this bridge into Colchester Town Centre.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as it has been subject to the Member call- in procedure. Former Councillor Frame requested that the application be discussed by Planning Committee as he was concerned that the width of the proposed bridge will lead to health and safety issues.
- 1.2 The application was previously presented to Planning Committee on the 26th May 2016. Members felt that there were several issues left unanswered by the application and deferred their decision until such time as these sufficient information could be provided on those points. For clarity those issues identified included:

- Details of the relevant cycle routes, including cycle route maps, that cross the bridge;
- Whether removal of a Traffic Regulation Order (TRO) from the existing bridge would be an adequate solution to allow cyclists a legal crossing point to access the town centre;
- Investigate whether a white line for the separation of cyclists and pedestrians is required on the bridge;
- Whether it would be possible to install a separate bridge over Balkerne Hill alongside the existing footbridge for dedicated use by cyclists;
- Provide elaboration of the detail of the road safety audit conducted on the design of the proposed bridge with particular regard to the safety of pedestrians using the bridge alongside cyclists; and
- Investigate whether removal of the existing TRO's from Sheepen Road or Crouch Street underpasses would permit cycle usage as an alternative solution to the proposed works to the footbridge.

1.3 These questions have been passed to the applicant and their responses are noted starting at paragraph 15.21 and have been highlighted in italics.

2.0 Synopsis

2.1 The key issues explored below are:

- The impact of the bridge works on the nearby scheduled ancient monument, grade I and grade II listed buildings and conservation area; and
- Health and safety concerns raised by former Councillor Frame.

3.0 Site Description and Context

3.1 The footbridge is located at the western fringe of Colchester Town Centre and provides an east-west pedestrian link over the A134 Westway. To the immediate east of the footbridge lies the 'Hole in the Wall' Public House with the Mercury Theatre building and Balkerne Gardens residential and sheltered accommodation development directly behind the Roman walls and Balkerne gate. To the west lies St Marys multi-storey car park behind which lies terraced residential housing along Crowhurst Road. To the immediate north-west of the footbridge lies the St. Marys Fields residential development.

4.0 Description of the Proposal

4.1 The works proposed are the removal of the existing 1.8m wide footbridge and its replacement with a 3m wide shared use pedestrian and cycle bridge. In order to facilitate a wider bridge some ground works will be required for the extension of the piers which support the bridge and anchor it in place.

5.0 Land Use Allocation

5.1 The area directly to the east of the existing footbridge is allocated as cultural facilities noting the proximity of the scheduled ancient monument, grade I and II listed structures and location of the Mercury Theatre. The area directly to the west is allocated as car parking.

6.0 Relevant Planning History

- 6.1 Following the installation of the footbridge in 1977, there is no relevant planning history associated with the existing footbridge.

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:

UR2 - Built Design and Character

PR2 - People-friendly Streets

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

ENV1 - Environment

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

DP1 Design and Amenity

DP14 Historic Environment Assets

DP17 Accessibility and Access

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

- Cycling Delivery Strategy (Adopted January 2012)

8.0 Consultations

- 8.1 Consultation on the application was sought from:

- Essex Highways;
- Colchester Civic Society;
- Historic England; and
- The Ramblers Association.

- 8.2 Colchester Civic Society and The Ramblers Association did not respond to the consultation request.

- 8.3 Essex Highways had no objection to the proposal provided that the following condition was imposed: No works shall be commenced until such time as the full nature of any existing highway right has been ascertained and prior to the way being open for public access any due legal process required to amend the aforesaid right or create the new cycle track should be confirmed.
- 8.4 Historic England also raised no objection to the proposed works. They noted that a separate application had been submitted to the Secretary of State for scheduled ancient monument consent. They felt that while the works proposed had the potential to cause harm to buried archaeological remains in the vicinity of the site, this potential harm was slight and the proposed written scheme of archaeological investigation proposed by the applicant was sufficient to mitigate it. Historic England concluded that the proposed works met the tests prescribed by the NPPF in relation to designated heritage assets.
- 8.5 Further, internal consultation was sought from:
- Archaeological Advisor;
 - Environmental Protection; and
 - Transport Policy
- 8.6 Environmental Protection offered no comments on the application.
- 8.7 Comments from the Archaeological Advisor concurred with those made by Historic England provided that the submitted written scheme of archaeological investigation is secured by condition.
- 8.8 Transport Policy commented that when the A134 Westway was constructed it created a barrier to movement from the west of Colchester to the Town Centre. There are three crossing points for pedestrians but none that cyclists can legally use. Their comments conclude that addressing this issue is consistent with existing adopted policy to promote sustainable modes of transport. It is noted that this will also have positive impacts for air quality within the Town Centre as well as providing an improved facility for pedestrians using the proposed shared use bridge.

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 site lies within an unparished town centre ward.

10.0 Representations

- 10.1 To date eighteen public representations have been received regarding the application. Six have been received in support of the application. Ten have objected to the application. The remainder have been mixed in their response or have only made general comments.

- 10.2 A summary of the issues raised by the representations is given below:
- Width of the proposed bridge should be increased to at least 4m;
 - Bridge should be constructed with non-slip materials underfoot;
 - Lighting should be provided on the bridge;
 - Bridge should not be a shared use facility;
 - Existing bridge is adequate for the purpose;
 - Project represents a waste of funding;
 - Work should be timed to reduce its impact;
 - A separate bridge should be provided for cyclists;
 - No separate bridge should be provided for cyclists;
 - Essex County Council consultation is inadequate;
 - Guard rails on the bridge are inadequate; and
 - Proposed road closures and diversions are too severe.
- 10.3 Of these issues only those relating to the health and safety of the users of the bridge are considered to be material for the purposes of planning. These will be addressed within the body of the report to follow.
- 10.4 It should be noted that Sustrans, Colchester Cycle Campaign, Colchester Travel Plan Club and the Mercury Theatre have all responded in support of the application.

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

11.0 Parking Provision

- 11.1 N/A.

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

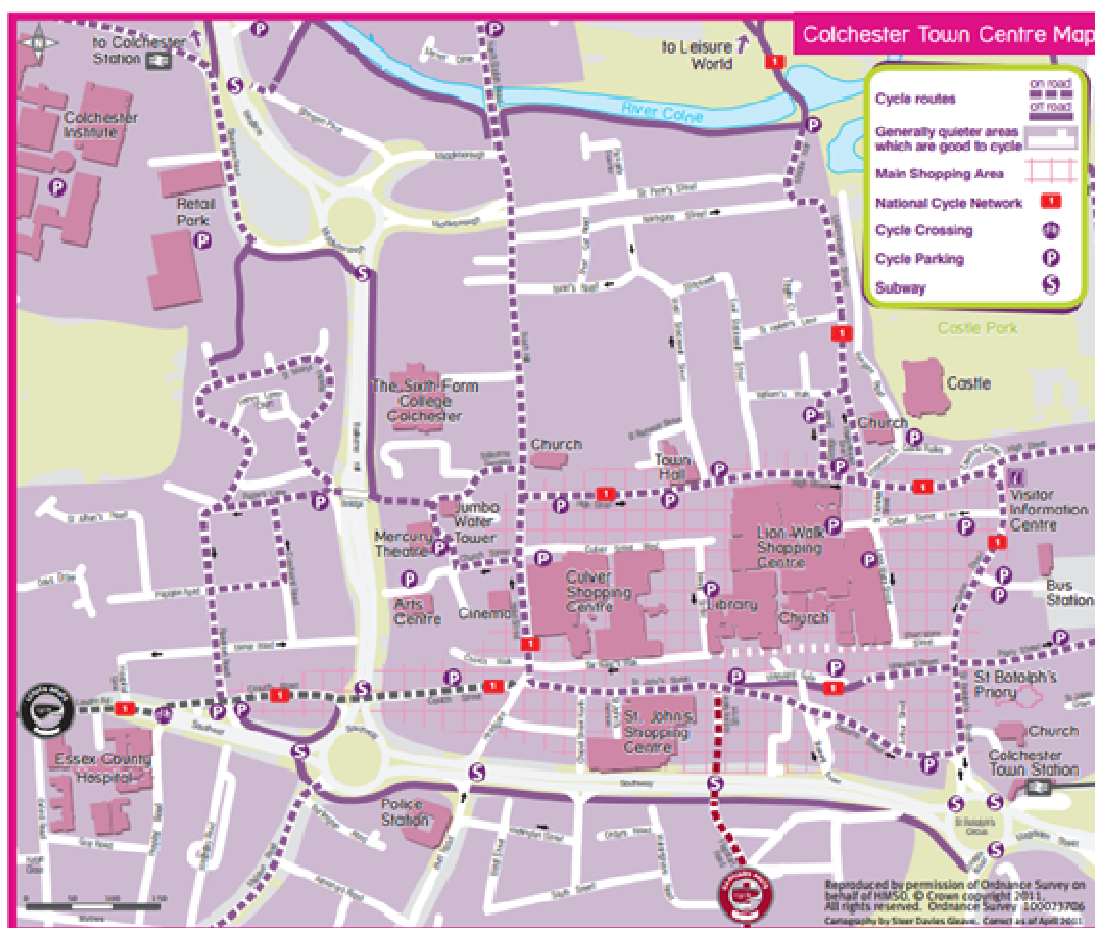
15.1 *Policy Background*

Given the nature of this application and having regard to its location, the two most important planning policy issues to consider are the principle of the development in light of Colchester Borough Council's transportation policies and whether the impacts of the application would be harmful to the heritage assets within the area.

- 15.2 Paragraph 30 of the NPPF states that ‘...encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion...’. Paragraph 35 goes further stating that ‘...plans should protect and exploit opportunities for the use of sustainable modes of transport...’. The development is considered to contribute positively to this aim.
- 15.3 Further policy support is given by Core Strategy policies PR2, TA1 and TA2, as well as Development Policy DP17. Collectively these policies commit the Council to the improvement of the street environment, to change travel behaviour and improve accessibility, and to promote both walking and cycling as ‘...integral and highly sustainable means of transport...’. Further, particular attention should be paid to policy TA2 which specifically notes ‘...the Council will seek to provide excellent walking and cycling connections into and through the town centre...’. Again, the development is considered to accord with these strategic policy objectives.
- 15.4 The adopted Cycling Delivery Strategy covers investment in infrastructure including the filling of gaps within the existing cycling network to provide continuous routes and the upgrading of existing routes. The proposal would improve connectivity in conformity with the aims of the strategy.
- 15.5 With regards to designated heritage assets the NPPF clearly assigns great weight to their conservation stating that ‘...substantial harm to or loss...should be wholly exceptional...’. Paragraph 134 states where any harm would be less than substantial; it should be weighed against the public benefits of the application of the proposed works.
- 15.6 Core Strategy policies UR2 and ENV1 as well as Development Policy DP14 are also highly relevant. They commit the Council to the protection and enhancement of Colchester’s unique history and heritage. Historic England and the Council’s Archaeological Advisor do not object to the proposal on heritage grounds.
- 15.7 *Principle of Development*
The proposed works are intended to link existing cycle routes and provide a safer environment for cyclists. It is also proposed to give further space to pedestrian users of the bridge, to ensure that the pedestrian environment is protected. Further it would create a legal crossing point over the A134 Westway which could be utilised by cyclists. At present there are none.
- 15.8 The scheme is entirely consistent with both national and local transport policy to promote sustainable transport and encourage modal shift. This would also be of benefit to the wider aims of the Council to help address air quality issues within the Town Centre.
- 15.9 With regards to the impact of the works upon the nearby heritage assets, it is not considered that the removal of the existing bridge and its replacement with one broadly similar in terms of design constitutes harm to the setting of either of the grade I or grade II listed buildings, nor would it unduly impact upon the character of the conservation area. In this regard it is clear that the proposed works only constitute slight harm at very worst. This is more than offset by the public benefits identified.

- 15.10 As part of the application a written scheme of archaeological investigation was submitted by the applicant and appraised by both Historic England and Colchester Borough Council's Archaeological Advisor who both concluded that the report was sound and represented adequate mitigation of its impacts. Historic England felt that this was sufficient to satisfy the tests laid out within the NPPF, namely that the benefits of the written scheme overcame any potential slight harm. The carrying out of the scheme will be secured by condition.
- 15.11 Members should note that due to the proximity of the Balcerne Gate and Town Walls both of which are designated as Scheduled Ancient Monuments, separate consent is required from the Secretary of State for the works proposed. It is understood that the applicant has recently been granted this consent.
- 15.12 *Health and Safety Issues*
The proposed design of the bridge is similar to that of the one already in place on site with the notable exception that its width has been increased so that it now measures 3m across. The structure is enclosed by metal railings with handrail along its edges.
- 15.13 The material public representations received centre on the possible conflicts between cyclists and pedestrians utilising the proposed new bridge. Suggested solutions include the widening of the proposed bridge to 4m or the erection of a separate cyclist only bridge.
- 15.14 These issues were discussed with the applicant during the course of the application. They have responded that a bridge wider than 3m would entail far more engineering complexity, with substantially more work being required to construct the supporting piers of the bridge. Further, they comment that a wider bridge could potentially encourage misuse as it would be wide enough to accommodate a car. Far greater safety equipment would therefore be required to prevent this occurring, while a narrower span would accomplish this naturally.
- 15.15 ECC also commented that a 3m wide structure would be enough to accommodate the number of cyclists estimated to make use of the bridge, while helping to manage the speed which cyclists are able to cross the bridge at. They note that a wider bridge leads to encouragement of greater speed, which in turn may lead to greater conflict.
- 15.16 The safety audit carried out by Ringway Jacobs on behalf of ECC on the proposed bridge structure raised no issues concerning either its width or the height of the proposed handrails. Further, appropriate signage for the shared use nature of the bridge will be provided as part of the design. It has been conditioned that this is installed prior to the first beneficial use of the bridge.
- 15.17 *Impact on Neighbouring Properties*
In terms of outlook from the neighbouring properties the design of the proposed bridge will have no material impact, other than the fact it is wider than the bridge currently in place. The greatest imposition on the neighbouring properties is the build programme for the replacement bridge during which the existing bridge will be removed for a period of two months.

- 15.18 During this time alternative crossing points would have to be used by any pedestrians or cyclists wishing to cross the A134 Westway. The closest crossing is the signal controlled crossing at Crouch Street. However, the subway at Sheepen Road could also be utilised.
- 15.19 Given the close proximity of the alternate routes, the inconvenience of the works is not considered to be an undue hardship upon the neighbouring properties or pedestrians.
- 15.20 Road closures during the proposed works are to be scheduled so that the majority of the larger scale road closures take place at night. The only notable closure is that of the slip road which connects St. Marys car park with the A134 Westway, with motorists instead being diverted into the one-way system along Rawstone Road.
- 15.21 *Cycle Routes – The map below, produced by Cycle Colchester, indicates the connection between on and off road cycle routes either side of the existing bridge. A full sized, colour copy has been attached. Alternatively copies can be viewed online at www.colchester.gov.uk/cycling or www.essex.gov.uk/cycling.*



- 15.22 *Cycle Routes – Further to the map above, Essex County Council are keen to stress a courteous approach is essential to interactions between cyclists and pedestrians on shared facilities and in particular the danger that cyclists can pose. This is emphasised within their free Bike-Ability training sessions as well as on copies of their physical cycle maps.*

- 15.23 *TRO on current bridge – It has been confirmed that presently, the bridge is too narrow to allow it to be used by cyclists and that a TRO allowing this use could not be placed on the bridge given its current width, it will require the widening proposed within this application to enable this access.*
- 15.24 *White line to denote separation of users – Essex County Council has confirmed that they do not intend to segregate users of the proposed bridge. They wish to avoid introducing a possessive mentality to the users of the bridge which can arise when dedicated areas are used. They confirm that all safety aspects of this has been considered and analysed within the safety audit. Further this shared space mentality will be reinforced through signage erected on the proposed bridge.*
- 15.25 *Options for a second bridge – A second bridge would require significant alteration and engineering work to facilitate its installation. This would substantially increase the cost of the overall project making it unviable. If the project were financially viable, the existing bridge would not be usable for the duration of any works by the public due to the proximity of the second bridge works to it. It is likely that due to the additional engineering work required to install a second bridge that works may run past the eight week closure required for the proposed replacement bridge and may also require the closure of the A134 Westway to a greater degree than that required for the proposed replacement bridge.*
- 15.26 *Further detail of safety audit – Essex County Council has now submitted details of their safety audit (Ringway Jacobs) which is attached to this report. Potential conflict between cyclists and pedestrians has been carefully considered throughout and the solutions suggested by the audit have been incorporated into the final design of the project. In particular attention has been paid to the need for tactile paving on the approach to the bridge so that partially sighted pedestrians are aware they are in an area that may be used by cyclists, further clear signage indicating the shared nature of the proposed bridge is to be displayed.*
- 15.27 *Removal of nearby TRO's – The existing subways are pedestrian only facilities and will require conversion or other such works to allow for their use by cyclists. This option would require further investigative work to determine what would be necessary to allow this conversion. Should such works be possible, it is thought that removal of the TRO's would complement the works at the bridge and would offer a number of legal crossing points for cyclists accessing the town centre. However, it should be noted that it may not prove possible to accomplish these works as existing constraints may curtail them.*

16.0 Conclusion

- 16.1 The proposal is in general conformity with relevant national and adopted local policy, will provide improved facilities for both pedestrian and cyclist users of this popular east-west route to the Town Centre. The nature of the development makes it necessary that some disruption will occur during the construction works. However, this is not held to be of sufficient weight to outweigh the benefits of the improved facilities which will be provided as part of this application.

- 16.2 An adequate health and safety audit has been completed on the proposed design of the bridge and has not raised any comments or concerns over either the width of the new bridge or the height of its handrails. A wider structure should reduce any current conflict between users of the bridge, although it should be noted that it is impossible to remove this completely.
- 16.3 The impact of the bridge upon the designated heritage assets is slight at worst and any undue impacts upon underlying archaeology in the area has been suitably mitigated through a written scheme of investigation which has been endorsed by both Historic England and Colchester Borough Council's Archaeological Advisor.
- 16.4 In light of answers being provided by the applicant to address the concerns raised by Planning Committee at their meeting of the 26th May, the officer recommendation remains as originally set out within this report.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 Positivity Statement

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.

19.0 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 BR0900-01- 0401; BR0900-01-0202; and BR0900-01-0203.

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

3 - 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.

4 - 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.

5 - Non-Standard Condition/Reason

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with the Written Scheme of Investigation that has been submitted with the application. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Borough Council's Core Strategy (2008), revised July 2014.

6 - Non-Standard Condition/Reason

Prior to the first beneficial use of the development hereby approved new instructional and directional signage shall be erected within its vicinity to inform users of its change of status to a shared surface facility.

Reason: To ensure that the general public is made aware of the change in status of the bridge.

20.0 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.

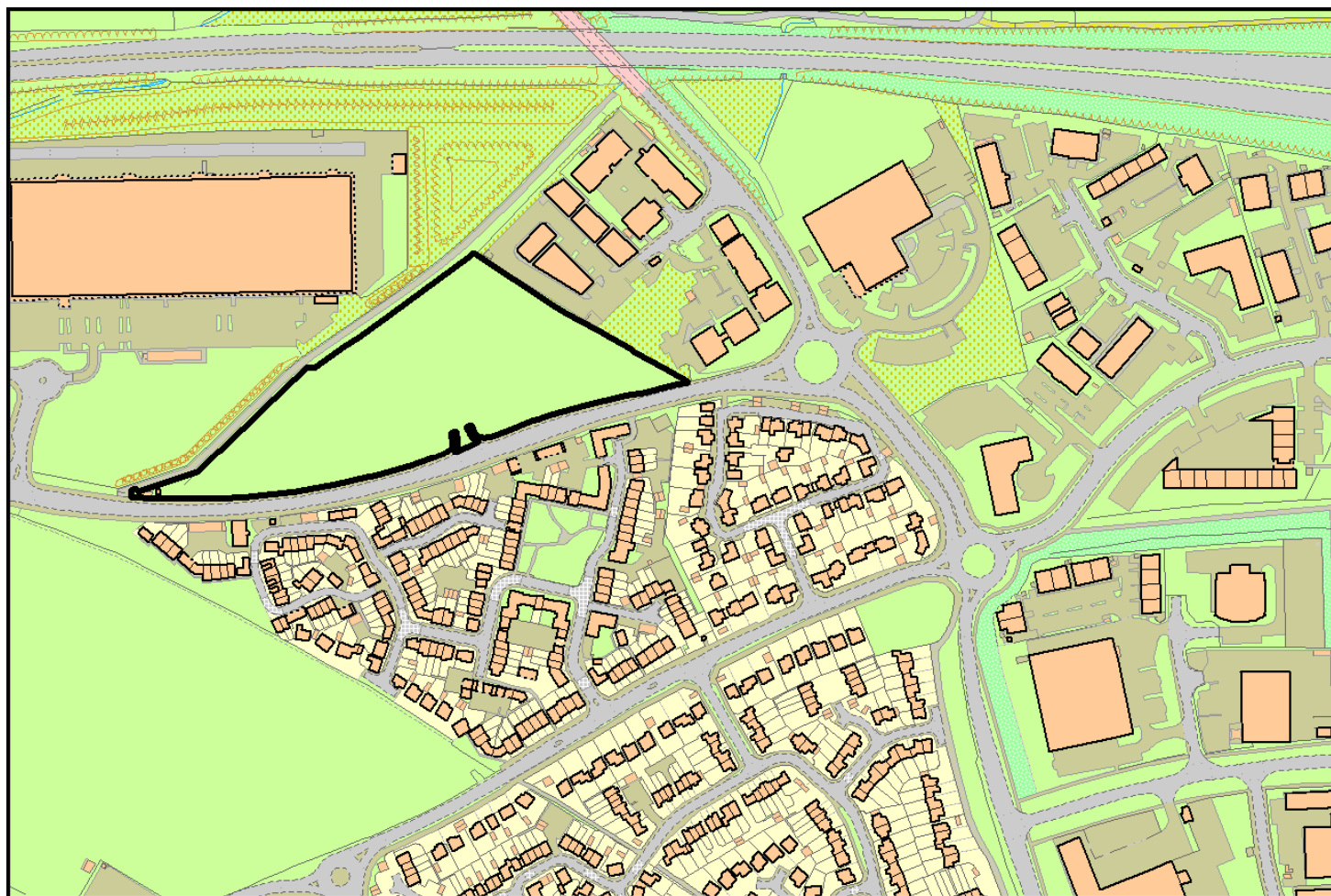
(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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. Please pay particular attention to these requirements.

(4) All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

(5) No works shall be commenced until such time as the full nature of any existing highway right has been ascertained and prior to the way being open for public access any due legal process required to amend the aforesaid right or create the new cycle track should be confirmed.

(6) Prior to work commencing an alternative walking route to access the town centre should be clearly signposted for the benefit of anyone wishing to access the town centre from St. Marys car park or vice versa. Further detail of the works should be shared with residents and neighbouring businesses.



Application No: 151885

Location: Axial Way, Colchester

Scale (approx): 1:1250

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Site: Axial Way, Colchester

Application No: 151885

Date Received: 1 September 2015

Applicant: Persimmon Homes Essex and Royal London Mutual Insurance Society Ltd

Development: Detailed planning application for residential development to provide 87 (No.) residential dwellings (Use Class C3), associated car parking, cycle parking, public open space and pedestrian / cycle infrastructure, formation of pedestrian and cycle only links to adjacent Public Footpath / Bridleway and other associated works and improvements at land north of Axial Way, Colchester.

Ward: Mile End

Summary of Recommendation: Approval subject to the signing of a S106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application and material planning objections have been received; a legal agreement is also required.
- 1.2 In addition the application has been “called in” by Councillor Goss for the following reasons;

“I have concerns about the completion and on-going management of this site by Persimmon Homes. Persimmon Homes has a rather patchy history of completing infrastructure in Stanway, Mile End and High Woods wards to a good standard which can be adopted quickly by either ECC or CBC. Maximus Drive and Braiswick Park are two solid examples where issues have taken 10 years to resolve (Maximius Drive) or are still ongoing at Braiswick Park regarding open space, lights and roads. Recent issues were also highlighted in the press about Lakelands at Stanway.

There are also issues where management companies have not been put in place for some houses and therefore management of shared planted areas have arisen which has led to disputes between residents.

As Persimmon has a poor track record in Colchester, we need to ensure concrete conditions are added to this application so there is absolutely no wriggle room and historic behaviours can no longer be allowed to continue in Colchester”.

2.0 Synopsis

- 2.1 The key issues explored below concern adopted policy and land use designation, noise issues and amendments to the application following representations from Flakt Woods and comment from Environmental Protection, consultation responses and representations will be set out and responded to where necessary and section 106 requirements will be explained. The conclusion is that planning permission should be granted subject to conditions and signing of a legal agreement.

3.0 Site Description and Context

- 3.1 The application site is a triangular shaped parcel of land on the north side of Axial Way with an area of approx. 2.14 hectares. It comprises land that was formally part of the Royal London sports ground. It is now unused and overgrown.
- 3.2 A tree lined public right of way (PROW) and bridleway runs the full length of the rear NW boundary and extends from Axial Way exiting at Severalls Lane close to the bridge over the A12; it also separates the site from Flakt Woods. On the NE boundary is 'Cuckoo Point' a development comprising residential and commercial units with a frontage to both Axial Way and Severalls Lane. The flatted buildings on the road frontages are four and six storeys high with two storey commercial units within the site. On the opposite side of Axial Way is residential development, The Myle, which extends to Mill Road, the properties fronting Axial Way are two, three and four storeys high, they are separated from the road by high walls/fencing and parking courts; some dwellings have a flank elevation to the road or face into site. On the NW boundary is the Flakt Woods site, which comprises a substantial industrial building, car parking and service yard. The NE corner of the building and the service yard are close to approx. half the length of the NW application site boundary.
- 3.3 Further to the west along Axial Way is Easter Park which contains a mix of commercial uses, there are also several car dealerships and the David Lloyd Tennis Centre which is under construction. There is also vacant land owned by Colchester Borough Council; Cuckoo Farm/Northern Gateway. Axial Way has a junction with Via Urbis Romanae and United Way and joins the A12 at junction 28. United Way provides access to the Weston Homes Community stadium home to Colchester United FC.
- 3.4 The site is generally flat with mature trees and hedgerows along the NW and NE boundaries, several oak trees are protected by a tree preservation order (TPO). A ditch and low bund extend along the road frontage. Axial Way has a speed limit of 40mph there is a junction already constructed from the road to the site and there is a cycleway/ pedestrian footway on both sides of the road.

4.0 Description of the Proposal

- 4.1 Prior to the submission of the application a Preliminary Enquiry (PE) was submitted and the applicant entered into a Planning Performance Agreement (PPA) with the Local Planning Authority. The discussions and meetings held in respect of the PE were with officers from the Commercial Services Major Development Team and related to issues regarding layout, detailed design and contributions/obligations requested by the Development Team.

- 4.2 The objectives of the PPA related to the allocation of staff resource in terms of officer time to an agreed timetable and agreement regarding the submission and responses to information and resolution of issues where possible.
- 4.3 This full application proposes the erection of 87 dwellings comprising 67 houses and 20 flats. The application has been amended since the original submission which proposed 92 units. The flats comprise 15 one and five, two bed units and are located within two buildings. The proposed houses are two, three, and four bed and comprise detached and semi-detached units. The proposed flats, are provided in a three storey building and a second 3/4 storey building are located at either end of the Axial Way frontage, this frontage also includes two and two and a half storey houses. These buildings are all set back from the road behind an internal access road which runs parallel to Axial Way. An area of public open space (POS) is proposed along the rear NW boundary and includes the trees subject to a TPO on this boundary and extends adjacent to the edge of the bridleway and PROW. Vehicular access is from the existing junction and the site access road would then extend into the site running along the south edge of the open space. The proposed dwellings will front the open space and access road. A small cul-de-sac leads from the west side of the road serving a group of houses and one of the flatted buildings. Dwellings on the NE boundary back onto Cuckoo Point, and their gardens include preserved trees.

Parking spaces are generally provided as part of the residential curtilage with the flats and some dwellings having parking spaces within small parking courts. Provision is also made for visitor parking.

The application includes the following supporting documents

- Design and Access Statement
- Geo-environmental and Geo technical Desk Study and Site Investigation
- Archaeological Desk Based Assessment
- Extended phase 1 Habitat Survey
- Reptile Survey
- Bat Survey
- Environmental Noise Assessment
- Flood Risk Assessment and Drainage Strategy
- Arboricultural Impact Assessment
- Transport Assessment
- Health Impact Assessment

5.0 Land Use Allocation

The site is allocated for residential purposes in the LDF Site Allocation Document and identified in Policy SANGA1 as a residential site.

6.0 Relevant Planning History

- 6.1 98/1462 Land To The North Of Mill Road, Colchester Outline application for erection of dwellings, B1, B2 and B8 industrial units and the provision of land for part of a spine road Approved 18/07/2001. (This outline application proposed industrial uses on the application site but was never implemented).

- 6.2 F/COL/03/1042 Industrial warehouse and office with associated car parking, access road (section of East West Link Road) together with landscaping, public footpath, holding ponds and temporary foul drainage works.(Revised site area).Applicant Churchmanor Estates and Flakt Woods. This application included the relocation of the Flakt Woods factory from Bergholt Road (Tufnell Way) to Axial Way together with the construction of part of Axial Way from the Severalls Lane junction.

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
SD3 - Community Facilities
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

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

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP10 Tourism, Leisure and Culture
DP11 Flat Conversions
DP12 Dwelling Standards
DP15 Retention of Open Space and Indoor Sports Facilities

DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

- 7.4 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 H1 Housing Allocations
SA NGA1 Appropriate Uses within the North Growth Area
SA NGA2 Greenfield Sites in the North Growth Area
SA NGA4 Transport measures in North Growth Area
SA NGA5 Transport Infrastructure related to the NGAUE

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

Backland and Infill
Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Sustainable Drainage Systems Guide
Street Services Delivery Strategy
Managing Archaeology in Development
North Colchester Growth Area SDP
Myland Parish Plan
Myland Design Statement

8.0 Consultations

- 8.1 **Urban Design Officer** : Proposals have improved significantly through pre-application and ongoing dialogue. Major issues now appear addressed and the proposed scheme is generally moving in the right direction.

8.2 Environmental Protection

Internal levels

The ventilation schemes outlined in the SRL Noise Assessment dated March 2016 should be implemented so that the recommended guidelines for internal noise levels under BS 8233 can be met.

External Levels

The revised plans under Model 6 (MOD6) in the report by SRL dated 27 May 2016 and entitled Axial Way - Noise Levels in Outdoor Amenity Areas represent an improvement to the potential noise levels affecting residential gardens. There are however ten properties with higher than recommended noise levels for gardens and two of these houses have noise levels significantly above recommended noise levels. The main contribution of this is traffic noise from the A12 and Axial Way and in general we find that due to the continuous nature of traffic noise, residents are less likely to be caused an annoyance by this type of noise. MOD6 represents the noise climate whilst Flakt Woods are conducting internal testing of large fans. Flakt Woods state that they conduct testing of large industrial fans typically two-three times a month, generally over a period of three days.

The occasional torque testing of the very large industrial fans would be cause for concern ; however it is not possible for the applicant to mitigate for this noise. These are dependent on orders and such tests have been carried out by the factory five times in the past 10 years and the last time Environmental Protection received complaints was in 2013.

Environmental Protection would recommend that all new home owners are warned about the possibility of this testing.

In conclusion, Environmental Protection consider the revised plans together with the acoustic glazing are acceptable.

8.3 **Arboricultural Officer** generally no objection to the proposals but ideally the visitor spaces within the tree root protection areas should be removed.

8.4 **Highway Authority** has no objection subject to conditions.

8.5 **Anglian Water**
ASSETS

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

WASTEWATER SERVICES

The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows.

The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Surface Water Disposal, from the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

- 8.6 **Natural England** has no comments to make on this application.
The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.
- 8.7 **Environment Agency** has confirmed the proposed development is outside their remit
- 8.8 **CBC Contaminated Land Officer**
An acceptable report has been submitted for Environmental Protection purposes. It is noted that it is concluded that there are no unacceptable concentrations of potential contaminants within the underlying soils that would pose a potential risk to human health of future site occupants, and no further site investigation or remediation has been recommended. Based on the information provided, these comments would appear reasonable. However, given the low number of sampling locations, should planning permission be granted for this application, Environmental Protection would recommend inclusion of a condition
- 8.9 **Landscape Officer**
Detailed comments are made on elements of the proposed hard and soft landscape proposals
- proposed hedge and tree planting to the site frontage to be secured as this treatment forms an important part of the emerging character of the street scene
 - publicly visible plot boundaries need to be brick wall
 - in landscape terms it is important the maximum number of units face the important PRoW link and its associated POS in order to provide the maximum level of passive surveillance and public amenity value for users of the PRoW & POS.
- 8.10 **Recycling Manager**
Looking at the plans there seems to be designated waste collection points around the development, however, we currently operate a boundary collection service. This can lead to confusion and refuse not being collected if some of the residents decide to put their waste out on their boundary and not at the designated collection point?
- 8.11 **Archaeology Officer**
This proposal is located in an area of archaeological interest, defined in the Essex Historic Environment Record. The proposed development is located to the east of an archaeological site recorded by archaeological aerial photography (EHER no. 41901). However, no previous systematic archaeological investigation has taken place on this site. There is high potential for encountering buried archaeological remains at this location, given the proximity to known remains. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist. There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets.

However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

8.12 **Essex County Council SuDS**

Thank you for your re-consultation email received on 25 September 2015 which provides this Council with the opportunity to assess and advice on the proposed revised FRA and surface water drainage strategy for the above mentioned planning application.

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We are statutory consultee on surface water from the 15 April.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C697)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Following receipt of the revised FRA/Drainage Strategy and correspondence with Mr Michael Pearce (22.10.15) following our initial objection on 18.09.15, we consider that a surface water drainage scheme has been proposed which demonstrates that surface water management is achievable in principle, without causing flooding on site or elsewhere. We consider that full planning permission could be granted to the proposed development if appropriate conditions are imposed.

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 that MCC would object to this application on the grounds of:

- The site represents over-development with an unacceptable density of dwellings;
- There is insufficient visitor parking;
- The proposed open space is inadequate for the size of the development.

We would also express concern about the level of noise, particularly at night, from the Flakt Woods factory which is adjacent to the site. We feel this had not been adequately addressed in the application.

9.2 *Officer comment: The density of 40 dwellings per hectare is considered acceptable and is lower than the adjacent Cuckoo Point development and similar to recent residential development opposite, the layout provides 10% open space. Parking provision for the dwellings meets the adopted standard and visitor parking is 3 spaces below the adopted standard. The issues relating to noise from Flakt Woods are explained below.*

10.0 Representations

10.1 Number of support (0), objection (5), general observation (2) and issues raised

10.2 Flakt Woods

"We have now reviewed the revised plan and very much welcome the consideration that has gone in to mitigating against the noise that our commercial activities create. However, we are nervous about the efficacy of the proposed ventilation scheme and the reliance for windows on houses to remain closed as protection against our sound emissions. We also have concerns that external levels will still exceed the guideline criteria. We do not have confidence that we will not receive complaints from future residents and this is a situation that we very much want to avoid. We are aware that residents disturbed by noise have an option to take private nuisance action and that we would not have a defence of best practicable means if that course of action were to be pursued.

We would like to reiterate and to remind CBC that one of the main considerations involved in relocating from Tufnell Way was to remove ourselves from the residential area that had developed around our factory. If we had have been aware of the change of land use to permit the generation of housing adjacent to our factory on Axial Way we would have strongly objected at that time.

Unfortunately and despite the proposed noise mitigation measures, we do not feel that we can withdraw our letter of objection to the application".

The owners of the Flakt Woods site and adjacent Easter Park object due to the potential impact of the development on Flakt Woods and their day-to day operation on site. Of particular importance is the sound insulation scheme that was implemented on site, a condition of their planning permission, when the nearest housing was approx. 140 metres to the south clearly if the proposed development goes ahead the residential element will be substantially closer with obvious concerns this presents for noise pollution for the new houses.

10.2 Councillor Goss

"As part of this development I would like to see an extra pedestrian crossing on Axial Way this development should fund the extra crossing. Can Outdoor gym equipment be provided as part of this application please as part of the POS?"

10.3 Colchester Cycling Campaign

CCC has no objection to this scheme. We would, however, like to see the following:

- alteration to the existing entry from Axial Way to allow the cycle path to meet the entrance road at 90 degrees rather than following the kerb around the curve of the junction. This anticipates a change in UK guidance that will allow cycle priority over side roads; it will allow cars turning into the estate to see whether cyclists are nearby and wait safely for them off the main road.
- cycle/foot connection with bollards to Flakt Woods site (to encourage walking/cycling to work)
- cycle/foot connection with bollards to De Grey Road

10.4 Representations

- It is already difficult to cross Axial Way near the site even with the crossing points that are already there. Axial Way doesn't have a 30mph speed limit that you will normally expect near a residential area, and traffic speeds make it harder to cross. The crossing point near the east access point should become a pedestrian controlled crossing the same as the one further down the road.
- The 40 mph limit is never enforced a speed camera is required along the road as many cars speed down the road and with more families moving into the area a safe enforced speed limit is essential.
- The houses that overlook these fields will lose their view.
- A tree line along the road should be planted to maintain some "green". There is also some kestrel nests in the existing trees as well as many rabbit warrens along the tree line by the path.
- The nearest bus stop for the Number 2, 8, and 65 buses is the ones in Mill Road which means crossing Axial Way
- Traffic noise is already horrendous, and as the road develops this can only get worse. Heavy goods going to and from the A12 mix with residential and commute traffic all hours of the day and into the night, and "road testing" of cars from the abundant nearby car dealers, including so-called "supercars", adds up to the road being used as a race track. All facilities, including bus stops and shops lie on the other side of Axial Way.
- Colchester's infrastructure and health care services and schools are already heavily impacted adding more houses is going to exacerbate the problem. Selling off all of the land in Colchester for housing is reducing green spaces, making it harder for sports clubs to practice and find suitable grounds etc.
- Building of on the opposite side of Axial Way means there will be nowhere for the noise from the road to escape once the houses are built. The estate opposite has 10 foot brick walls to block out the noise but in some areas there is only area a 6ft fence and will be totally unsuitable once the new houses have been built. It is understood the highways agency are responsible for the fence. The fence will need to be replaced with a 8- 10ft wall to keep the noise out and the council /builder needs to arrange this before going forward.

10.5 Essex Bridleways Association

"We object to this application for the following reasons:

1. In the Design and Access Statement, under the heading Planning Policy, the developer refers to the application being in accordance with The National Planning Policy Framework (The Framework). We do not consider this is correct as it ignores the sections in the Framework that relate to the improvement of the rights of way network.

The Framework confirms the Government's support for the protection and enhancement of the public rights of way network. It states: local planning authorities should positively seek opportunities to meet the development needs of their area; Local Plans should meet objectively assessed needs with sufficient flexibility to adapt to rapid change.

Paragraph 75 provides:

Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example, by adding links to existing rights of way networks including National Trails.

The Framework therefore places an obligation on the planning authority to be proactive in enhancing and improving public rights of way, seeking opportunities and meeting local rights of way needs.

We are of the opinion this development provides an ideal opportunity to improve the public rights of way network in accordance with the NPPF by creating a new bridleway link to the existing bridleway number 314_232 [shown coloured blue on plan A enclosed with the hard copy of this letter.]

The site is also situated near Tower Lane [currently footpath number 314_233] which is in the process of being upgraded to a bridleway. Tower Lane is shown coloured red on plan A. The area between the site and Tower Lane is part of the Northern Gateway and is planned to become an area with sporting use. We are in discussions with CBC for bridleways to be included in the NG development and beyond to the vast areas being developed to the south west of Colchester. Horse riding is a growing sport and the current facilities in the area are virtually non-existent. The new development in the area provides a unique opportunity to create and extend the current fragmented network of bridleways in accordance with current Government guidelines.

2. There is no consideration of the terms of the Essex Public Rights of Way Improvement Plan. The Plan evidences the specific needs and priorities of the people of Essex in relation to rights of way and ties in with the NPPF. It acknowledges that a good public rights of way network promotes health and social benefits to local communities and states there needs to be a particular focus “on the provision of bridleways”. Local Authorities need to meet the development needs of their area and these needs are identified in the Plan.

3. The developer has failed to consider the impact of the development on the bridleway. It states “the proposal includes two pedestrian/cycle links between the site and the bridleway, making the bridleway more accessible to residents and offering an alternative route through the site to bridleway users”

It appears the developer has only considered the use of the bridleway in the light of walkers and cyclists and has ignored equestrian use. No alternative routes are being provided to horse riders and no consideration has been given to the effect the increased use will have on the bridleway. The cycle links should be bridleway links so all vulnerable users can benefit from them. Bridleway links should be planned to other areas where bridleways could be created in conjunction with new development so, long term, a large safe off road network could be achieved.

We note it is proposed to expose the bridleway more by removing established hedging. We would query if this is necessary or expedient and would need more information to assess the effect on the bridleway. There are so few wooded bridleways in the area and the ones that exist should be preserved in their current condition.

There is also no information as to how horse riders’ use of the bridleway will be affected whilst development work is in progress and after completion. Horse riders are not receiving any benefits from this development and, at the same time, they will suffer a great deal of inconvenience and nuisance whilst the development takes place. Once the development has completed the increased use of the bridleway by the occupiers of the new houses will also be detrimental to riders.

4. The fact the developer only proposes to create new footpaths and cycle tracks and has ignored the need and obligation to create new bridleways is confirmed in the conclusion to the Design and Access Statement which states:

The proposal has been designed to consider pedestrian and cycle links, existing hedge planting, tree canopies and root protection areas, views along Axial Way and the treatment of the boundary adjacent to the existing bridleway

The proposal should also have considered bridleway links.

5. The developer has ignored the fact that horses are sustainable transport and the needs of horse riders should be considered in the same way as the needs of walkers cyclists and other vulnerable users. The Design and Access Statement only refers to “access principles for vehicles, pedestrians and cyclists”.

We fully acknowledge that in some instances it would be inappropriate for bridleways to be created in new development, but when one already exists adjacent to the site, and is mentioned as a benefit to the entire application, then they are relevant to the application and must be given proper attention.

6. It appears the terms of The Development and Public Rights of Way Advice Note for Developers and Development Management Officers has not been considered in relation to this application. It states:

“It is crucial that Public Rights of Way are considered from the very start of a proposed development. If this is overlooked, then Public Rights of Way issues can result in very significant delays later on and even render properties unsalable”.

“Public Rights of Way are also a material consideration in the determination of any planning application”.

“The development may also provide the opportunity for the creation of new paths to provide missing links to achieve an overall improvement in the network. Such opportunities will always be pursued in consideration of a planning application and the new path dedicated to form part of the Definitive Map, as opposed to an informal route”.

Lack of consultation

We note the Case Officer asked in July 2015 for “a greater orientation of houses towards the open space and bridleway” and in August she asked for more changes, but none related to bridleway creation. In view of the fact we have been in discussions with CBC planners for two years we find it very disappointing that we were not consulted at any stage regarding the planning of any new bridleways on the Site. It would obviously be far cheaper and more practical for new bridleways to have been planned from the outset, not at this stage of the development process.

In the light of the above we ask that the application is amended to comply with the NPPF and supporting documents and a bridleway links are provided in the Site.

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 adopted parking standards require one parking space for one bed units and two spaces for two beds and above. The development proposal is for 15 one bed and 72 two bed (and above) units requiring 159 spaces and this standard is met. The parking standard also requires one space for every four dwellings (0.25 of a space per dwelling) 87 units require 22 visitor spaces 19 are proposed. This is an increase of 11 visitor spaces as originally only eight spaces were proposed for 92 dwellings.

12.0 Open Space Provisions

12.1 The layout includes 10% open space is provided in addition all the dwellings have private gardens and the flats each have a balcony.

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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:
- 20% affordable housing
 - Community Facilities Contribution of £106,259
 - Open Space Contribution of £280,268
 - Public Transport Contribution of £26,200
 - Highway Works which include upgrading a traffic island on Axial Way to provide a pedestrian refuge, relocating a dropped kerb on Severalls Lane, continuing cycleway markings along Severalls Lane, improvements to bus stops
 - Pedestrian /Cycle/Bridleway Works which include a 3 metre wide sealed surface for pedestrians and cyclists and a 2 metre wide surface for horses along the majority of the PROW/bridleway and providing a surface suitable for horses where the PROW/bridleway narrows, resurfacing the cycleway, providing separate signage for the bridleway and cycleway and the erection of a safety barrier

15.0 Report

15.1 Policy Considerations

The site is in the North Growth Area and in the Site Allocations document adopted in October 2010 Policy SA NGA1 sets out appropriate land uses and lists uses where development will be accommodated in this area, the application site is identified as a greenfield site for residential development and the document states:

“Land at Axial Way

This allocation in Axial Way is a new greenfield site which has previously been allocated for employment purposes. The site has been put forward by the owners of the land and supported by the Council in view of surrounding developments and site constraints. The site measures some 2.3 hectares and is therefore likely to deliver in the region of 70 new units based on assumptions made about density and gross/net site areas”.

The principle of residential development is therefore established by this adopted allocation.

15.2 Design and Layout

The layout has been amended following meetings with officers including the Urban Design Officer. The amendments include a linear public open space parallel to the PROW/bridleway and incorporating the preserved trees along this boundary with houses fronting the open space, providing natural surveillance, instead of backing onto this public area. Buildings now face Axial Way providing an active frontage to the street but with sufficient set back to allow hedge and tree planting along the road frontage. Parking spaces have been revised so they are no longer in front of houses but are mainly provided on plot at the side of houses with some small parking courts; this amendment makes a considerable improvement to the street scene and public realm areas. These amendments have resulted in a reduction in the number of units from 92 to 87.

The buildings fronting the open space will also provide a degree of natural surveillance to the PROW/bridleway and the layout includes two pedestrian/cycle links from the development to these paths. The layout now includes defined perimeter blocks with houses fronting the principle roads and open space with gardens to the rear and creates well defined public and private realm

The houses types are of traditional designs but some features having a contemporary feel. A traditional palette of materials is indicated. The flatted buildings have a more contemporary appearance. The adjacent residential developments have a mixed character; Cuckoo Point buildings have a contemporary design with curved metal roofs and a flat roofed central link whereas the dwellings opposite are of a more traditional style. The detailed designs are considered satisfactory in this context but conditions requiring precise materials to be agreed and large scale drawings of architectural features are necessary to ensure they are of appropriate quality for this site on a main distributor road and fronting a PROW.

15.3 Scale, Height and Massing

The houses are all of a domestic scale and massing either two storeys or two and a half storeys where accommodation is provided in the roof space. The proposed buildings containing the flats are of three and four storeys. These buildings have a greater scale and mass but are still of a domestic appearance. The flatted buildings are acceptable on the road frontage and provide a satisfactory transition from the mass and scale of the six and four storey buildings of Cuckoo Point and the three and four storey buildings on the opposite side of Axial Way.

15.4 Impact on the Surrounding Area

There is no adverse impact on surrounding area. The potential for conflict with the Flakt Woods operation is explored below.

15.5 Impact on Neighbouring Properties

The development includes dwellings on the NE boundary generally this comprises houses with rear gardens to the boundary; these gardens include mature trees and will be well screened from existing buildings. There are the commercial units at Cuckoo Point and a treed amenity area on this boundary and the development will have no adverse impact on the adjacent development. Houses and flats will front Axial Way facing existing residential development. The existing development has a high wall onto the road and dwellings face into the site. The proposed development would not have an adverse impact on existing residents.

The NW boundary of the site is separated from Flakt Woods by a PROW/bridleway. Members will note this company has objected to the application. Flakt Woods was granted planning permission in 2004 to relocate from their existing site off Bergholt Road to the site in Axial Way. The planning permission does not restrict working times or days. A condition requiring a scheme of sound insulation to be submitted and approved was discharged on the basis nearest residential development was that on the opposite side of Axial Way. At the time the planning application for Flakt Woods was submitted and conditions discharged the application site was allocated for employment use but when the local plan was reviewed in 2008 the allocation was changed to residential.

Following their original objection to the application the case officer arranged a meeting at Flakt Woods attended by Flakt Woods MD England and colleagues and their noise consultant; the applicant and noise consultant, an officer from Environmental Protection and the case officer. The meeting included a tour of the building and the outside areas.

Flakt Woods explained the Colchester site currently operates three shifts, including a night shift. The three shift pattern can reduce to two depending on the orders the Company has to fulfil. The Colchester site is used for testing fans and this can mean testing more than one fan at a time. Performance testing is conducted in the Research & Development (R&D) lab located in the NE corner of the factory (closest to the residential site) and the flank wall of the building has a roller shutter door leading into the R&D lab. Whilst most testing is undertaken indoors within the R&D lab, some balance and vibration testing can be undertaken outdoors in the eastern yard; certain tests have to be conducted outdoors due to the constraints of the R&D lab. Flakt Woods has confirmed it is not possible to change the internal layout of the factory. In addition to the testing there is an external waste facility in the NE corner of the site.

At the meeting the Environmental Protection Officer indicated a revised noise assessment was required to be carried out when fan testing was undertaken at Flakt Woods. It was also explained that noise profile originated not only from Flakt Woods premises but also from traffic noise from the A12 and Axial Way and that both internal noise and noise within the gardens should be assessed.

Revised Noise Reports have been submitted with modelling undertaken to demonstrate the effect of noise levels in dwellings and gardens with the proposed mitigation measures. The mitigation includes houses with acoustic glazing and acoustic vents and the erection of acoustic fencing 2.5m, 2.2, 2.0, and 1.5 m in height and erection of car ports and storage buildings to mitigate noise in gardens. The reports indicate that noise when Flakt Woods are testing fans does not affect the

whole site equally; the most affected areas are those closest to the NE corner of the building and the outside eastern yard. Environmental Protection has indicated the proposed glazing and ventilation will result in acceptable internal noise levels. They also consider the revised plans represent an improvement to the potential noise levels affecting residential gardens although ten properties will have higher than recommended noise levels for gardens and two will have noise levels significantly above recommended noise levels. The main contributor of this is traffic noise from the A12 and Axial Way Environmental Protection state that in general they find that due to the continuous nature of traffic noise, residents are less likely to be caused an annoyance by this type of noise.

Environmental Protection indicate that Flakt Woods occasionally carry out torque testing of very large industrial fans and that this is cause for concern because it is not possible for the applicant to mitigate for this noise. These tests are dependent on orders and such tests have been carried out by the factory five times in the past 10 years and the last time Environmental Protection received complaints was in 2013.

Environmental Protection concludes the revised plans together with the acoustic glazing are acceptable despite the objection maintained by Flakt Woods.

15.6 Amenity Provisions

The proposed development will not have an adverse impact on the amenity of adjacent properties and raises no issues relating to loss of light or overlooking.

In terms of general amenity, the recommended legal agreement would secure improvements to the PROW/bridleway. These paths exit onto Severalls Lane close to the bridge over the A12 and if the Northern Gateway development on the north side of the A12 goes ahead these paths will form an important link for pedestrians, cyclists and horse riders to cross the A12.

15.7 Highway Issues

The Transport Assessment indicates there are footways and cycle paths along Axial Way and a PROW to Mill Road, a cycle path along Via Urbis Romanae which also has a priority bus lane. The Park and Ride facility is on the opposite side of the A12. The Assessment concludes the development would have a minimal impact on surrounding transport network and that the proposal can be accommodated within the existing infrastructure. The Highway Authority agrees with these conclusions and raises no objection subject to conditions. Cycle parking will be provided within each flat block. The Highway Authority requires improvements to the surface and signage of the PROW/Bridleway, Travel packs to encourage use of public transport, walking and cycling, and a pedestrian refuge to the existing crossing of Axial Way.

15.8 Drainage

Under the Flood Risk Classifications defined within the Technical Guidance to the National Planning Policy, the site is confirmed as being in Zone 1 – Low Probability, in terms of Flood Vulnerability. The NPPF encourages residential development in Zone 1. Surface water will be attenuated and then discharged to a tributary of Salary Brook on the east corner of the site, the discharge rate will be controlled and the scheme includes SUDS for managing surface water runoff. Foul water will be discharged into the existing foul sewer to the south of Axial Way Anglian Water has confirmed there is sufficient capacity.

Anglian Water and ECC SuDS team raise no objection on drainage grounds

15.9 Ecology, Trees and Habitats

The site includes mature oaks subject to a preservation order together with other trees on the NW and NE boundaries. The preserved trees are retained as are the majority of other trees; those to be removed are in poor condition. The trees and hedgerows form green corridors along these boundaries. The application includes an Arboricultural Impact Assessment which considers the impact of the development on trees and hedgerows and the quality of these features. The Arboricultural Officer has requested some visitor parking spaces under Root Protection Areas (RPA) is removed if possible. The applicant's arboriculturalist has indicated no dig or reduced construction will be used and the proportion of space within the RPA is within recommended limits. As there is a small shortfall in visitor spaces it is recommended these spaces are retained with appropriate conditions to control their construction.

An extended Phase 1 habitat survey and reptile and bat surveys have been submitted. The survey confirms the site is not close to designated sites and has no ecological designations. The site comprises largely unmanaged semi-improved grassland with areas of tall ruderal vegetation and hedgerows and trees on boundaries with a dry ditch along the front boundary.

The survey concludes the trees do not support bat roosts but could in the future, it recommends that if development commences after March 2017 further bat survey work and mitigation is required. The development will have minimal impact on foraging and commuting bats as trees are to be retained. Mitigation measures include lighting to be directed away from mature oak trees and the provision of bat boxes. No reptiles were recorded on the site. Whilst the surveys found no evidence of badgers pre-ground clearance is recommended to ensure the absence of badger setts.

The hedgerow along the NW boundary is classed as important under the Hedgerow Regulations and will be retained. Trees and hedgerows will be enhanced and managed with dead wood removed, gaps planted and the crown lifting of some trees, black thorn will be cut back. Pedestrian/cycle links are proposed from the development to the PROW/bridleway they will be sited outside root protection areas.

The site does not include any protected species and conditions will be imposed to protect trees and hedgerows during the construction period.

16.0 Conclusion

16.1 The application site is allocated for residential purposes, this is not an historic allocation, but a recent reallocation from employment use to residential that took place after Flakt Woods had relocated onto the adjacent site. This allocation means residential development is acceptable in principle and the Site Allocation Document suggests 70 dwellings would be appropriate depending on precise site area. To overcome issues of noise from the Flakt Woods and traffic noise high acoustic fencing and other mitigation is required. However with this constraint an acceptable layout has been negotiated and the development includes a traditional built form in keeping with the character of the area.

17.0 Recommendation

1. APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- A) 20% affordable housing
- B) Community Facilities Contribution of £106,259
- C) Open space Contribution of £280,268
- D) Public Transport Contribution of £26,200
- E) The provision of Highway Works:
 - (i) upgrading the existing traffic island on Axial Way to provide a pedestrian refuge
 - (ii) relocating a dropped kerb on Severalls Lane
 - (iii) continuing cycleway markings for 5m along Severalls Lane to the top of the bridleway entrance
 - (iv) Upgrade to current Essex County Council specification the two bus stops in Axial Way
- F) The provision of PRoW enhancements to include:
 - (i) providing a 3 metre wide sealed surface for pedestrians and cyclists
 - (ii) providing a 2 metre wide type 1 hoggins surface for horses
 - (iii) providing a type 1 hoggins surface
 - (iv) resurfacing the cycleway and providing separate signage for the bridleway and cycleway
 - (v) erecting safety barriers
- G) The creation of a Management Company for all the areas which are not either adopted or form part of a private curtilage

On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

2. APPROVE subject to the following conditions.

18.0 Positivity Statement

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.

19.0 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 (Please see amendment sheet for details).

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

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the external materials. No works shall take place until details of alternative materials have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out using these approved materials.

Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

4 - Refuse and Recycling Facilities

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

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

5 - Non-Standard Condition/Reason

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

6 - Non-Standard Condition/Reason

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows, roof lights, dormer windows or any other form of opening shall be inserted in any elevations or roof slopes of the dwellings. Reason: To ensure the dwellings remain appropriately glazed and ventilated so that the recommended guidelines for internal noise levels can be maintained.

7 -Non-Standard Condition/Reason

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 are not acceptable in all respects and require amendment in accordance with the consultation response from the Landscape Officer dated shall 16.09.2015.

The 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.

8 - 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.

9 - 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.

10 - 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.

11 - Non-Standard Condition/Reason

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). These documents shall include details of the two pedestrian/cycle paths from the site to the PROW/bridleway, the approved paths shall be provided in accordance with the approved details prior to the occupation of any of the dwellings and shall thereafter be retained. Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

12 - Non-Standard Condition/Reason

Prior to the commencement of any works, additional drawings that show details of the proposed new windows, balconies, eaves, window/door surrounds, car ports, dormer, doors, verges, cills, and all other architectural features to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these details which form important elements of the design and appearance of the buildings.

13 - Non-Standard Condition/Reason

No works shall take place until a scheme of habitat and biodiversity enhancement, mitigation and implementation timetable has been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To improve biodiversity in accordance with Paragraph 118 of the NPPF and Section 40 and 40(3) of the Natural Environment and Rural Communities Act (2006).

14 - Non-Standard Condition/Reason

The development shall take place in accordance with the information in the documents, and revised documents, accompanying the application including the Planning Statement, Design and Access Statement, Geo- environmental and Geo technical Desk Study and Site Investigation, Archaeological Desk Based Assessment, Extended phase 1 Habitat Survey, Reptile Survey, Bat Survey, Environmental Noise Assessment, Flood Risk Assessment and Drainage Strategy, Arboricultural Impact Assessment, Transport Assessment and Health Impact Assessment including proposals, conclusions and mitigation

Reason: To ensure a satisfactory form of development and to ensure the development takes place in accordance with the submitted information to mitigate any adverse impacts.

15 - Non-Standard Condition/Reason

Prior to the occupation of any dwelling the acoustic fencing and other mitigation measures set out in the letter from PHE dated 27th May 2016 and detailed in the accompanying drawings PH-106-031 rev B, PH- 106-037, PH-106-038, PH-106-002 Rev F, PH-106-003 rev G, PH-106-004 rev G shall be implemented in full and these features shall thereafter be retained.

Reason These features are required to mitigate noise from adjacent premises and road noise.

16 - Non-Standard Condition/Reason

The ventilation and glazing schemes outlined in the SRL Noise Assessment dated March 2016 T01B shall be implemented in full prior to the occupation of any dwellings. The schemes shall thereafter be retained.

Reason: The dwellings need to be appropriately ventilated and glazed so that the recommended guidelines for internal noise levels under BS 8233 can be met.

17 - Non-Standard Condition/Reason

No external lighting fixtures, including during the construction period, shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution on the amenity of the area and ecological interests.

18 - Non-Standard Condition/Reason

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities for the proposed flats shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety

19 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the developer shall be responsible for the provision and implementation of a Travel Information and Marketing Scheme for sustainable transport, which shall have been previously submitted to and approved, in writing, by the Local Planning Authority, to include vouchers for 12 months free bus travel for each eligible member of every residential household. The vouchers to be valid for exchange during the first 6 months following the occupation of the individual dwelling unit.

Reason: In the interests of promoting sustainable development and transport.

20 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the garage(s) / parking space(s) / car ports shown on the approved plans shall be made available for use for the parking of motor vehicles to be used solely for the benefit of the occupants of the dwelling of which it forms part, or their visitors, and for no other purposes whatsoever. The garage(s) / parking space(s) / car ports shall then be maintained free from obstruction and for this purpose at all times thereafter.

Reason: In order to ensure that the development retains adequate parking provision.

21 - 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.

22 - Non-Standard Condition/Reason

Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:

- a. Minimum 500 mm clearance between any structure and existing or proposed highway
- b. Minimum 1.5 x 1.5 metre pedestrian visibility splays where any private drive meets existing or proposed highway
- c. All shared surface roads a minimum of 6 metres wide including turning heads
- d. All minor accesses with minimum kerb radii of 4 metres The development shall be carried out in accordance with the approved drawings prior to the occupation of any of the dwellings

Reason: To protect highway efficiency of movement and safety.

23 - Non-Standard Condition/Reason

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

Reason: 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.

24 - Non-Standard Condition/Reason

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

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

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008). On request of the applicant, a brief will be provided for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation. Pre-determination archaeological evaluation is not required for this proposal. However, it is recommended that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

25 - Non-Standard Condition/Reason

The development hereby permitted shall not be commenced until such time as a scheme to minimise the risk of flooding within the site and offsite flooding caused by surface water run-off from the development has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented in accordance with the approved outline details in the FRA and Drainage Strategy Report, Issue 3, Persimmon Homes, 24 Sept 2015 prior to the occupation of any dwelling.

In particular the Detailed Drainage Scheme shall be constituted of the following:

- Provide ground investigations results, infiltration tests to justify the surface water drainage disposal method. Evidence must be shown on how the SuDS hierarchy options have been considered.
- Hydraulic modelling results of the whole scheme showing the performance of the scheme for the critical design events, 1 in 1, 1 in 30 and 1 in 100 year plus climate change. The modelling results must show the sizing of all the individual SuDS features and their combined effect in achieving the storage volumes outlined in the approved FRA.
- Where different SuDS features are being proposed, the drainage modelling should show how these are cascaded together and show clearly their combined effect in controlling both the water quantity and improving water quality within the development and how they achieve the storage volumes outlined in the approved FRA.
- Provide the appropriate number of treatment stages from the different areas of the development.
- Provide the Drainage Scheme Layout showing the SuDS features and their dimensions as appropriate.

Reason To prevent flooding on the proposed site and elsewhere by ensuring the satisfactory storage of/disposal of surface water in a range of rainfall events and ensure the system operates as designed for the lifetime of the development.

26 - Non-Standard Condition/Reason

Prior to commencement of the development the applicant shall submit 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.

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.

27 - Non-Standard Condition/Reason

The applicant shall maintain yearly Maintenance Logs of maintenance which shall 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. Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time.

20.0 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. Please pay particular attention to these requirements.

(4) All new home owners should be warned about the testing of fans that takes place at Flakt Woods that has not been mitigated against

(5) 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.

(6) 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.

(7) PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

(8) PLEASE NOTE that the site is known to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. Tiered risk assessment shall be carried out in accordance with the procedural guidance and UK policy relating to the contaminated land regime. Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land. The Local Planning Authority will determine the application on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post-development and that the applicant had prior knowledge of the contamination, the applicant is likely to be liable for this under Part IIA of the Environmental Protection Act 1990 and as such become an Appropriate Person. In this event the applicant will be lawfully responsible to remove the risk posed by the contamination. Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this the applicant or those acting on his behalf will be liable under Part IIA of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment. During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public, property and the environment are protected against noise, dust, odour and fumes. The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site. The Local Planning Authority will provide a Validation Certificate mentioned in Condition 23 for completion by the applicant/developer. This certificate will not only provide confidence in the site for the local authority in terms of development control and the Part IIA regime but will help discharge conditions applied by the approved inspector and also provide confidence for solicitors and homebuyers in the conveyancing process.

(9) PLEASE NOTE that the applicant is advised by Essex County Council Highway Authority that all housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice by Essex County Council within 6 weeks of building regulations approval being granted and prior to the commencement of any development must usually provide them with guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specifications sufficient to ensure future maintenance as a public highway.

(10) PLEASE NOTE: This site is the subject of a Tree Preservation Order.

(11) PLEASE NOTE that it is the responsibility of the developer to ensure proper provision is made for the surface water drainage of the site to ground, watercourse or surface water sewer. To avoid foul sewer flooding, surface water must not be drained to a foul sewer. The use of sustainable drainage systems (known as SUDS) is very much encouraged. SUDS offer an alternative approach to traditional engineered drainage solutions by detaining run-off on site and releasing it slowly into watercourses or to ground (e.g. dry ditches/swales, detention/attenuation ponds, integrated wetlands). Source control techniques are also increasingly popular, e.g. the use of porous (as opposed to impermeable) paving and 'green roofs' which allow rainwater re-use. These techniques reduce the likelihood of flash flooding, result in greatly improved water quality, are often cheaper and easier to maintain than traditional engineered drainage solutions (i.e. involving seal-trapped gullies and petrol interceptors), and can provide wildlife habitats.

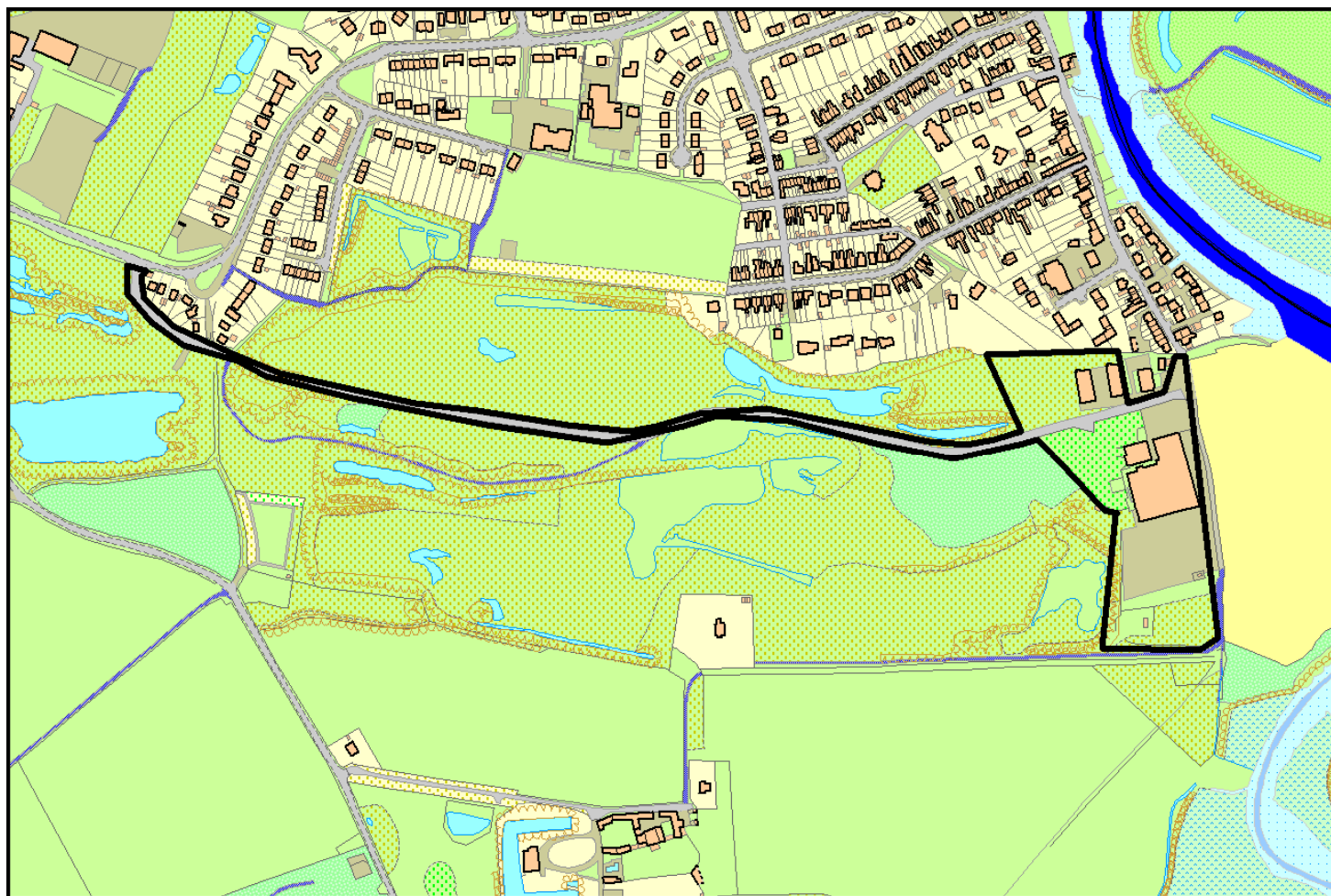
(12) All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority

(13) Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works

(14) All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)

(15) All highway related details should be agreed with the Highway Authority

(16) The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.



Application No: 160551

Location: Rowhedge Wharf, High Street, Rowhedge, Colchester, CO5 7ET

Scale (approx): 1:3500

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7.3 Case Officer: Sue Jackson

MAJOR DWELLINGS

Site: Rowhedge Wharf, High Street, Rowhedge, Colchester, CO5 7ET

Application No: 160551

Date Received: 11 March 2016

Agent: Mr Matthew Wood

Applicant: Mr Stephen Williams

Development: Demolition of existing vacant commercial units and comprehensive residential redevelopment comprising 86 no. new residential dwellings, together with associated hard and soft landscaping, access, car parking and servicing, amenity space, and associated utility infrastructure.

Ward: Old Heath and Hythe

Summary of Recommendation: Approval subject to signing of a S106 Agreement

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major application and representations raising material objections have been received. A legal agreement is also required.

2.0 Synopsis

2.1 The key issues explored below are the planning history and relevant policies, an assessment of the proposed development, the location of the site, matters raised in the representations will be discussed. Section 106 obligations will be explained in particular affordable housing. The report will include a summary of the consultation responses received. The conclusion is that the development will not affect the integrity of the adjacent Ramsar wildlife site or Special Protection Area either alone or in combination with other plans or projects and that planning permission is granted subject to a section 106 agreement

3.0 Site Description and Context

3.1 The site is located to the south of Rowhedge village. It has an area of approximately 3.6 hectares and is roughly rectangular in shape. It comprises land currently vacant that was previously used in part as a concrete block making works and part by a shooting club it contains several derelict buildings

- 3.2 A Public Right of Way (PROW) extends along the east boundary which separates the site from the former wharf land currently being developed by Bloor Homes; forming phase 1 of the Rowhedge Wharf development. This PROW continues along the south boundary and connects to other paths leading to Fingringhoe and paths along the river edge. To the west are former pits which have been unused and unmanaged for many years and now form an area of woodland protected by a Tree Preservation Order and designated as a Local Wildlife Site. This woodland has an area of approximately 27 hectares and its management is secured by a legal agreement forming part of the legal agreement with Bloor Homes. Vehicular access will be via a Haul Road through the woodland accessing at the top of the village at Rectory Road. This road is currently being upgraded and will serve both developments. The site is separated from the river Colne by the Bloor Homes development and by an area of woodland and salt marsh from the Roman River.
- 3.3 A small section of the site adjacent to the woodland is designated as a Local Wildlife Site (LWS) and part is also subject to a group Tree Preservation Order (TPO). To the south the river estuary is designated a Site of Special Scientific Interest (SSSI) and the Colne Estuary Special Protection Area and Ramsar Site are nearby.

4.0 Description of the Proposal

- 4.1 This planning application seeks full planning permission for the erection of 86 dwellings. The development also proposes the demolition of the existing derelict commercial buildings and includes hard and soft landscaping, car parking and servicing, amenity space, and associated infrastructure. The development proposes the following unit mix: 23 no. 2 bedroom, 42 no. 3 bedroom and 21 no. 4 bedroom. The site comprises land set to either side of the Haul Road. On the smaller parcel on the north side of the road 2-2 storey buildings described as “Works” buildings are proposed. Each will contain 6 flats and will as the name suggests have an industrial appearance. The main area of development is on the south side of the road and here development comprises a principal road running along the west boundary from which there are a series of small lanes at right angles to the main road with terraced, detached and semi-detached houses. All the proposed dwellings are two storeys in height. A woodland amenity area with an interpretation panel is proposed at the junction of the principle access and the Haul Road.
- 4.2 Parking spaces are mainly on plot comprising drive-through car ports to rear hardstandings. There is limited use of rear parking courts. Provision is also made for visitor parking.
- 4.3 The application includes the following documents:
- Planning Statement
 - Design & Access Statement
 - Land Contamination Report and Remediation Method Statement
 - Flood Risk Assessment & Drainage Strategy
 - Heritage Statement
 - Transport Assessment
 - Archaeology Report
 - Tree Survey
 - Biodiversity Report

5.0 Land Use Allocation

- 5.1 The site is within an area allocated for predominantly residential purposes on the Proposals Map. On the north and west boundaries small parts of the site are included in a TPO and a Local Wildlife site.

6.0 Relevant Planning History

081951 – Application for 300 dwellings – refused 25.2.2009

110217 – Replacement of port for 170 dwellings mixed use development – Withdrawn

144693 - Redevelopment of part of former Rowhedge Port to provide 170 dwellings, a potential community facility building (use classes A1, A3, A4, B1, C3, D1), public waterfront area incorporating dinghy park, car park, viewing platform, public facilities, new river wall and new subway, upgrade to access road from Rectory Road, new footpath from access road to existing recreation ground, internal roads, open spaces, drainage, landscaping and all ancillary works. Approved

142437 - Full Application for “Proposed modified junction and upgraded access road for the former Hall Road, Road off Rectory Road Rowhedge.”
Approved 24 June 2014

There is also extensive history relating to the former site uses.

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
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
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
TA4 - Roads and Traffic
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
DP3 Planning Obligations and the Community Infrastructure Levy
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP23 Coastal Areas

- 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 H1 Housing Allocations

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

Backland and Infill
Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Managing Archaeology in Development
Cycling Delivery Strategy
Rowhedge Wharf Development Brief adopted 2004
Essex County Council, Development & Public Rights of Way

8.0 Consultations

- 8.1 Urban Design Officer
“Proposals are generally very well designed and have positively taken on board design advice we provided during pre-application dialogue. Highlights include the context-responsive approach, views down the valley, pedestrianised spine, the general quality of building design and shared planted streets. I would strongly support the scheme.”

8.2 Archaeologist

"I am now satisfied that archaeological investigation can be adequately carried out by a condition attached to any planning consent, because the site has been previously heavily developed and therefore the potential for discovering well-preserved (and therefore nationally important) archaeological remains to be low. There are now no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed."

8.3 Environmental Protection

No objection subject to conditions

8.4 Essex County County Lead Local Flood Authority

Following discussion and the submission of an amended scheme there is agreement in principle to a surface water sustainable drainage scheme. The formal response will be reported on the amendment sheet.

8.5 ECC Highways

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the conditions and a financial contribution towards bus stop improvements and the Rowhedge Trail.

8.6 Environment Agency Comments

"We have reviewed the application and have no objection to the proposal.

We are requesting conditions regarding the protection of the water environment and offer advice regarding flood risk, waste and sustainability.

The Water Environment

The site overlies secondary A aquifers (Alluvium and River Terrace Gravels) and is adjacent to a watercourse, which flows to a nearby main river, River Colne. It is known from work on the adjacent site that the underlying River Terrace Gravels is in direct hydraulic continuity with the watercourse. We consider the location is sensitive with respect to controlled waters. Our comments will require resolution prior to commencement of works.

We consider that planning permission could be granted to the proposed development as submitted if the following 5 planning conditions are included. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

We ask to be consulted on the details submitted for approval to your Authority to discharge these conditions and on any subsequent amendments/alterations.

For development involving piling or other penetrative ground improvement methods on a site potentially affected by contamination or where groundwater is present at a shallow depth, a suitable Foundation Works Risk Assessment based on the results of the site investigation and any remediation should be undertaken. This assessment should underpin the choice of founding technique and any mitigation measures employed, to ensure the process does not cause, or create preferential pathways for, the movement of contamination into the underlying aquifer, or impacting surface water quality. We recommend that developers should:

- 1) Refer to our 'Groundwater Protection: Principles and Practice (GP3)' document;
 - 2) Follow the risk management framework provided in CLR11, 'Model Procedures for the Management of Land Contamination', when dealing with land affected by contamination;
 - 3) Refer to our 'Guiding Principles for Land Contamination' for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, for example human health;
 - 4) Refer to our Land Contamination Technical Guidance;
 - 5) Refer to the CL:AIRE 'Definition of Waste: Development Industry Code of Practice' (version 2) and our related 'Position Statement on the Definition of Waste: Development Industry Code of Practice';
 - 6) Refer to British Standards BS 5930:1999 A2:2010 Code of practice for site investigations and BS10175:2011 A1: 2013 Investigation of potentially contaminated sites – code of practice and our 'Technical Aspects of Site Investigations' Technical Report P5-065/TR;
 - 7) Refer to our 'Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination' National Groundwater & Contaminated Land Centre Project NC/99/73. The selected method, including environmental mitigation measures, should be presented in a 'Foundation Works Risk Assessment Report', guidance on producing this can be found in Table 3 of 'Piling Into Contaminated Sites';
 - 8) Refer to our 'Good Practice for Decommissioning Boreholes and Wells'.
 - 9) Refer to our 'Temporary water discharges from excavations' guidance when temporary dewatering is proposed
- These conditions are supported by your Policy DP1: Design and Amenity and Policy ENV1 Environment.

Flood risk

The site lies partially in Flood Zone 2 defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a medium probability of flooding where notwithstanding the mitigation measures proposed, the risk to life and property within the development from tidal inundation would be unacceptable if the development were to be allowed. The proposal is classified as a "more vulnerable" development as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. The majority of the proposed development lies within Flood Zone 1 and only a small section lying in flood zone 2. 'More Vulnerable' land uses proposed in Flood Zones 1 and 2 are considered appropriate in line with Table 3 of PPG.

We are satisfied that the Flood Risk Assessment: SJC/617183/JRC, dated 04/03/2016 provides you with the information necessary to make an informed decision. We have no objection to the planning application, providing that you are satisfied that the development would be safe for its lifetime and you assess the acceptability of the issues within your remit.

The applicant is also proposing to raise the site to provide minimum finished floor levels of 5.4 mAOD with road levels no lower than 5.15 mAOD. Finished floor levels will therefore be set above the 200 year undefended flood level inclusive of climate change.

You are the competent authority on matters of evacuation or rescue, and therefore should assess the adequacy of the evacuation arrangements, including the safety of the route of access/egress from the site in a flood event or information in relation to signage, underwater hazards or any other particular requirements. You should consult your emergency planners as you make this assessment.

We agree with this initial assessment but this pollution risk needs to be addressed in a full foundation works risk assessment.

CBC Resilience Officer has confirmed the submitted Flood Management Plan is acceptable.”

8.7 Anglian Water

“ASSETS

Section 1 – Assets Affected

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

WASTEWATER SERVICES

Section 2 – Wastewater Treatment

The foul drainage from this development is in the catchment of *** Water Recycling Centre that will have available capacity for these flows.

Section 3 – Foul Sewerage Network

Development will lead to an unacceptable risk of flooding downstream. However a development impact assessment has been prepared in consultation with Anglian Water to determine a feasible mitigation solution as part of the Bloor Homes development. As the development will discharge to the Bloor Homes newly constructed adoptable foul water system, we will request a condition requiring compliance with the agreed drainage strategy.

We request a condition requiring the drainage strategy covering the issue(s) to be agreed.

Section 4 – Surface Water Disposal

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Section 5 – Trade Effluent

Not applicable.

Section 6 – Suggested Planning Conditions

Anglian Water would therefore recommend a planning condition regarding foul sewerage if the Local Planning Authority is mindful to grant planning approval.”

8.8 Contaminated Officer

Comments that subject to comments from the Environment Agency with respect to risks to controlled waters, it would appear that the site could be made suitable for the proposed use, with the additional information requirements, remediation and verification dealt with by way of conditions.

8.9 Landscape Officer

“The landscape strategy and landscape characterisation proposals would appear satisfactory. There are no Planning Projects Team objections to this application on landscape grounds. Conditions are recommended once proposals have been agreed and/or as part of any planning consent given in order to secure a detail landscape scheme.”

8.10 Natural England

"Thank you for your consultation on the above dated 17 March 2016 which was received by Natural England by e-mail on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Conservation of Habitats & Species Regulations 2010 (as amended)

The Wildlife & Countryside Act 1981 (as amended)

Natural England does not object to the proposed development, subject to the inclusion of our recommended conditions, to secure mitigation for potential impacts to statutory designated sites.

Planning Context

Natural England provided charged pre-application advice we were specifically asked to provide advice upon:

- potential impacts on designated sites;
- requirement for a Habitats Regulations Assessment (HRA); and
- clarification on winter working conditions.

At that time, our advice on impact pathways (and appropriate avoidance and mitigation measures) was given in the context of the adjacent Bloors Homes site (directly to the east). Our current advice, based on the submitted supporting documents (e.g. Ecological Assessment and Faunal Surveys, Eco-Planning UK dated 26th February 2016) is largely consistent with our earlier pre-application advice (which is cited in Appendix 6 of the Eco-Planning report).

Colne Estuary Special Protection Area & Ramsar Site

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Colne Estuary Special Protection Area (SPA) which is a European site. The site is also listed as the Colne Estuary Ramsar site¹ and also notified at a national level as the Colne Estuary Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

No objection

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:

- the proposal is not necessary for the management of the European site; and
- the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.

When recording Colchester Borough Council's HRA we recommend you refer to the following information to justify your conclusions regarding the likelihood of significant effects.

Upper Colne Marshes Site of Special Scientific Interest

No objection – with conditions

This application is in close proximity to the Upper Colne Marshes Site of Special Scientific Interest (SSSI), being ~55m at its closest point. The site consists of grazing marshes with associated ditch and open water habitats, a series of tidal salt marshes behind old flood defence walls following a number of breaches, the sea walls themselves, and a small area of intertidal mud. It is considered to be of special interest as it supports an outstanding assemblage of nationally scarce plants, and an unusual diversity of brackish ditch-type plants. Additional interest is provided by the terrestrial and aquatic invertebrates found within the site, and breeding and wintering birds. As highlighted above, the Upper Colne Marshes SSSI is considered to be ecologically linked to the Colne Estuary SPA and Ramsar site, supporting elevated numbers of wintering birds, particularly in severe winter weather when birds seek sheltered conditions further up the estuary.

The proposed development has the potential to indirectly affect the SSSI (and therefore the SPA / Ramsar site) through construction effects (noise, light, and polluted surface water runoff), and operation effects via discharges from sewage treatment works (capacity dependent) in particular.

1 Listed or proposed Ramsar sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

2 Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitatsreview/implementation/process-guidance/guidance/sites/>

Requirement for Habitats Regulations Assessment (HRA)

In our view, we anticipate that the proposal as presented to us is not likely to have a significant effect on the European sites in the vicinity of the development site, provided that a basic range of construction mitigation techniques are employed. This would include routine adherence to the Environment Agency Pollution Prevention Guidelines (PPG), which seek to avoid discharge of polluted runoff into the Roman River, or Colne Estuary. The avoidance of noisy winter working during severe winter weather (see below) would also assist in reaching this conclusion. We also consider that confirmation that sufficient headroom exists at the sewage treatment plant can readily be provided by Anglian Water in support of a planning application.

Procedurally, it is appropriate for the local authority (as the competent authority under the Habitats Regulations), to consider the proposed development against the tests of the Habitats Regulations (in view of the functional links with the Colne Estuary described above). Whilst it is up to the competent authority to take responsibility for recording their HRA as they see fit (which may be limited to referral to NE's consultation response letter), our advice to you is that no formal Habitats Regulations Assessment report is required for this development.

HRA is regarded to encompass the whole process of assessing a project against the tests of the Habitats Regulations. If a “likely significant effect” is predicted, then an “Appropriate Assessment” is required, unless those effects can be mitigated. In this case, as we do not anticipate a likely significant effect to arise, no Appropriate Assessment would be required.

Given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(l) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Conditions

Our assessment of the proposal, based on the supporting information on the Colchester Borough Council website, is that in view of the proximity of the development site to the SSSI, some construction mitigation is appropriate, but that this would not be as extensive at the adjacent Bloors Homes site. Some degree of buffering to the SSSI is found to the east (the adjacent development site), and south (an area of trees / scrub), however in our view it remains appropriate to avoid especially noisy working (such as piling) during severe winter weather, as defined by the Joint Nature Conservation Committee (JNCC) for suspension of wildfowling. In our view, the location of the development site does not warrant a more detailed mitigation package, which might have included acoustic dampening or visual screening of the SSSI.

In conclusion Natural England advises that, should the Council be minded to grant permission, suitably worded planning conditions should be attached to the permission which seek to achieve the following:

- No construction works (especially noisy works such as piling etc.) to be undertaken between October and March (inclusive) during prolonged periods of freezing conditions (as defined by the JNCC wildfowling suspension), to avoid disturbance to over-wintering birds
- A dust management plan should be agreed with the local planning authority, to minimise dust covering adjacent sensitive habitats
- The development should adhere to Environment Agency Pollution Prevention Guidelines, to avoid pollution of adjacent sensitive habitats, during construction and operation.

Reason: These conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which the Upper Colne Marshes SSSI is notified.

These planning conditions are independently recommended by the applicant’s ecologists, see paragraph 13.2 of the Eco-Planning Report.

If your Authority is minded to grant consent for this application without the conditions recommended above, we refer you to Section 28l (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your authority, requiring that your Authority:

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England’s advice; and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

Other advice

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity);
- local landscape character; and
- local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geo-conservation group or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

The proposed development site lies directly adjacent to the Rowhedge Pits Local Wildlife Site (ref: Essex 0919). Further information in relation to Rowhedge Pits is available from Essex Wildlife Trust .

Protected Species

Although covered in the Eco-Planning Report, we have not assessed this application and associated documents for impacts on protected species. We particularly highlight the historic records of the Schedule 1 bird species little ringed plover, the European protected species great crested newt, and badgers, in the vicinity of this proposed development site.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'."

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

The Parish Council have stated that East Donyland Parish Council wishes to object to this planning application because of a number of concerns:

- i) There are factual inaccuracies in the Planning Statement submitted - the parish council has made no request for funding towards a footbridge to Wivenhoe, or for funding to enhance the Rowhedge Social Club. Later within this comment is an initial list of potential areas where the parish council believes that contribution would be more appropriate.
- ii) Within the Planning Statement, there is reference to Haul Road as being a two lane road with pinch points - this contradicts what was agreed within the Bloor Homes application, for a one lane road with passing points, and could lead to potential speed / traffic issues in the future. Officer comment the access is that approved under application 142437
- iii) The initial report from the Principle Planning Officer scores the application as 'poor' with 48% in the Building for Life Assessment - the parish council would ask that the Planning Committee take heed of this low rating and make their decision on this application accordingly. Officer comment: the Building for Life Assessment referred to was applied to the preliminary enquiry by the urban design officer members will note this officer now fully supports this application, consultation comments set out above
- iv) The documentation suggests that the environmental surveys required are incomplete and in light of the concerns raised and ongoing issues regarding contamination and pollution on the adjacent development site, this work needs to be fully completed and any issues resolved before a decision can be taken. Officer comment: both the Environment Agency and CBC Contaminated Land Officer have considered the reports and are satisfied the development can be approved subject to conditions
- v) The documentation suggests that the site may have architectural significance and this needs to be investigated prior to any decision. Officer comment: it is assumed this should say archaeological significance. The Councils Archaeologist has been consulted and the response, no objection, is out above the condition requested will be imposed
- vi) The parish council strongly believes that the infrastructure of the village, including the school and doctors surgery cannot cope with this increase in population without support / enhancement. There is insufficient evidence provided that shows how this will be achieved, which is a serious concern. Officer comment: the requirements of the development team regarding appropriate s106 contributions are set out below the legal agreement will secure all the contributions requested.

The parish council also wish to comment on the S106 contributions that would need to be agreed as part of any planning consent. The parish council has not been involved in any discussions or consulted on this, and would like the following to be considered for inclusion:

- i) Greensward open spaces proposed as part of the development - the parish council to have input into how these are developed, with ownership of these to be transferred to the parish council on completion.

- ii) PROW - the developer to be responsible for ensuring that the PROW between the site and the existing Bloor site is developed as necessary to make it usable, accessible and fit for purpose. To include appropriate surfacing, drainage and lighting, taking into account the varying ground levels between the two sites. Arrangements for long term management of this path to be agreed to prevent any future gaps in service provision. The developer to make an appropriate contribution towards improving the PROW between Rowhedge and Fingringhoe. Officer comment: The PROW is outside the site. These works were not required by the development team. This PROW will be retained
- iii) Pump House - the parish council is currently investigating the purchase and development of the Pump House, adjacent to the proposed site, as a community facility. No decision has yet been reached regarding whether this is viable, but if this does go ahead, this would be a more appropriate use for community facility contribution than the Social Club. Officer comment: A commuted sum to the pump house would be contrary to the CIL regulations as it is currently in private ownership with no certainty the project will go ahead.
- iv) Traffic calming - with the increased population from the wharf development, the parish council is aware that the conflict between pedestrians and vehicles in the narrow village streets is likely to increase. The council is seeking to investigate potential ways to mitigate this problem, and it may be appropriate for the developer to make a contribution towards traffic calming measures e.g. 20mph speed limits/zones. Officer comment: The Highway Authority and development team have considered the application and these works have not been suggested. They would not satisfy CIL tests as they are not essential for the development. Vehicles will access the site from Rectory Road not through the village streets.
- v) The recent Village Plan survey results have just been made available, and indicate that there is a potential need for further sporting facilities within the village. This is another potential area for s106 contribution from the developer. Officer comment: The open space contribution will be used to improve facilities at Rowhedge Recreation Ground.

To conclude, the parish council feels that they have been provided with insufficient evidence that all the implications of this development for the village have been carefully considered, and wish to have further involvement in discussions, in particular with regard to S106 contributions before any approval is granted.”

10.0 Representations

10.1 (One support/ two objection and one general observation)

Objection

- “• already a substantial amount of houses planned to be built in that area which will negatively affect the infrastructure of the village
- school is not large enough to accommodate the extra children from this development so to build even more homes seems very unwise. We know there is a shortage of school places. Which schools will these children attend?
- the same will apply to the Doctors surgery. Unless provision has been made to extend or build a much larger surgery.
- we need to try and preserve some open green spaces for wildlife and the future generation to enjoy. Instead of filling any empty space that comes available with new builds

- if new houses are to be built there needs to be less of them and build larger homes with bigger gardens. I know several families that have had to move out of the village due to the fact there are no large family homes with land available now in Rowhedge.
- more facilities should be provided for the young people in Rowhedge, the Wharf area would be perfect site to have a skate park or something similar.
- insufficient information about the effects of potential contamination of the ground and water.... refer the Contamination Officer's reports 22 March and 15 April 2016. Neither is there an Environment Agency report attached to the application as recommended by the Contamination Officer. We already have grave concerns that there is adequate provision for managing the flow of water downhill from the springs and contaminated pits and industrial buildings... despite some remedial work already carried out by Bloor Homes there is still a constant flow of running water down the hill where it accumulates and now floods the PRow - this same PRow was not constantly flooded with running water prior to the installation of the new road and groundworks. “

Support

- “This looks to be a very attractive layout. I have strong links with Rowhedge and have been looking forward to the development of the wharf for a number of years and this application is what my wife and I were really hoping to see in that it is not only a good layout but there seems to be a good deal of thought and consideration to the local area.
- We clearly have a large shortfall of housing in our area. My children are all moving away because of house prices; which really is ultimately driven by the shortage of homes. We need to get more developments going but especially the good ones and this is one. The mix of units looks sensible and the house types are very attractive. Hopefully this is approved as it serves to enhance the village in general. “

General Observation

- “1 Our main concern is surface water drainage as there are lots of natural springs on the site & in the area & we have had major problems with this while the new road is being put in by Bloor homes & Mike Lilley has photos on the flooding we have endured at the time .This will still happen when buildings 1-6 &7-12 go up as the road is much higher than the HIGH STREET which is a low spot so therefore the water will all drain our way as it is at the moment & have a BIG PUDDLE OUTSIDE OUR GATE
- 2 Public footpath access during the building works as this is our only route for walking dogs & leisure walks because the sea wall path is closed .During the winter this path is very muddy& deep with water & needs making up
- 3 That no traffic from the site comes via or leaves along the HIGH STREET
- 4 All street roads in the village face the river these on the plan DO NOT would be better if they matched BLOORS roads & others in the village
- 5 WE OTHERWISE SUPPORT THE PROPOSAL FOR THE DEVELOPMENT.”

10.2 Colchester Cycling Campaign welcomes the thought that the developers have put into this scheme.

“As part of permission we would hope to see:

- A s106/CIL contribution towards the Rowhedge Trail for cycles/pedestrians connecting Rowhedge village with the Hythe

- A s106/CIL contribution towards connecting the cycle route through the estate to Fingringhoe (together with practical help from the developer)
- The southern end of the north-south cycle route left open for possible future continuation to Fingringhoe
- A "design feature" or "gathering point" at the extreme east of the site to allow for community interaction
- The riverside footway given bridleway status

We welcome the north-south cycleway/footway but we would suggest that cyclists and pedestrians are segregated from each other by means of a low kerb. The cycle part of the route could also be used by the elderly/disabled in mobility scooters. We would like the southern end of this route left open for possible future continuation to Fingringhoe. It is important to stress that this route would not be just for residents but for current villagers who ride for leisure. We would like to see the build quality exceed current Essex standards and the developer could look at the north-south cycle superhighway in London (Blackfriars Bridge) for treatment/ideas. (more information on the proposed Fingringhoe link from neil@colchester-cycling.org.uk, who would be happy to talk to the developer. The riverside footpath should be given bridleway status and opened to cyclists with similar segregated treatment -- the more attractive this scheme is, the better it will be for house sales. The access road corridor should be limited to 20mph in line with Essex Design Guide and Manual for Streets; we would suggest alternating centre-of-road low hedging with kerb build-outs to enforce lower speeds. Young cyclists should be given access to the recreation field via this route. Secure cycle parking should be provided at the western end of the access road if this is intended to be the pick-up/drop-off point for school buses. Cycle parking within homes is touched upon in 5.5 of the transport statement, but only in the chapter title. Cycle parking should be provided to the Essex Parking Design Standard. Again, we are happy to advise the developer. “

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 development proposes two parking spaces per dwelling plus an additional visitor space per four dwellings a total of 172 allocated spaces and 22 visitor spaces. This complies with policy standards.

12.0 Open Space Provisions

- 12.1 The proposed development satisfies the policy requirement of 10% open space on site. The main area of open space is adjacent to the woodland and is described as an “information hub for ecological education purposes”. A natural area west of the works building is also proposed together with a “natural” link extending north south through the site. The scheme also provides each dwelling with a private rear amenity space in accordance with policy requirements
- 12.2 The development forms the 2nd phase of the Rowhedge Wharf development. The first phase included a substantial area of waterfront public realm space as well as open space within the development these areas exceeded the 10% requirement and will be available for use by all residents.

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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission and that meet the tests of the Community Infrastructure Levy (CIL) are:

- 20% affordable housing
- Public Open Space (10% on site provision) and a contribution of £285,032
- Community Facilities £120,000 towards improvements at Rowhedge Social Club
- Highways total contribution of £46,000; £26,000 towards the Rowhedge trail and £20,000 towards upgrading bus stops
- Education: Secondary Travel £70,262 and Primary Education £315,224

The applicant has agreed these obligations affordable housing be secured in the following way.

In 2013 the Council was approached by Hills Residential Construction Ltd and Mersea Homes Limited in respect of a site at Brook Street to discuss an increase in the affordable housing provision. The site was subject to applications F/COL/04/1747 and 101983 and a legal agreement signed in 2006 secured 4 units of affordable housing on the site which comprised 110 units. A new agreement was signed in 2013 securing 72 affordable units on the site. In recognition that Brook Street was now providing more affordable housing than originally approved the 2013 agreement provides for a future allowance for affordable housing for some or all of the affordable housing requirements from other re-development sites. The other sites are identified as the Rowhedge Port site or Stanway growth area. The agreement also includes an “Affordable Housing Allowance” of 2046 square metres. Hills have 55% of the allowance i.e. 1125sqm and are proposing to use this credit for the affordable housing requirement on this site. As there will be a shortfall in the 20% requirement two units will be provided on site and plots 77 and 78 have been identified as affordable housing.

15.0 Report

15.1 Policy Issues

The NPPF is a significant material consideration in the determination of planning applications. Paragraph 14 states that, at the heart of the Framework, is a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay and, where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.

- 15.2 Core Strategy Policy SD1 seeks to promote sustainable development with growth directed to the most accessible and sustainable locations in accordance with the listed settlement hierarchy. The Adopted Site Allocations document Policy SA H1 Housing Allocations states, inter-alia, "Within Colchester Borough (outside of the Growth Areas and Regeneration Areas) the following sites are allocated as predominantly residential on the Proposals Map to deliver housing targets identified in the Council's Core Strategy ; the Former Rowhedge Port is one of the sites identified.
- 15.3 The site is within the Rowhedge settlement boundary within an area identified for predominantly residential purposes on the Adopted Proposals map. The principle of residential development is therefore acceptable.
- 15.4 Design and Layout
- 15.5 The development includes the following character areas:-
- The Works Buildings consisting of two shed-like structures each containing 6 two bedroom units. This reflects the scale and character of dwellings to the north of the application site and the shape and volume of the two storage sheds being removed. This non-domestic form is a focal point at the entrance to the development. These dwellings are close to the protected woodland which will be retained as amenity space
 - Haul Road frontage these units provide the frontage to the scheme; they are the tallest within the development and more formally arranged. They are weatherboard clad with a brick base reflecting the character of frontage housing in Rowhedge
 - The Lanes and Street reflect the backroads and lanes in Rowhedge which form an important characteristic of historic Rowhedge village. They have shared pedestrian/vehicular surfaces and with an array of planting.
 - Woodland Way is a single aspect road comprising the principle access to the development it has housing facing the bank and woodland consisting of detached, semi-detached and terrace housing with a mixture of landscaping to the frontages
 - Private Drives have a more arcadian layout with detached dwelling in larger frontages softened by front lawn and hedge planting.
- 15.6 The layout includes a north south natural link through the site flanked with trees and hedges, this can be accessed from Haul Road, the Lanes, the Street and the Private Drive. Open space is proposed at the junction of Haul Road and new access on the edge of the larger woodland area on land which forms part of the tree preservation order and Local Wildlife Site.
- 15.7 The proposed units draw strongly upon Rowhedge vernacular in terms of their architectural detailing and massing, materials are identified as timber framing, timber weatherboarding and red clay tiles and slate. It is considered the proposed development is very well designed and detailed and is fully supported by the urban design officer.

15.8 Scale, Height and Massing

15.9 All the buildings are 2 storeys high with only limited use of roof space. The houses are of traditional domestic scale and mass. The works buildings are also 2 storey but with a scale and mass of the small industrial buildings they replace and detailing which reflects the adjacent pump house.

15.10 The scale height and mass of the buildings reflect traditional domestic buildings and small commercial buildings and are acceptable.

15.11 Impact on the Surrounding Area

15.12 The impact of the development on the surrounding protected landscape is described below:-

Access is proposed via an improved Haul Road and residents at the top end of Rectory Road will experience additional vehicular traffic during construction and from the new residential traffic. However the road was previously used by large commercial vehicles visiting the port and commercial uses which included a concrete block making works. Conditions requiring the submission of and agreement to, a Construction Management Plan and to prevent vehicular access from High Street will minimise any impact on the surrounding area.

15.13 Impacts on Neighbouring Properties

15.14 There are residential properties which back onto the north boundary. The area adjacent to this boundary is to be retained as amenity land and the buildings will be sited in excess of 20 metres from the boundary. It is considered there will be no adverse impact on residential amenities

15.15 Heritage Issues

15.16 The site does not contain any designated or undesignated heritage assets and is not located within a Conservation Area. However it is some 90 metres from Rowhedge Conservation Area separated from it by existing development at the end of the High Street. There are listed buildings within and outside the conservation area. Due to degree of separation from the Conservation Area and Listed Buildings the development will not have an adverse impact on these heritage assets. Vehicular traffic will access the site via Rectory Road not through the village so there will be no adverse impact in terms of traffic movement.

15.17 The archaeological report makes it clear that there is a considerable depth of made ground over most of the site and there is no realistic chance that any archaeological deposits survive; the exception is the extreme southern end of the site. The Archaeologist is satisfied with conclusions of the report and has no objection subject to a condition.

15.18 Highway and Parking Issues

- 15.19 Vehicular access to the site will be via the existing Haul Road which joins the top end of the village at Rectory Road. Planning permission has already been granted for this road to be improved to an adoptable standard. The use of the Haul Road has always been a key consideration as it allows the development to take place without introducing additional vehicles along High Street or through the historic centre of the village. High Street is a narrow road lacking in pavements where houses have no provision for off street parking and cars are parked on the highway. Details of the proposed parking provision is set out above, the provision meets the Councils adopted standards.
- 15.20 Members will note the Highway Authority has raised no objection subject to conditions.
- 15.21 Landscape Trees and Nature Conservation Issues
- 15.22 Whilst the site does not have any statutory conservation designation or status it is close to the Upper Colne Marshes S.S.S.I., Colne Estuary Special Protection Area (SPA), RAMSAR site – Colne Estuary, Essex Estuaries Special Area of Conservation Blackwater, Crouch and Colne estuary Marine Conservation Zone. Natural England has confirmed the proposed development will not have any direct impact upon the areas or conservation status of these designated sites, nor affect their management regimes or future ecological potential. There is some limited potential for indirect impact associated with construction effects (noise, illumination etc.) and operation effects (sewage discharge etc.) and these matters are dealt with by conditions.
- 15.23 On the western boundary of the site is a large area of woodland designated as a Priority Habitat Deciduous Woodland. The woodland is also designated as a Local Wildlife Site a small part of which extends behind the two existing industrial buildings on the north boundary and across a small section of the site on the north-west boundary. The majority of these areas are retained as part of the proposed development and are identified for protective and enhancement works. The latter is proposed as a woodland amenity area. The trees on site comprise predominantly self-seeded willow, birch, alder and oak and whilst some of these trees will be removed the larger area of woodland comprising some 27 hectares is retained and enhanced under the phase 1 planning permission.
- 15.24 The Ecological reports have confirmed there is no active badger sett within any part of the site and that the development would not have an adverse impact upon the setts in the adjacent woodland. There are no ponds or aquatic habitats within or adjacent to the site and no suitable amphibian habitat. An extended repeated multiple method reptile survey identified a single Common Lizard present on site. The habitat in which the reptile was located is being retained as part of proposed development scheme. The bat survey has confirmed there is no active bat roost of any type within any of the buildings or trees on the site. Bat roosts and invertebrates within the adjacent woodland and sandy banks will be unaffected by the development. Whilst the report suggests the site is unsuitable for a dormouse population further survey work is required and is secured by condition.
- 15.25 The new development will be seen against a backdrop of woodland, vegetation and existing built form and will not have an adverse impact on the immediate landscape. The woodland of the former pits and much of the settlement of Rowhedge is at a higher level than the application site.

15.26 Flood and drainage issues.

- 15.27 The site lies predominantly within in Flood Zone 1 defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a low probability flood risk. A small section is within Flood Zone 2 where flood risk is defined as medium. The Environment Agency has considered the Flood Risk Assessment and has raised no objection subject to conditions. The applicant is proposing to raise the site to provide minimum finished floor levels of 5.4 mAOD with road levels no lower than 5.15 mAOD, finished floor levels will therefore be set above the 200 year undefended flood level inclusive of climate change. Colchester is included in the Mid Essex Strategic Flood Risk Assessment. This document sets out the development areas within each of the local authority areas. Rowhedge Port is included within the area list for Colchester. The document indicates the site can be made safe for residential use by appropriate mitigation; by raising the level of the ground and incorporating raised floors.
- 15.28 The applicant's consultants have been involved in discussion with Essex County Council sustainable drainage team who as the Lead Local Flood Authority (LLFA) provides advice on SuDS schemes for major development. The LLFA remit is to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:
- Non-statutory technical standards for sustainable drainage systems
 - Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
 - The CIRIA SuDS Manual (C753)
 - BS8582 Code of practice for surface water management for development sites.
- 15.29 A SUDS scheme has now been agreed in principle and involves permeable paving and the treatment of surface water before it discharges into the drainage system for the Bloor development.
The Councils Resilience Officer has considered the flood management plan and following revisions has confirmed the plan is acceptable
- 15.30 The parish council and residents have commented in respect of surface water issues with the adjacent Bloor site. The conditions regarding drainage and surface water for this site have not been discharged. It is understood that some of the drains on site were damaged when buildings on the site were demolished.
- 15.31 In respect of the application site Anglian Water and the Environment Agency have raised no objection subject to conditions. Essex County Council as LLFA has requested several revisions to the drainage proposals to ensure a satisfactory scheme which complies with SUDS legislation.

16.0 Conclusion

- 16.1 The application proposes residential development on a site allocated for such purposes. The development proposed is a high quality design solution that responds to the site constraints, and provides a form of development appropriate to the local context in terms of layout, density, building heights and architectural style. The site is opposite a SSSI and there are national and internationally designated sites close by however with appropriate mitigation and conditions there will be no adverse impacts on these sites in terms of landscape character or nature conservation.

- 16.2 The proposal represents a potentially attractive development on a sustainable site and planning permission is recommended

17.0 Recommendation

17.1 Recommendation 1

That Members agree that the application with all the agreed mitigation, management measures and planning conditions, will not affect the integrity of the Ramsar or Special Protection Area either alone or in combination with other plans or projects. Having regard to the requirements of the Habitats Regulations and given consideration to the information submitted in respect of the application, and the policies of the development plan, the comments from Natural England and all other material considerations. The Head of Commercial Services be authorised to grant a conditional planning permission subject to the Legal Agreement.

17.2 Recommendation 2

APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- 20% affordable housing; the applicant to utilise their affordable housing allowance in accordance with the Brook Street legal agreement and to provide 2 units on site
- Public Open Space (including 10% on site provision) and a financial contribution of £285,032
- Community Facilities a financial contribution of £120,000 towards improvements at Rowhedge Social Club
- Highways a financial contribution of £46,000; comprising a contribution of £26,000 towards the Rowhedge Trail and £20,000 towards upgrading bus stops
- Education: Secondary Travel a financial contribution of £70,262 and Primary Education a financial contribution £315,224
- Private Management Company to be responsible for all areas that are either not adopted or do not form part of a domestic curtilage
- All vehicular access to and from the site both during construction and post construction shall be via the "improved Haul Road" there shall be no vehicular access from High Street.

On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Positivity Statement

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.

19. 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 (Please see amendment sheet for details)

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

3 - 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.

4 - Refuse and Recycling Facilities

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

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

5 - 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.

6 - Non-Standard Condition/Reason

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

7 -Non-Standard Condition/Reason

The garage and car port accommodation forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose, including other uses ancillary to the residential use, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To retain adequate on-site parking provision in the interest of highway safety.

8 - *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.

9 - Landscape Management Plan

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

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

10 - 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.

11 - Tree and Natural Feature Protection: Protected Areas

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

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

12 - 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.

13 - Non-Standard Condition/Reason

Prior to the first Occupation/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 EZ1 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.

14 - 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.

15 - 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.

16 - 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.

17 - 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 14, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 15, 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 16.

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.

18 - *Validation Certificate

Prior to the first occupation 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 2.

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.

19 - *Protecting Public Rights of Way

The public's rights and ease of passage over public footpaths / bridleway / byway number 130_21, 130_33, 130_24 shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility.

20 - Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

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

21 - Cycle Parking TBA

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

22 - Non-Standard Condition/Reason

Prior to the first occupation of the development hereby permitted, the means of vehicular access from Rectory Road shall have been constructed in accordance with the approved plans under application reference 142437.

Reason: To ensure that there is a satisfactory access available at the time when the site becomes occupied in the interests of highway safety.

23 - Non-Standard Condition/Reason

Prior to the commencement of any works, additional drawings that show details of the proposed new windows including 'false' windows, chimney, plinth, projection brick, eaves, arches, bay, window/door surrounds, car ports, stone details, finial, dormer, doors, verges, cills, verandah and all other architectural features to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these details which form important elements of the design and appearance of the buildings.

24 - Non-Standard Condition/Reason

No piling shall commence until a detailed scheme of the method of piling and timing of these operations has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure an acceptable method of piling is used to minimise impacts on the amenity of the SSSI and residential amenity.

25 - Non-Standard Condition/Reason

No works shall take place until a scheme of habitat and biodiversity enhancement and mitigation, including a dormouse population survey and mitigation, has been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To improve biodiversity in accordance with Paragraph 118 of the NPPF and Section 40 and 40(3) of the Natural Environment and Rural Communities Act (2006).

26 - Non-Standard Condition/Reason

The development shall take place in accordance with the information in the documents accompanying the application including the Planning Statement, Land Contamination Report and Remediation Method Statement, Flood Risk Assessment & Drainage Strategy, Heritage Statement, Transport Assessment, Archaeology Report, Tree Survey, Biodiversity Report including and proposals and mitigation.

Reason: To ensure a satisfactory form of development and to ensure the development takes place in accordance with the submitted information to mitigate any adverse impacts.

27 - 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.

28 - Non-Standard Condition/Reason

No construction works (especially noisy works such as piling etc.) to be undertaken between October and March (inclusive) during prolonged periods of freezing conditions (as defined by the JNCC wildfowling suspension), to avoid disturbance to over-wintering birds. Prior to commencement of development a dust management plan shall be submitted to and approved in writing by the Local Planning Authority, to minimise dust covering adjacent sensitive habitats. The development shall be carried out in accordance with the approved plan. The development should adhere to Environment Agency Pollution Prevention Guidelines, to avoid pollution of adjacent sensitive habitats, during construction and operation.

Reason: To ensure that the development, as submitted, will not impact upon the features of special interest for which the Upper Colne Marshes SSSI is notified.

29 - Non-Standard Condition/Reason

No development shall commence until a foul water strategy has been submitted to, and approved in writing by, the Local Planning Authority. No dwellings 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.

30 - Non-Standard Condition/Reason

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
 - b. The programme for post investigation assessment
 - c. Provision to be made for analysis of the site investigation and recording
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation
 - f. Nomination of a competent person or persons/organisation to undertake the works
- The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008). On request of the applicant, a brief for the archaeological investigation will be provided. In this case, further trial-trenching will be required in advance of development. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

31 - Non-Standard Condition/Reason

Prior to the commencement of development a scheme of measures for the control and suppression of dust emissions shall be submitted to and approved in writing by the Local Planning Authority. Such agreed works shall be implemented in the approved form prior to the commencement of the development hereby permitted and shall be maintained in the approved form. No materials produced as a result of the site development or clearance shall be burned on site.

Reason: To ensure that the amenities of the area are not compromised by the construction phase of development.

32 - Non-Standard Condition/Reason

Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:

- a) Lane A Street and Lane B a minimum 6 metres wide
- b) The private drive serving plot 81 to 86 a minimum 5.5 metres wide for the first 6 metres tapering down to a minimum 3.7 metres wide and a size 5 turning head

The development shall be carried out in accordance with the approved drawings

Reason: To protect highway efficiency of movement and safety.

33 - Non-Standard Condition/Reason

No occupation of the development shall take place until Residential Travel Information Packs have been provided to each dwelling.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

34 - Non-Standard Condition/Reason

Prior to each phase of development approved by this planning permission no development, or such other date or stage in development as may be agreed in writing with the Local Planning Authority, shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified: all previous uses potential contaminants associated with those uses a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters (particularly the Secondary A aquifers, nearby watercourses (adjacent tertiary watercourse and nearby River Colne) and EU Water Framework Directive Drinking Water Protected Area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection: Principles and Practice (GP3 v.1.1, 2013) position statements A4, A6, J1, J7 and N7.

35 - Non-Standard Condition/Reason

No occupation of any part of the permitted development or of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a 'long-term monitoring and maintenance plan') for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters (particularly the Secondary A aquifers, nearby watercourses (adjacent tertiary watercourse and nearby River Colne) and EU Water Framework Directive Drinking Water Protected Area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection: Principles and Practice (GP3 v.1.1, 2013) position statements A4, A6, J1, J7 and N7.

36 - Non-Standard Condition/Reason

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect and prevent the pollution of controlled waters (particularly the Secondary A aquifers, nearby watercourses (adjacent tertiary watercourse and nearby River Colne) and EU Water Framework Directive Drinking Water Protected Area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection: Principles and Practice (GP3 v.1.1, 2013) position statements A4, A6, J1, J7 and N7.

37 - Non-Standard Condition/Reason

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason To protect and prevent the pollution of controlled waters (particularly the Secondary A aquifers, nearby watercourses (adjacent tertiary watercourse and nearby River Colne) and EU Water Framework Directive Drinking Water Protected Area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection: Principles and Practice (GP3 v.1.1, 2013) position statements A4, A6, J1, J7 and N7.

38 - Non-Standard Condition/Reason

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Piling or other penetrative ground improvement methods can increase the risk to the water environment by introducing preferential pathways for the movement of contamination into the underlying aquifer and/or impacting surface water quality.

39 - Non-Standard Condition/Reason

The Development shall be implemented in accordance with the Flood Management Plan Document Ref: SJC/617183/JRC Revision: 1 Date: 5 May 2016.

Reason: To ensure the safety of residents.

40 - Non-Standard Condition/Reason

The site shall be raised to provide minimum finished floor levels of 5.4 mAOD with road levels no lower than 5.15 mAOD. Finished floor levels will therefore be set above the 200 year undefended flood level inclusive of climate change.

Reason to ensure the safety of residents.

41 - Non-Standard Condition/Reason

At least 10% of the site area shall be laid out for use as amenity open space in accordance with a scheme submitted to and agreed, in writing, by the Local Planning Authority before the work commences and made available for use within 12 months of the occupation of the first dwelling to which they relate and thereafter retained for public use.

Reason: In order to ensure that the development provides an adequate provision of open space(s) that are usable for public enjoyment after the development is completed.

20.0 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. Please pay particular attention to these requirements.

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. Please pay particular attention to these requirements. Informative on Archaeology:

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

HIGHWAY AUTHORITY INFORMATIVES

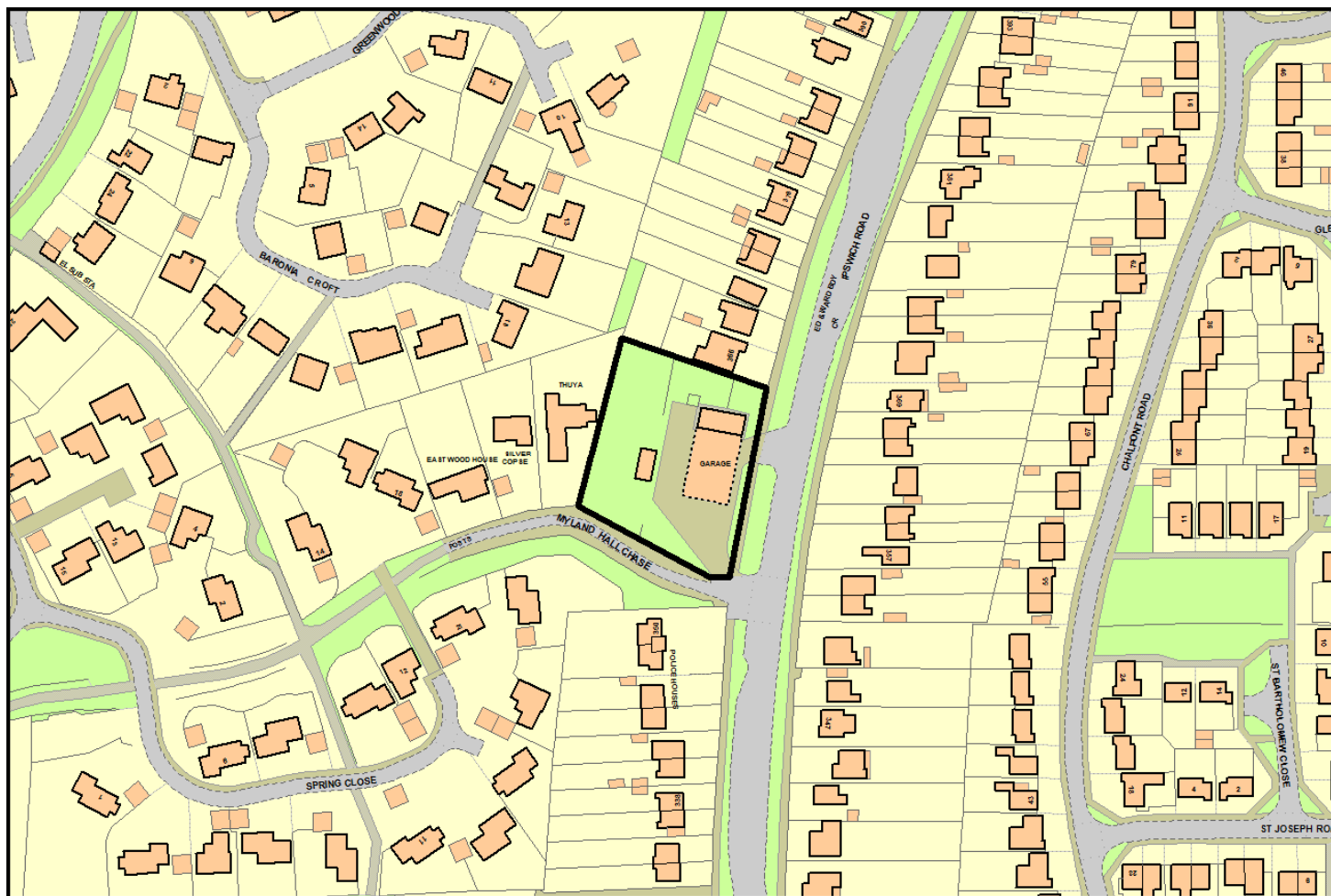
Notes: All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within six weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible). All highway related details should be agreed with the Highway Authority. The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

ENVIRONMENT AGENCY INFORMATIVES

For development involving piling or other penetrative ground improvement methods on a site potentially affected by contamination or where groundwater is present at a shallow depth, a suitable Foundation Works Risk Assessment based on the results of the site investigation and any remediation should be undertaken. This assessment should underpin the choice of founding technique and any mitigation measures employed, to ensure the process does not cause, or create preferential pathways for, the movement of contamination into the underlying aquifer, or impacting surface water quality. We recommend that developers should:

- 1) Refer to our Groundwater Protection: Principles and Practice (GP3) document;
- 2) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination;
- 3) Refer to our Guiding Principles for Land Contamination for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, for example human health;
- 4) Refer to our Land Contamination Technical Guidance;
- 5) Refer to the CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) and our related Position Statement on the Definition of Waste: Development Industry Code of Practice;
- 6) Refer to British Standards BS 5930:1999 A2:2010 Code of practice for site investigations and BS10175:2011 A1: 2013 Investigation of potentially contaminated sites code of practice and our Technical Aspects of Site Investigations Technical Report P5-065/TR;
- 7) Refer to our Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination National Groundwater & Contaminated Land Centre Project NC/99/73. The selected method, including environmental mitigation measures, should be presented in a Foundation Works Risk Assessment Report, guidance on producing this can be found in Table 3 of Piling Into Contaminated Sites;
- 8) Refer to our Good Practice for Decommissioning Boreholes and Wells.
- 9) Refer to our Temporary water discharges from excavations guidance when temporary dewatering is proposed. These conditions are supported by your Policy DP1: Design and Amenity and Policy ENV1. Environment From 6th April 2016, the Flood Defence Consent regime will move into the Environmental Permitting Regulations and become Flood Risk Activity Permits. The charges for the new Permits will be different and some lower risk activities may be Excluded or Exempt from the Permitting Regulations. Please go to <https://www.gov.uk/guidance/changes-to-your-flood-defence-consent-after-6-april-2016> for more details. The applicant should be advised that under the terms of the Water Resources Act 1991, and the Anglian Land Drainage and Sea Defence Byelaws, our prior written consent is required for any proposed works or structures, in, under, over or within 9 metres of the top of the bank of Abrahams Farm Ditch, designated a main river. The flood defence consent will control works in, over, under or adjacent to main rivers (including any culverting). Waste The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable for any off-site movements of wastes. The developer as waste producer therefore has a duty of care to ensure all materials removed go to an appropriate permitted facility and all relevant documentation is completed and kept in line with regulations. If any controlled waste is to be removed off site, then the site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably permitted facility. If any waste is to be used on site, the applicant will be required to obtain the appropriate waste exemption or permit from us. We are unable to specify what exactly would be required if anything, due to the limited amount of information provided. The applicant is advised to refer to guidance on our website <http://www.environment-agency.gov.uk/subjects/waste>. The developer must apply the waste

hierarchy in a priority order of prevention, re-use, recycling before considering other recovery or disposal options. Government Guidance on the waste hierarchy in England is at: <http://www.defra.gov.uk/publications/files/pb13530-waste-hierarchy-guidance.pdf> In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than 300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care. Further information can be found at <http://www.netregs-swmp.co.uk> Excavated material arising from site remediation or land development works can sometimes be classified as waste. For further guidance on how waste is classified and best practice for its handling, transport, treatment and disposal please see our waste pages at <http://www.environment-agency.gov.uk/business/topics/waste/default.aspx>



Application No: 160608

Location: Eastwood Service Station, Ipswich Road, Colchester

Scale (approx): 1:1250

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7.4 Case Officer: Carl Allen

MINOR

Site: Eastwood Service Station, Ipswich Road, Colchester

Application No: 160608

Date Received: 17 March 2016

Agent: Mrs Hannah Thomas-Davies

Applicant: Malthurst Anglia Limited

Development: Redevelopment of the existing petrol filling station to include new sales building, canopy, fuel pumps, car wash, boundary treatments, service compound, hard and soft landscaping and ancillary rearrangements to the forecourt.

Ward: Highwoods

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This matter is referred to the Planning Committee because Cllr Beverley Oxford has called-in the application due to the loss of trees, obtrusive on the street scene, visual amenity, overdevelopment, light pollution to residents and proximity to residents.

2.0 Synopsis

- 2.1 The key issues explored below are those of amenity, design and highways. In these regards the proposal is considered acceptable and approval – with conditions – is recommended.

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. The station consists of a high canopy above the petrol pumps, a shop, a drive-in car wash and parking areas. 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; this has a variety of trees and shrubs and a small pond. Beyond the boundary is the neighbouring property 'Thuya'.

4.0 Description of the Proposal

- 4.1 The proposal is to demolish the existing petrol station and the associated structures and to redevelop the site with a new petrol station, a larger shop area, car wash, hardstanding and vehicle parking areas.

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Relevant Planning History

- 6.1 There have been many planning applications over the years for various adverts, telecoms masts and so on, but the approval of COL/96/0332 'Proposed new sales building' is relevant as the then applicant Appealed the hours condition (7am – 11pm) attached to the approval, but the Appeal was dismissed.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must 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:

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
DP19 Parking Standards

- 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:

N/A.

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

N/A

8.0 Consultations

- 8.1 Landscape Planner – No objection subject to conditions.

- 8.2 Tree Officer – No objection subject to the replacement planting of the area to the boundary with 366.
- 8.3 Highway Authority – No objection.
- 8.4 Natural England – No comments to make.
- 8.5 Colchester Cycling Campaign – Ensure that the entrance/exit met the latest Department for Transport cycle proofing specifications. Vehicles should give way to cyclists and pedestrians. Want S106 to fund local improvements to the cycle network.

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 N/A.

10.0 Representations

- 10.1 Sixteen objections. Object due to:

- the type of building is only suitable for motorways/dual carriageways not residential areas
- cladding and metal sheet roofing totally inappropriate for the area
- needs to be brick built
- the shop is three times larger than the existing and out of keeping with the area
- overdevelopment of the site
- shop will mean people stay there longer
- size of the redevelopment totally unsuitable for the area
- new build is too close to the boundary need sound insulation
- forecourt is not large enough to accommodate what is being planned and will raise health and safety issues
- why are parking bays included?
- more cars will mean more collisions
- cycleway across the front will be an accident waiting to happen
- more traffic will mean it will be harder to leave their driveway
- owner needs to start showing some respect to residents
- all trees need to be replaced on the greensward
- need trees to reduce pollution
- homes were built before the original garage was built in 1955
- more noise, light and air pollution
- noise from the car wash
- rear of the site floods
- should be closed between 11pm and 7am as per existing
- no design details of the pole, canopy and pumps
- why are the adverts not included?
- current pole has not been illuminated for 10 years
- proposed pole is 2m higher and unacceptable
- no adverts on the Ipswich Road elevation
- previous planning inspectors have kept adverts and illumination to a minimum

- staff cannot control customers shouting, slamming doors etc.
- no overnight pumps, no internet collections, no ATM use out of hours and light surround should be turned off, no setting up of outside stands etc. prior to opening, no deliveries outside opening hours
- mistakes in the Design and Access Statement confuse the site with Bingley
- no pre-app discussions with the Council or residents
- hot food sales would be unacceptable
- will result in more customers
- old, disused tanks should be removed
- have had 27 applications at this site over the years
- have problems with litter, dog fouling and abusive cyclists
- will impact on property values
- amending plans is disrespectful to both resident and the Council
- already have a Tesco, Waitrose, St John's stores near-by
- Lime trees give a shield against the building
- will lose light and sun to their dwelling
- fencing should be higher than 1.8m
- why is the consultation process different to telecoms and planning application?
- the best vapour capture systems are needed
- no need to expand
- will lose their view
- the existing is out of the character with the area, the proposal more so

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

11.0 Parking Provision

- 11.1 There would be 15 dedicated car parking spaces including four staff spaces and one disabled space. There would also be eight spaces available by the pumps whilst in use.

12.0 Open Space Provisions

- 12.1 None.

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 The site is in a residential area but the petrol station is a long established use and the principle of redevelopment of the site for another petrol station could not be objected to. However, the matters that need further consideration are those of the impact on amenity, street-scene, design and highways matters.

15.2 Amenity.

Comment has been made that the proposed new shop building would cause overshadowing to the nearest neighbour. Whilst the new building would indeed be closer to the neighbour (366, a bungalow) there would still be 5.5m between the structures and the new building would be 4.3m high. Given these measurements and the orientation of the proposed building to the south of the neighbour, there would be no overshadowing issues. It also has to be remembered that the existing pollarded trees are closer to the neighbour and higher than the proposed so even when the replacement trees are planted there should be no greater shadow to this neighbour.

A great deal of concern has been raised regarding the opening hours of the replacement petrol station and shop. Given the Planning Inspector's comments in dismissing the Appeal against the hours condition of COL/96/0332, there would not appear to be any reason to allow any change to the hours for a replacement petrol station/shop. Therefore the opening hours should remain 6am to 11pm and this is also the recommendation of Environmental Protection. All external lighting – including the ATM – should be only be in use during the approved hours and switched off at all other times. Environmental Protection has also requested that deliveries do not take place between midnight and 6am, apart from Light Goods Vehicles between 5am and 6am.

The issue of noise has been raised. Whilst the shop would be increased in size from the existing, all of the elements of the proposal are replacements to existing features and with the hours condition there is no reason why neighbours should experience any significant increases in noise disturbance. It also has to be remembered that Ipswich Road itself is a busy and noisy feature. However, it would be prudent to condition noise from plant, air-conditioning units and the car wash. It would also be wise to condition that all tannoy's are directed into the site and located on the pump islands as a measure to prevent noise from escaping from the site.

The applicant has, on the advice of Environmental Protection, amended the position of vents/flues to be further away from neighbours and there are now no odour concerns from Environmental Protection. It is noted that the current flues have one of the highest levels of vapour containment that can be achieved. Therefore, the replacement structures should also be equipped with Stage II PVR.

At the moment the site benefits from screening provided by the trees on the site which are on the verge to the highway, to the north between the site and the neighbour at 366 and to the rear of the site to the west. The trees on the verge are not in the application red line and so are not in the ownership or control of the applicant, however the remaining trees are. Of these trees, it is those to the north which have a high amenity value due to their screening properties to the immediate neighbour. Whilst the Council's Arboricultural Officer does not consider these pollarded trees to be of high enough quality of themselves to retain, they are considered to play a significant role in helping to screen the existing garage from its closest neighbour.

These trees would be lost as part of the proposal and the Arboricultural Officer has recommended that large, semi-mature trees are planted along the boundary so that the benefit of trees in this location can be continued. The applicant has agreed to this request and other landscaping at the site.

The proposal would see the development extend within its site and increase hardstanding at the site. It is noted that there appears to be a small pond at the rear of the site close to the boundary and neighbours have commented about flooding in the area. It is also noted that the site is not in a Flood Zone, and that photographs provided by objectors show large puddles in their driveways/gardens there is no evidence that the water comes from the site. However, given the amount of hard surfacing and the potential for petrol to be spilt and to be carried into near-by water courses, a drainage strategy should be conditioned.

With all of these considerations and conditions there would be no detrimental impact on residential amenity and the proposal would accord with DP1.

15.3 Design

The site is in a predominately residential area, although all along Ipswich Road there are the occasional other uses present. Whilst the current brick exterior of the petrol shop building does reflect the surrounding materials found in the area, the canopy by its very nature is alien. The proposed exterior of the new building would have a composite steel cladding exterior in white and dark grey panels. Whilst these materials are not found locally, petrol stations are very different to residential properties by virtue of their high canopies and general character, so there will always be some degree of being alien to a residential area. For this proposal it is the external materials to the shop which are considered inappropriate by objectors. The majority of the cladding that would be seen on the road elevation would be white and this is a colour that is found on many dwellings in the area, either on render or windows. Given this and that a garage shop is fundamentally a different type of structure with a different use - when compared to a dwelling – the proposed design and materials are acceptable.

Whilst the new shop would increase the floorspace from 90 sq.m to 275 sq.m. (an increase of 185sq.m.) the proposal would not appear cramped on the site or as an overdevelopment of the site. The heights of the canopy and the shop are not excessive, although the canopy would be 0.5m higher than the existing. The height of the proposed shop would actually be 1.5m lower than the existing shop building. The totem (pole) is shown to be higher than the existing totem and higher than the proposed canopy and would appear excessively high in comparison and should be no higher than the canopy.

However, as this is an advertisement, it is not covered by a Planning application and as such will be excluded from any permission.

15.4 Highways

No new entrances or exits are proposed at the site and the Highway Authority at Essex County Council has not raised any objection to the proposal as it does not view the additional customers as being significant in scale and would not result in any highway safety or efficiency issues. Although objectors have raised concern over the cycleway crossing the entrance/exit, it has to be considered that there would be no change to this existing arrangement.

With regards to parking, the standard for shops is a maximum so the proposal would not be contrary to DP19. However, cycle parking should be provided for both staff and customers for the shop and this should be conditioned.

15.5 Issues that have been raised, but are not planning considerations, are the impact on property value, the loss of a view, the owner's disrespect for residents, dog fouling and abusive cyclists. Whilst applicants would be advised that it would be desirable for them to engage with residents and the Council before making a planning application, the lack of pre-application discussion is not a reason to refuse an application. That amended plans have been submitted is not disrespectful of the applicant, as amending plans during the application process as a reaction to comments is common practice.

15.6 Adverts require Advertisement Consent - which is separate from Planning Permission – which is why they have not been included in this application. That the proposal is a replacement for an existing garage complex, the request for a S106 to provide cycle improvements in the area is unnecessary and disproportionate.

16.0 Conclusion

16.1 The proposed redevelopment of Eastwood Service Station is acceptable in regards to amenity, design and Highways.

17.0 Recommendation

APPROVE subject to the following conditions

18.0 Positivity Statement

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.

19.0 Conditions

1 - Non-Standard Condition/Reason

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 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 272/182/1_SLP01, 15198-20E, 15198-23B and 15198-42 Rev B unless otherwise subsequently agreed, in writing, by the Local Planning Authority. 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

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

Reason: To ensure that materials are of an acceptable quality.

4 - Non-Standard Condition/Reason

There shall be no commencement on the hereby approved car wash until noise levels generated by the car wash process have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity and the protection of the local environment.

5 - Non-Standard Condition/Reason

There shall be no installation of tannoy or any other type of public address systems until full and precise details of their location, direction, height, volume and hours of use have been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be installed and maintained in the approved form.

Reason: In the interests of amenity and the protection of the local environment.

6 - Non-Standard Condition/Reason

The use (including ATM) hereby permitted shall not operate/be open to customers outside of the following times:

Weekdays: 6am to 11pm

Saturdays: 6am to 11pm

Sundays and Public Holidays: 6am to 11pm.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

7 -Non-Standard Condition/Reason

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 6am to 11pm

Saturdays: 6am to 11pm

Sundays and Public Holidays: 6am to 11pm

Unless between the hours of 5am and 6am where deliveries are made by light goods vehicles.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

8 - Non-Standard Condition/Reason

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note (EZ2 rural, small village or dark urban areas).

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

9 - Non-Standard Condition/Reason

The development (including ATM) permitted by this planning permission shall only be illuminated during the opening hours of the premises.

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

10 - Non-Standard Condition/Reason

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.

11 - Non-Standard Condition/Reason

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls where the volume of the bund compound shall be at least equivalent to 110% of the capacity of the tank. If there is a multiple tankage, the compound volume shall be at least equivalent to 110% of the capacity of the largest tank or 110% of the combined capacity of any interconnected tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses shall be located within the bund and the drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent unnecessary pollution of the groundwater or nearby water courses.

12 - Non-Standard Condition/Reason

There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage in order to prevent pollution of the water environment and to protect the groundwater quality in the area in the interests of Health and Safety.

13 - Non-Standard Condition/Reason

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

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

14 - Non-Standard Condition/Reason

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

15 - Non-Standard Condition/Reason

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.

20.0 Informatives

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

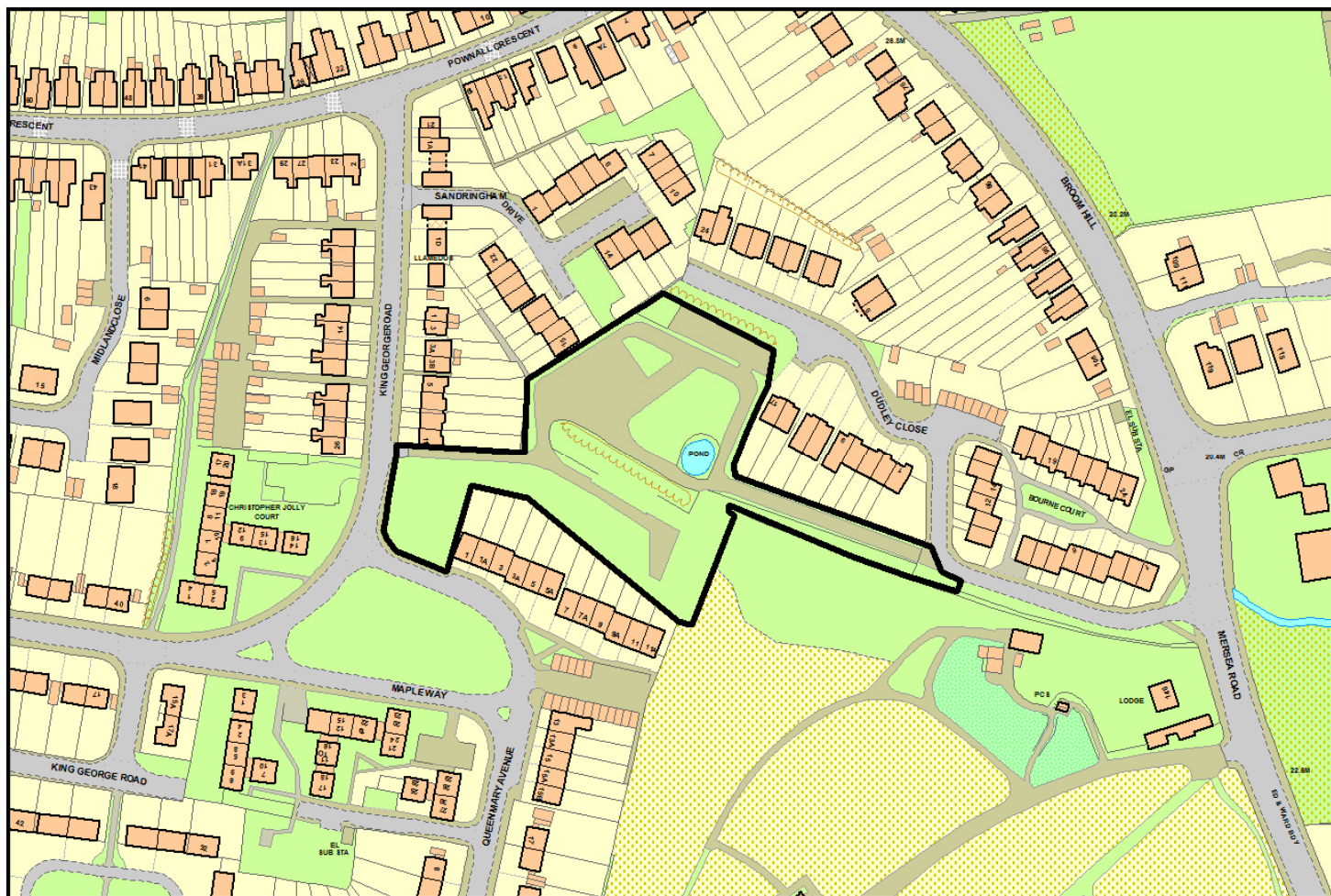
The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control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

(4) This planning permission does not give consent to any adverts (including totem) or any associated illumination.



Application No: 160071

Location: Bourne Court, Colchester

Scale (approx): 1:1250

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7.5 Case Officer: Carl Allen

MAJOR

Site: Bourne Court, Colchester

Application No: 160071

Date Received: 13 January 2016

Agent: Mr Robert Pomery

Applicant: Mr Alistair Cock

Development: Erection of 27 Residential Units, complete with access and parking provision.

Ward: Berechurch

Summary of Recommendation: Approval subject to the signing of a S106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a Major application that involves the signing of a S106 agreement and has received objections from neighbours.

2.0 Synopsis

- 2.1 The key issues explored below are those of amenity, design, highways, flooding and the provision of affordable housing. In these regards the application raises no issues and has no objections from key consultees. Approval, with conditions is recommended.

3.0 Site Description and Context

- 3.1 The site is an area of land consisting of approximately 0.71 hectares. The land is the former site of the Co-op funeral home although the building has been demolished for some years. The site has some areas of hard standing, grass, trees and a pond. To the east of the site is an access track that has the rear gardens of Dudley Close on the northern side and a tree lined boundary with Colchester Cemetery (a Local Wildlife Site) on the southern side. The access track leads to locked gates and then the highway of Dudley Close, which in turn leads onto Mersea Road. To the south of the site the land increases in height towards the boundaries with the rear gardens of dwellings in Queen Mary Avenue. To the west is an access onto King George Road and the rear gardens of dwellings along King George Road back onto the site. To the north-west of the site are dwellings off Sandringham Drive whilst to the north the land increases in height again with trees on the boundary and the highway of Dudley Close beyond.

4.0 Description of the Proposal

- 4.1 The proposal is for 27 dwellings consisting of a mix of houses, two one bedroom bungalows and a block of six flats that would be for the affordable market, including access road, public path/cycle way and parking areas. The main access to the development would be from King Georges Road, whilst one bungalow would be accessed from Bourne Court and the path/cycle way would connect the site to Bourne Court.

5.0 Land Use Allocation

- 5.1 The land is allocated for housing.

6.0 Relevant Planning History

- 6.1 O/COL/05/0905 – Outline application for residential development. Withdrawn.
132075 – Residential development comprising up to 24 no. dwellings, associated landscaping and vehicular access from King George road. Outline Consent, approved.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must 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
H4 – Affordable Housing

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

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

Guidance/Documents:

Community Facilities

Vehicle Parking Standards

Open Space, Sport and Recreation

The Essex Design Guide

External Materials in New Developments

Affordable Housing

Cycling Delivery Strategy

8.0 Consultations

8.1 Highways – No objection subject to various highway related conditions.

8.2 Environmental Protection – No objection subject to conditions.

8.3 Contaminated Land Officer – No objection subject to conditions.

8.4 Archaeology – No objection subject to condition.

8.5 Urban Design – No objection.

8.6 Flood and Water Management (Essex County Council) – No objection subject to conditions.

8.7 Natural England – No comments to make.

8.8 North-East Badger Group – Records show no badgers setts in the site. However, the slope has open holes which are occasionally used by badgers. Badgers have always foraged along the land bordering Bourne Court. Should the slope be landscaped this should be done carefully in case badgers are present.

8.9 Colchester Cycling Campaign – Cycle route through the site will be strategic. Route should be on road (20mph) or on a separate track separated from pedestrians. Any bollards should have fluorescent markings and lit by LEDs. Should not be a through route for motor vehicles.

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 N/A

10.0 Representations

10.1 Thirteen objections. Object due to;

- bungalows on the drive access
- two dwellings have reappeared on the plans and they are too close to gardens and trees
- the drive should be kept for wildlife

- path will allow druggies access to climb over fence/increase crime
- path will create anti-social behaviour
- overlooking
- noise from new residents
- loss of pond and wildlife
- will no longer be able to see deer
- bungalows are more desirable than chalets on the access
- impact on property value
- access lane is barely wide enough
- Bourne Court/Dudley Close are not suitable for more traffic
- on street parking issues
- access onto Mersea Road from Bourne Close is already difficult
- danger to children from construction traffic who play in the Dudley Close cul-de-sac
- Twenty seven homes = 52 cars that would overload the lane
- lane would become a rat run
- if filled in the area will become flooded
- land has flooded in the past and the Environment Agency map the area as having a high risk of flooding
- provision for drainage is needed
- local schools already over crowded
- areas for the removal of rubbish are not shown
- were told years ago that if more than 24 homes were to be built they would receive compensation from the Council
- what properties for the elderly, private and housing association?
- what will happen to the boundary fences?
- Is this process a joke – have a letter saying that planning permission has already been granted and the only choice is about the foot/bike path
- where is the need for the development?
- lighting the footpath will cost the tax payer
- footpath should be shorter
- loss of view

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

11.0 Parking Provision

- 11.1 Fifty three off-street parking spaces would be provided. The scheme complies with the adopted parking standards.

12.0 Open Space Provisions

- 12.1 An area of public open space would be provided in the centre of the proposal.

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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:
The provision of six affordable dwellings.

15.0 Report

- 15.1 Planning application 132075 gave outline consent for 24 dwellings at the site - which is allocated for housing and is inside the Settlement Boundary. This proposal is a full application and includes three additional dwellings compared to the outline consent. Whereas the outline consent included four bedroomed dwellings this current proposal is for 12 two bedroom dwellings, seven three bedroom dwellings, six one bedroom flats and two one bedroom bungalows.

- 15.2 Affordable Housing.

In common with the previous outline consent, this proposal includes six affordable dwellings in the form of a block of one bedroom flats. The position of these flats is in the same part of the site as the previous proposal, namely on the King George Road elevation. Although the total number of dwellings has increased by three to 27, the affordable housing has not increased – but this is not an issue as previously the 6 affordable represented a slight over-provision in policy terms and the current scheme meets the requirement of Policy H4 which requires a 20% affordable provision and in fact the 6 flats represent a 22% provision. The proposal is therefore in clear accordance with Policy H4.

The applicant has also provided a viability assessment which the Council has had independently checked. The conclusion of the independent check is that the proposed values are reasonable and that no additional affordable housing could be viably provided.

Other Contributions.

The Outline consent of 132075 did not have any other contributions apart from the provision of six affordable dwellings. Whilst the current proposal has an additional three dwellings there is no justification to ask for any new contributions for education etc. based on the additional dwellings.

- 15.3 Design.

The design and layout of the scheme has evolved since first being submitted after discussions with the Council’s Urban Designer. As such the scheme is considered to be acceptable and the immediate concerns regarding the two one bedroom bungalows along the track that leads from Bourne Court have been addressed. These two dwellings would now be small bungalows with no first floor accommodation and would appear as small gatehouse style dwellings and would not appear as being cramped on the site. The block of flats which would accommodate the affordable dwellings is well designed with good materials and detailing. As a result the building would not appear as a lower quality construction and would not read as being a different tenure.

15.4 Amenity.

The proposal has been well designed with dwellings positioned not to overshadow or overlook existing neighbours. The plot sizes are acceptable, do not appear cramped and comply with the amenity space requirement of DP16. There were concerns originally about the two bungalows on the lane that leads from Bourne Court, as there were two options shown – including a chalet style with dormer windows. This design has now been changed so to have no windows at first floor and so cancels out overlooking concerns. It would however be prudent to remove Permitted Development Rights for these two dwellings, so that roof lights and dormer windows could not be added without consideration by the Planning Authority. It would also be wise to remove the rights to extend these two dwellings given the size of the plots. Noise from the new dwellings has been raised as an issue. Noise during the construction phase would be a temporary disturbance which would not justify a refusal. The working hours during construction can be conditioned. The noise from the site once occupied would be no different from any other residential area. Considered that with these conditions the proposal would comply with DP1.

The issue of crime and the path/cycle way has been raised. The design of the scheme with the two bungalows at either end of the path/cycle way gives a strong element of purveyance to the pathway and would help to make the area unattractive for anti-social behaviour/crime.

15.5 Highways.

The proposal retains the path/cycle way along the lane from Bourne Court and into the site, that was shown and approved under the outline permission. This route is seen as a strategic link between Mersea Road and development to the north-west and will only be for the use for cyclists and pedestrians. For motor vehicles the only way into the development will be via King George Road, not Bourne Court/Dudley Close as believed by the objectors. The only proposed dwelling that would have access to Bourne Court would be the proposed bungalow that is closest to Bourne Court and this one access does not present any highway safety issues. The routing to and from the development was one of the key issues in the granting of the previous Outline consent and given the route into the development remains as previously agreed, there are no highways issues or objection.

With regards to parking, the 27 dwellings would have 53 off-street parking spaces. The Parking Standard is a minimum standard for dwellings and requires the 19 two plus dwellings to provide 38 parking spaces and the eight one bedroom dwellings to provide eight spaces. The 27 dwellings would also need to provide seven visitor spaces, making a total of 45 parking spaces. The proposed 53 spaces clearly exceeds the minimum standard and complies with DP19.

15.6 Wildlife.

The application included several wildlife reports. A Reptile Survey which was carried out by consultants who undertook the previous survey for 132075. The new survey was undertaken between August and September 2015 and no reptile species were found at the site – which was the same finding as the previous investigation. The consultant recommends that if the development does not start within two years of the last survey then the site should be resurveyed to ensure that the site has not been colonised in the interim. As it would be prudent to condition this requirement.

A badger survey found minimal evidence of badger activity. All holes were inactive but there was potential for commuting and foraging on the boundary with the cemetery. The report recommends that precautionary measures are put in place during the construction phase to minimise disturbance. A Phase 1 wildlife report was also

submitted and found that some of tree had a low to moderate opportunity for bat roosts and suggests that lighting is minimised during the construction period. Based on these reports it is concluded that the proposal would not put any protected wildlife at risk and conditions concerning the construction phase would give suitable protection to wildlife during construction. Therefore, there are no issues in regards to DP21.

15.7 Flooding.

The Flood and Water Management team at Essex County Council originally raised an objection to the scheme, based on the site being within a wider area that is liable to rainfall flooding (not river or tidal flooding). After various exchanges of additional information the objection has been withdrawn and there is now a recommendation of no objection , subject to conditions from the Flood and Water Management team. With the suggested conditions the proposal would not add to the flood risk at the site and wider area and run off would be adequately managed. The proposal would therefore comply with DP20.

- 15.8 Issues not planning considerations include the loss of a view, impact on property values and the cost to the tax payer of lighting the pathway. The comment that the Council stated that if more than 24 dwellings were ever to be built then the Council would give compensation to neighbours is a not a recognised statement that the Council would give.

16.0 Conclusion

- 16.1 Given that the scheme is well designed, has no amenity, wildlife, flooding or highway issues and provides affordable housing to the required standard, approval with conditions is recommended.

17.0 Recommendation

APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- Six affordable dwellings.

On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Positivity Statement

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.

19.0 Conditions

1 - Non-Standard Condition/Reason

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 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 6301-1101, 6301-1107.D, 6301-1108.D, 6301-1109.D, 6301-1302.C, 6301-1304.D, 6301.1306, 6301-1401, 6301-1115 and NC15.213-P201 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

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

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

4 - Non-Standard Condition/Reason

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected to plot numbers 26 and 27 unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped/ cramped appearance and to prevent overlooking to existing neighbours.

5 - Non-Standard Condition/Reason

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

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

6 - Non-Standard Condition/Reason

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.

7 -Non-Standard Condition/Reason

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

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

8 - Non-Standard Condition/Reason

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

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

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Borough Council's Core Strategy (2008).

9 - Non-Standard Condition/Reason

Prior to the commencement of development, full details of all landscape works shall 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.

10 - Non-Standard Condition/Reason

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.

11 - Non-Standard Condition/Reason

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

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

12 - Non-Standard Condition/Reason

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 topsoils 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.

13 - Non-Standard Condition/Reason

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.

14 - Non-Standard Condition/Reason

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.

15 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

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

16 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

17 - Non-Standard Condition/Reason

Prior to the commencement of development, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be 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.

18 - Non-Standard Condition/Reason

Prior to the commencement of development, 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 must be prepared, and is subject to the approval in writing of 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.

19 - Non-Standard Condition/Reason

Prior to the commencement of development other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved, unless otherwise agreed, in writing, by the Local Planning Authority. 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.

20 - Non-Standard Condition/Reason

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 18, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 19, 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 20.

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.

21 - Non-Standard Condition/Reason

Prior to the commencement of development details of lighting (including luminance levels) to public areas shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in their entirety before the first dwelling is occupied.

Reason: In the interest of the local amenity.

22 - Non-Standard Condition/Reason

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

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

23 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the vehicle parking areas indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

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

24 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

25 - Non-Standard Condition/Reason

Prior to the first occupation of the hereby approved development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4m by 43m to the north and 2.4m by 43m to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and maintained/retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway, in the interest of highway safety.

26 - Non-Standard Condition/Reason

If the development commences after a period of two years after the submitted Reptile survey that accompanied the application, then the site shall be resurveyed for Reptiles and the survey findings sent to the Local Planning Authority. Any recommendations of the report shall be adhered to.

Reason: To ensure that any reptiles present can be preserved.

27 - Non-Standard Condition/Reason

No development shall commence until full and precise details of habitat protection for badger foraging has been submitted to and approved in writing by the Local Planning Authority.

Reason: To preserve the habitat of badgers during the construction period.

20.0 Informatives

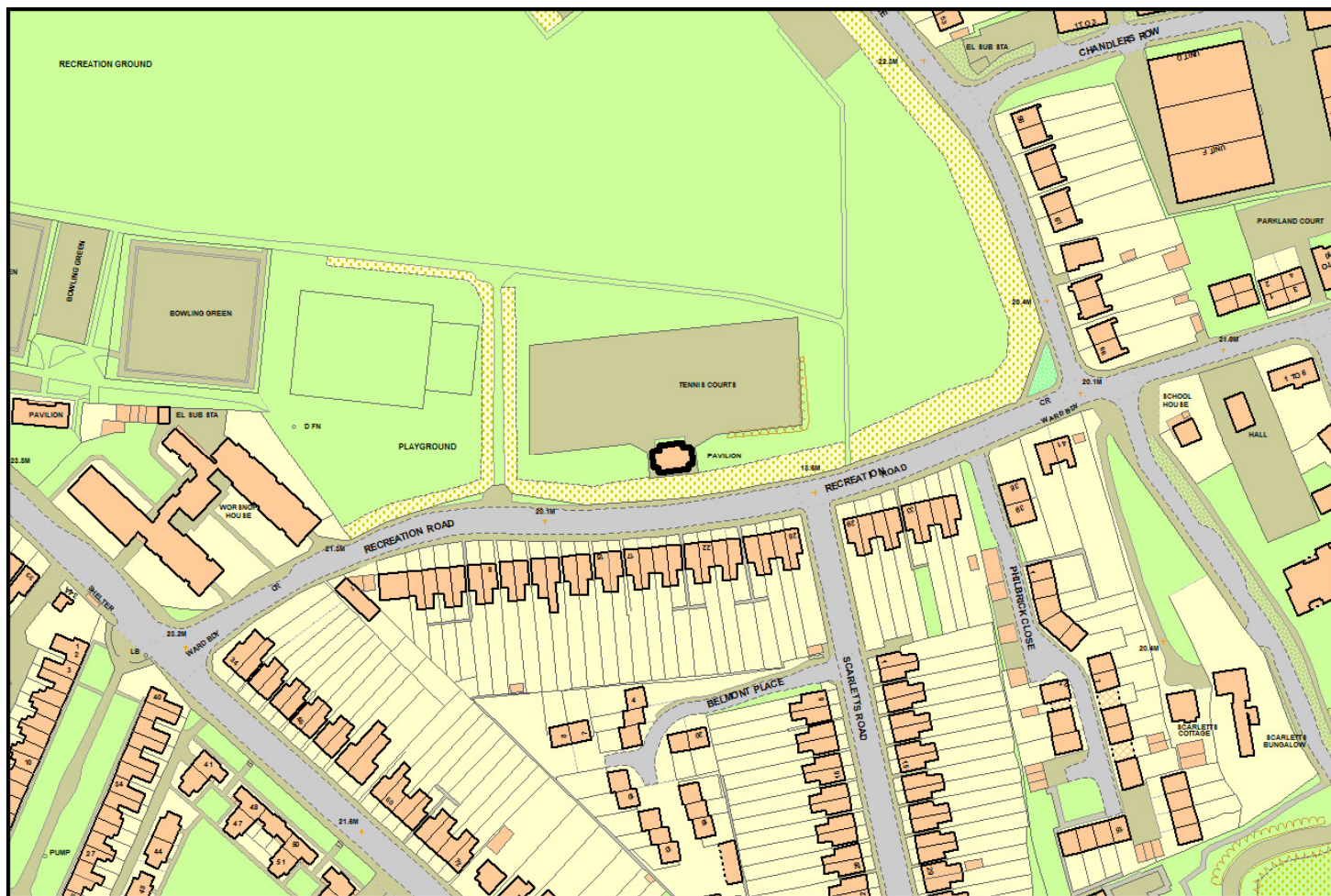
(1) **ZT0 – Advisory Note on Construction & Demolition**

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. Please pay particular attention to these requirements.



Application No: 161336

Location: Old Heath Recreation Pavilion, Recreation Road, Colchester

Scale (approx): 1:1250

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Site: Old Heath Recreation Pavilion, Recreation Road, Colchester

Application No: 161336

Date Received: 23 May 2016

Agent: Mr Lee Spalding, Colchester Borough Council

Applicant: Mr Aaron Hunter

Development: Redevelopment of the Old Heath Tennis Pavilion into a community café (resubmission of 152344)

Ward: Old Heath and Hythe

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 Colchester Borough Council is the applicant.

2.0 Synopsis

- 2.1 It is explained that the applicant wishes to amend the permission granted in 2015 which allowed this building to be used as a community café. Longer hours of use are sought as is permission to play amplified music a limited number of times per year.
- 2.2 Objections from neighbours are reported, these relate to matters of increased noise and traffic. It is held that these objections are insufficient reason to recommend refusal and, therefore, permission is recommended.

3.0 Site Description and Context

- 3.1 The building in question is a community café in the former sports pavilion on Recreation Road and near the south-eastern corner of the Recreation Ground at Old Heath. Close by are tennis courts and a children's play area. Opposite the site are the residential properties of Recreation Road.

4.0 Description of the Proposal

- 4.1 Planning permission was granted (reference 152344) for a change of use from sporting pavilion to community café with some alterations to the building in 2015. The required works have been carried out and the building is now run as a community café by the GO4 enterprise. The application at hand is effectively a request to vary two conditions of that application: Condition 6 (hours of use) and Condition 8 which precludes amplified music.

4.2 In more detail, the existing permitted hours of use under condition 6 are:

Weekdays: 07:30-20:00

Saturdays: 07:30-20:00

Sundays and Public Holidays: 07:30-20:00

The proposal at hand is:

Weekdays: 07:30-22:00

Saturdays: 07:30-22:00

Sundays and Public Holidays: 07:30-20:00

4.3 The existing condition 8 states: "No external amplified music shall be permitted at any time."

The proposal is to reword this to: "No external amplified music shall be permitted at any time unless written permission has been granted for a special event or community activity by Colchester Borough Council for no more than 12 occasions per year." It is noted that officers have re-worded this so it is clear that this will be via the medium of an application for a Temporary Events Notice (TEN).

4.4 The application also shows a small extension (store) to the front and an internal reconfiguration of the building with the central section (which used to house toilets and washing facilities) having been removed and the space inside having been opened up to form a seating area.

4.5 The rear section (previously showers) has been closed off and used for back of house functions (office, store, kitchen, cleaner's store), with three toilets and baby-changing facilities being provided off to the left-hand-side.

4.6 To the front, a glass door and screen have been installed inside the external doors and two new windows (one either side of the door) inserted.

4.7 Externally, a paved seating area to the side (west) of the building has been provided. This is sand bedded, small element concrete with flag paving.

4.8 All of these works have been carried out, but will be restated in the issuing of any permission as this application has been presented as a resubmission.

5.0 Land Use Allocation

5.1 Public Open Space

6.0 Relevant Planning History

6.1 152344 - Redevelopment of the Old Heath Tennis Pavilion into a community cafe. Approved 18th December 2015.

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
SD3 - Community Facilities

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

DP1 Design and Amenity
DP4 Community Facilities
DP10 Tourism, Leisure and Culture

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:

n/a

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

n/a

8.0 Consultations

8.1 Sport England – no objection

8.2 Highway Authority: No comments

8.3 Environmental Control: No objection, requested conditions limiting hours of opening to those applied for deliveries 07:00 – 19:00 Monday to Saturday (with none on Sunday) and delivery and also that no external amplified music should be permitted.

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 n/a

10.0 Representations

10.1 Ten letters of objection were received from nearby residents, as follows:

- Later hours will lead to noise/disruption;
- Noise from music;
- With the park no longer locked, people will hang around afterwards;
- The “twelve times a year” might be condensed in to a few weeks in summer;
- Pressure on parking;
- People will not use the distant car park;
- Oppose change of use to café;
- This is a change to a community centre

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

11.0 Parking Provision

11.1 n/a

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

15.1 Principle: The principle of change of use from sports pavilion has been accepted. This building is no longer required in its former primary function as a sporting facility and the change of use to a community café has already occurred.

15.2 The use is community-based and is run by GO4 (the group which also currently trades from Holy Trinity Church). GO4 Enterprises has signed a lease and has the sole and exclusive use of the kitchen area within the community café.

15.3 The café is for the use of community not for profit companies and groups only. It is an agreed arrangement that community groups will be allowed to use the café seating areas and toilet facilities.

15.4 The commentary on the café effectively changing use to a community centre is, therefore, not wholly correct. The building, whilst primarily a café in the traditional sense, was always intended to be used by community groups, as was made clear at the time of the previous application.

15.5 GO4 has explained the reasoning behind the proposed amendments as follows:

We have been approached by the following groups who wish to utilise the building after the 8.00pm closure.

1. Musikate - They are New Town based and are unable to find a meeting room for their group of young musicians to practice the Ukele. The leaders are working so not able to fit in before 8 pm.

2. Lazy Dog Walkers - Want to use the building to facilitate social gathering (without the dogs!!), again an 8 pm closure is too early.

3. Frontier Youth Trust - As a venue to have organised meetings with young people in the evening (not a youth club).

4. Worth Unlimited - Would like to use the building to establish a base for detached youth workers (not a youth club).

5. Various organisations have indicated they would like to use the building for their committee meetings, and as people are working, most of these meetings would commence around 7.30 pm and run over the allocated time.

6. GO4 would like to make the building available for Poetry groups, craft groups, Self help groups, where people are working during the day and only have evenings available.

OFFICER COMMENT – Whilst this gives a flavor of the types of groups which could use the building, the use would not be restricted to these groups.

15.6 Given that there is not a change of use (but rather, perhaps, a change in emphasis) the only proposed differences are, therefore, the later opening time and the external playing of amplified music.

15.7 It is acknowledged that the general use and patterns of activity have changed at the Recreation Ground in the last few years. From being a fully-functioning recreation ground with several sports pitches and pavilion and gates which were locked every evening; the pitches are now no longer there (other than one set of goals with no pitch markings) and, since April 2014, the gates are no longer being locked. This has meant that there are sometimes activities on site later in the day, particularly in the long, light summer evenings and sometimes even later.

- 15.8 The further complication is the new Council-owned car park on Port Lane. Whilst there had been an area of hardstanding here for many years which was used for specific events; since March this year, this forty bay car park has been available 24 hours a day, seven days a week and is to be used as pay and display during the hours of 8:00am – 6:00pm, and as resident permit holder parking (for up to 20 vehicles) during the hours of 6:00pm – 8:00am.
- 15.9 Both of these elements – the 24 hour availability of the Recreation Ground and the new car park, have led to a different climate to that which local residents, some of them longstanding, including those as far away as Port Lane and Falcon Crescent, have been used to.
- 15.10 An additional observation has been amplified noise coming from the multi-use game area to the detriment of residential amenity.
- 15.11 However, the matters described above are already in place and it is important not to let these prejudice the proposal at hand other than where the proposal might exacerbate existing problems, at which point it is necessary to assess the potential harm.
- 15.12 The two different limbs of the proposal require separate judgement to begin with (although they are interlinked).
- 15.13 Regarding the **proposed hours**: The times of opening being applied for are not held to be excessive. 10pm is not classified as a night-time hour (that being judged to start at 11pm according to the World Health Organisation). Our Environmental Control team has not objected.
- 15.14 An existing problem, which had not been anticipated at the time of the previous application, is that of inconsiderate parking. This could go on two hours later in to the evening and the current application offers the chance to ameliorate matters.
- 15.15 One objector has suggested that the Port Lane car park should not be pay and display, or that Recreation Road should be resident only parking. Both of these ideas have validity, but are outside the scope of this Planning application.
- 15.16 It is unfortunate that some users of the café are choosing not to walk the short distance of 100 metres across the Recreation Ground (or 250 metres via the perimeter) either through being lazy or not wanting to spend a small amount of money, or perhaps because they are unaware of the Port Lane car park. In some cases, the elderly, or those with disabilities, will need to park nearby. However, for most people this is not the case.
- 15.17 The user of the site needs to find ways to encourage its customers to park more considerately. Signage could be of some assistance and this is covered by a proposed condition.
- 15.18 It is accepted that some site-related activity (a Ukulele group, for example) will be audible from nearby residential dwellings (the nearest properties being 25 metres away, and that being the front of these houses). However, it does not seem likely that the noise and disturbance would be so unacceptable as to render the proposal refusable.

- 15.19 It is, therefore, concluded that the hours element is acceptable.
- 15.20 Regarding the **proposed amplified music**: The potential impact of this is more easily understood. The current condition forbids external amplified music. The proposal is to allow this up to twelve times a year. Here Planning and Licensing overlap as the provision of entertainment or alcohol are licensing matters. It is presumed that the type of event that is envisaged would seem to go hand in hand with external amplified music.
- 15.21 Such events are not uncommon on public parks (Castle Park, for example, being fully licensed for such events and holding them often, albeit that these events are generally further from residential properties).
- 15.22 The Recreation Ground itself (including the pavilion building) is fully licensed, this is a situation left over from its previous use. However, it is the Council who is the licensee and not GO4, so that organisation would need to apply for a TEN. Or seek the permission of the Licence holder (i.e. Colchester Borough Council) to cover any event under the remit of the premises licence.
- 15.23 Given that such matters could, therefore, fall outside of the TEN (by simply being given the permission of the Council as licensee), it is proposed that the Planning condition explicitly states that the amplified external music will only be allowed under matters covered by the TEN and not by any other agreement.
- 15.24 This means that these events would be subject to consultation with the police and the Council's Environmental Control team. Should either of these bodies object, the application would be denied or referred to the Council's Licensing Committee.
- 15.25 This matter is already covered by the tenancy agreement between the Council and GO4. Our Community Initiatives Officer has clarified this point:
- "We have agreed that the tenant will not apply to have a full premise license on the café to sell alcohol at all times, but have agreed that should the tenant like to sell alcohol from the demised premise on a special occasion e.g. a community event, that permission will have to be granted from the Council via a Temporary Events Notice, which would be reviewed and approved by the licensing and environmental protection teams."*
- 15.26 This gives some comfort, but for the avoidance of doubt this matter is to be firmed up within a Planning condition.
- 15.27 Given that the situation would be controlled and subject to the same rigours as any other event licence application, it is held that matters of law and order and residential amenity are safeguarded. Environmental Control has further advised that, in the event of any noise issues, a Noise Abatement Notice can be served irrespective of any licence.
- 15.28 For these reasons, proposed playing of Externally-generated music up to twelve times per year and subject to TEN can be recommended for approval.

15.29 As before, it is proposed to place a personal condition on the site to prevent a general A3 use developing. It is also necessary to place an additional condition removing permitted development changes of use (without this, the building could become a shop, estate agents or office without the need for Planning permission).

16.0 Conclusion

16.1 The proposal is a positive, community-based re-use of an existing community building which has already been running successfully for several months. Whilst the proposed change have raised issues of residential amenity, these are held to be dealt with and approval is recommended.

17.0 Recommendation

17.1 APPROVE with conditions.

18.0 Positivity Statement

18.1 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.

19.0 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 - Non-Standard Condition/Reason

The development hereby permitted shall comply in all respects with the approved plans CBH/1415/7005 02 revision A, 03 revision A, 05 revision A, 06, 07 and 08 revision A, 09, **10** and 11.

Reason: For the avoidance of doubt as to the scope of this permission.

3 - Non-Standard Condition/Reason

The materials used shall match those on the submitted application.

Reason: For the avoidance of doubt as to the scope of this permission.

4 - Non-Standard Condition/Reason

The community cafe hereby permitted shall be for the use by community not for profit companies and groups only; community groups shall be allowed to use the cafe seating areas and toilet facilities.

Reason: In the interests of retaining this building as a community asset as this is the basis on which permission has been granted.

5 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, amended 2016, the change of use hereby approved shall be restricted to the A3 (restaurant) use applied for and for no other use.

Reason: To ensure that the use does not benefit from permitted development rights which would be inappropriate for this location.

6 - *Restriction of Hours of Operation

The use hereby permitted shall not operate/be open to customers outside of the following times:

Weekdays: 07:30-22:00

Saturdays: 07:30-22:00

Sundays and Public Holidays: 07:30-20:00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

7 - *Restricted Hours of Delivery

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 07:00-19:00

Saturdays: 07:00-19:00

Sundays and Public Holidays: No deliveries.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

8 - Non-Standard Condition/Reason

No external amplified music shall be permitted at any time unless a Temporary Event Notice has been granted. Amplified music must not be played on more than 12 days per year and on no more than 4 occasions in any calendar month.

Reason: To ensure that the use of amplified music does not cause harm to neighbouring amenity from the frequency of the events.

9 – Within 56 days of this permission, the applicant shall provide signage at the entrance to the building, advising customers to park considerately and to use the Port Lane car park. This sign shall be made visible at all times. Reason: To try to encourage considerate parking in this residential area.

20.0 Informatives

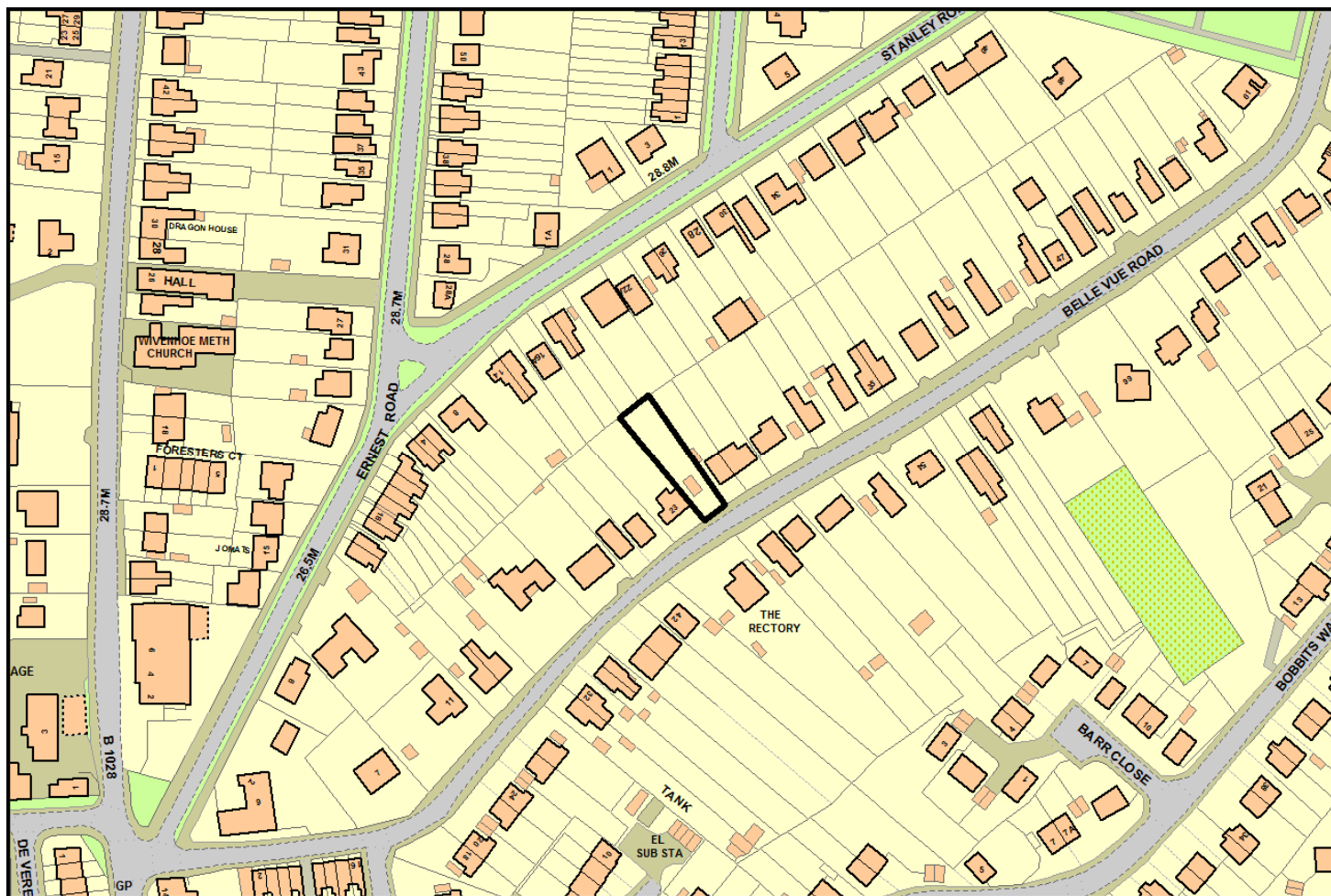
(1) **ZT0 – Advisory Note on Construction & Demolition**

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. Please pay particular attention to these requirements.



Application No: 161099

Location: Land at 23 Belle Vue Road, Wivenhoe, Colchester, CO7 9LD

Scale (approx): 1:1250

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Site: 23 Belle Vue Road, Wivenhoe, Colchester, CO7 9LD

Application No: 161099

Date Received: 18 May 2016

Agent: Mr Joel Walsh (ATP Architects + Surveyors Limited)

Applicant: Mr James Howlett

Development: Outline application with all matters reserved for the construction of a new 3/4 bedroom dwelling within the boundary of No 23 Belle Vue Road.

Ward: Wivenhoe

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 Councillor Cory has called it in for the following reasons: 'I believe that the proposed development would be of an overbearing nature on the adjacent property. The original plans do not show this, and even on the new plans - on paper the effect cannot be appreciated. I also feel that this is infill/backfill development which would not enhance the street-scene, so it therefore does not satisfy our local policy objectives.'

2.0 Synopsis

- 2.1 The key issues explored below are whether the site is large enough to satisfactorily accommodate a dwelling without it appearing cramped and the site overdeveloped and whether there would be a detrimental impact upon the character of the street scene or upon neighbouring residential amenity or highway safety. It will also need to be assessed whether there would be adequate parking and manoeuvring space and amenity space provided for the new dwelling and retained for the existing. In this case it is considered that the site is large enough to accommodate an appropriately designed and scaled dwelling without detriment to the character of the street scene or surrounding area. Adequate parking space and amenity space for the existing and new dwelling would be provided and it is not considered there would be any detriment to neighbouring residential amenity.

3.0 Site Description and Context

- 3.1 The site lies within the physical limits of Wivenhoe and is part of the side and rear garden of number 23 Belle Vue Road. The front part of the site also consists of a double garage and parking area that serves the existing dwelling. There are dwellings on either side of the road with quite a tightly knit pattern in some areas. Some dwellings in the street have the gable facing the road.

4.0 Description of the Proposal

- 4.1 The Outline Application (with all matters reserved) is for the erection of a dwelling with an area for two parking spaces at the front. The existing dwelling would also have a new crossover and hard surfaced space in front of it for two cars. The plot would have a frontage width of 8 metres widening to 9.3 metres to the rear and would have a length of just over 40 metres.

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Relevant Planning History

- 6.1 No relevant recent planning history.

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

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

TA5 - Parking

ENV1 - Environment

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

DP1 Design and Amenity

DP12 Dwelling Standards

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 Guidance/Documents:

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

8.0 Consultations

- 8.1 Highway Authority: states that “this Authority would be unlikely to raise any objections to the proposed construction of a 3/4 bedroom dwelling within the boundary of 23 Belle Vue Road subject to the following being provided;
- 1) Parking facilities in accordance with current policy standards; 2 spaces each all measuring no less than 2.9m x 5.5m, for both the new and donor properties (four spaces in total)
 - 2) Transport information marketing pack for the new property
 - 3) No loose or unbound material used for the vehicle access surfacing within 6m of the highway boundary
 - 4) For existing access points the current vehicle visibility splays are retained, and for any new access points vehicle visibility splays are provided to match the existing.’

Highway Authority amended plan comment: ‘For this application I have had a look at the amended plans submitted and this Authority does not wish to submit further comments.’

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 that “The development is overbearing to the streetscape. Clauses 3.2, 3.6, 5.4 and 6.3 of the CBC’s SPD ‘Backland and Infill Development?’ refer. In particular 5.4 which states that ‘a backland or infill development should make a positive contribution to the character of the existing locality and 3.2 which states ‘In some areas large gardens will be the defining character and in these areas backland and infill development will normally be resisted.’ On-street car parking will also be an issue of concern as this will need to be compliant. It should also be noted that houses built by in-filling cannot be taken off the Wivenhoe Neighbourhood Plan’s housing allocation.”

10.0 Representations

- 10.1 Wivenhoe society states: “The application is for outline permission to build adjacent to the current property. This will involve demolishing the current garages linked to the house. From the drawings the proposal appears to be that parking for the newly constructed dwelling would be to the front of the new property but nothing is shown for parking provision for the existing dwelling. There would appear to be adequate space for two cars to be parked in what is currently the front garden of number 23. No outline

permission should be granted unless adequate off road parking provision is guaranteed for both the host property and the proposed new dwelling.

Front of house parking (at least 4 spaces in total required) will detract from the street scene and is likely to result in a loss of the wall to the front of the property and an additional dropped curve entrance unless the old and the new property share access. There is a precedent for this in Belle Vue Road but visually it is unattractive. Some form of soft landscaping should be stipulated.

The gap between the proposed new house and its neighbour is small which will give a rather cramped appearance. There are windows to the side of number 23 which will face straight onto the side of the proposed new property. It will be necessary to see if building regulations are still satisfied for the existing property.

The plot size for the suggested new dwelling and the remaining plot size for number 23 would be in keeping with other plot sizes in the immediate location”

10.2 Councillor Cory has made the following objections: ‘I believe that the proposed development would be of an overbearing nature on the adjacent property. The original plans do not show this, and even on the new plans - on paper the effect cannot be appreciated. I also feel that this is infill/backfill development which would not enhance the street-scene, so it therefore does not satisfy our local policy objectives.’

10.3 Four letters of objection have been received which make the following points:

- The application has been submitted using a grossly inaccurate and misleading plan of the immediate setting. As a result it is not possible for consultees and other interested parties to make informed comment on the application as currently presented. Should suspend consideration until correct plans showing our constructed extension have been submitted, then reconsult.
- Plan fails to show the extension on the neighbouring property (25 Belle Vue Rd) which was built (with planning permission) in the 1980s. Thus proposed development is misleadingly portrayed as being more than 4 metres from the building on the neighbouring property when in practice the gap is only 80 cm.
- Building so close is not a good idea. Plot will be too narrow.
- Inadequate drawings- no option but to object.
- If windows on side included, there will be privacy issues.
- Will give feeling of terrace or housing estate.
- Will make maintenance on properties difficult.
- Hope it will not look the monstrosity at 19 Bellevue Road.
- Contemporary design not welcome.
- Already parking pressure.
- Rectory at 44 also has many vehicular movements associated with it.
- Vehicles should be made to park on the driveway.
- Shame to demolish front wall to get access.
- Concern about inconvenience from construction work.

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

11.0 Parking Provision

11.1 Two spaces for the proposed dwelling and two for the existing dwelling.

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

15.1 Principle

15.2 As the site lies within the physical limits of Wivenhoe, the proposal should be judged on its development control merits having regard to issues such as the size of the site, parking provision, impact upon neighbouring residential amenity and upon highway safety.

15.3 Layout and size of plot

15.4 In this case it is considered that the site is large enough to be able to satisfactorily accommodate a dwelling without it appearing cramped or detracting from the character of the street scene and surroundings. With an 8 metre plot width, a dwelling with a gable facing the road would be in keeping with other similar properties and their relationships to adjacent properties in this road. There is a similar arrangement adjacent to number 25. In the case of the current application site it is considered that a property that relates to the style and character of the existing adjacent properties could be accommodated on this site without undermining the character of the area. There would be enough of a gap either side of the property to allow the dwelling to read as being detached, particularly as it would have a gable facing the road. The neighbour's extension has now been plotted on the block plan. Details of the scale and design of the dwelling would need to be agreed at the Reserved Matters Stage. It is not considered the proposal would contravene the provisions of the Wivenhoe Village Design Statement.

15.5 Impact upon neighbouring residential amenity

15.6 It is not considered there would be a significant impact upon neighbouring residential amenity from overbearing impact, loss of light or overlooking. A property could be satisfactorily positioned on the site that would not need to project beyond the rear walls of the neighbouring properties. This would therefore avoid loss of light to their rear elevations. Any side openings can be assessed at the Reserved Matters stage and controlled by condition, thereby ensuring no loss of privacy from views from side windows.

15.7 Parking and highway safety

15.8 Two parking spaces would be provided for the proposed property and the existing property and this would meet the required parking standards. The provision of parking in front of the existing number 23 would entail the removal of some front walling and creation of hard surfacing. The existing wall is low and does not have any particular historic importance. The extent of hard surfacing can be controlled so that some soft landscaping either side of the parking spaces would be retained.

15.9 As the proposal allows for car parking provision on site that meets the current parking standards, it is not considered the proposal would add to parking pressure in Belle Vie Road.

15.10 Other

15.11 Adequate private amenity space would be provided to the rear of the property. Indeed the new dwelling and existing dwelling would both have rear gardens that would be substantial in length.

15.12 There would be no impact upon significant vegetation from the proposal and no impact on wildlife.

16.0 Conclusion

16.1 It is considered that the site is large enough to satisfactorily accommodate an appropriately designed and scaled dwelling without there being detriment to the character of the street scene or to neighbouring residential amenity or highway safety.

17.0 Recommendation

17.1 APPROVE subject to the following conditions:

18.0 Positivity Statement

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.

19.0 Conditions

1 - *Time Limit for Outline Permissions Part 1 of 3

No development shall be commenced until plans and particulars of 'the reserved matters' referred to in the below conditions relating to the ACCESS, APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

2 - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3 - Time Limit for Outline Permissions Part 2 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4 - *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 BVR-OP0001 C (excluding the dwelling position, which is a reserved matter).

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

5 - *Parking Laid Out Prior to Occupation In Accordance With Plan

Prior to the first occupation of the development hereby permitted, two parking spaces, 5.5 x 2.9 metres shall have been laid out within the site in accordance with the approved plan IVR_OP_001 C. The approved parking spaces shall thereafter be maintained free from obstruction and available for parking use at all times.

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

6 - No Unbound Surface Materials

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

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

7 - *Vehicular Visibility Splays

For the existing access points the current vehicle visibility splays shall be permanently retained, and the new access point shall match the existing visibility splays and be provided prior to first occupation of the dwelling and thereafter retained as such.

Reason: In the interests of highway safety.

20.0 Informatives

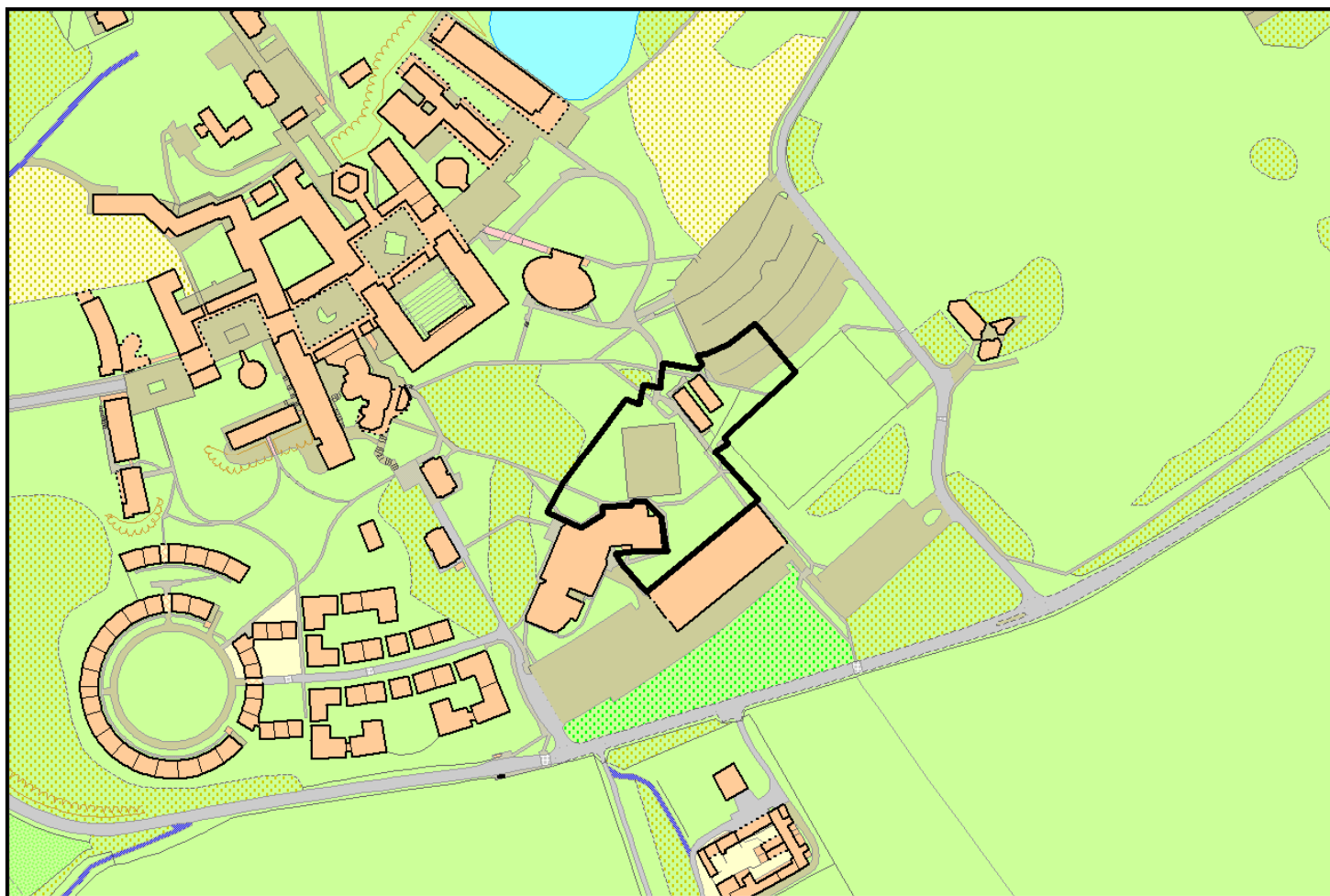
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Application No: 152814

Location: University Of Essex, Wivenhoe Park, Colchester, CO4 3SQ

Scale (approx): 1:1250

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7.8 Case Officer: Lucy Mondon Due Date: 04/07/2016

MAJOR

Site: University Of Essex, Wivenhoe Park, Colchester, CO4 3SQ

Application No: 152814

Date Received: 6 January 2016

Agent: Mr Lee Batten

Applicant: Mr Michael Willis

Development: Erection of sports centre extension to include a 3 No. basketball court sports hall (capable of conversion to 1800 spectator seating), facilities for sports therapy and human performances, classrooms, rehabilitation area, social space and bar, post-graduate study facilities and staff

Ward: Wivenhoe

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 planning application where an objection has been received and the Officer recommendation is to approve.

2.0 Synopsis

- 2.1 The key issues explored below are: principle of development; design, layout and landscaping (including impact on trees); impact on the surrounding area; impact on neighbouring amenity, biodiversity; flood risk and drainage; and highway matters.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The application site is located to the south of the University of Essex campus. The site is currently made up of fenced open-air tennis courts surrounded by an area of grass and trees, with pathways that lead into the main University campus. The site is adjacent to the existing sports centre for the University and immediately north of a multi-storey car park.

- 3.2 There is an existing on-road cycle route along Boundary Road, to the south of the site, and an existing off-road cycle route along Park Road, to the east of the site.
- 3.3 There are no constraints that directly affect the site. Public Right of Way 127_236 runs along Boundary Road, with Public Right of Way 155_3 running to the south from Boundary Road opposite the multi-storey car park. There is a local Wildlife Site to the west and north-east of the site, 164 metres and 102 metres away respectively, and the Grade II listed park and garden lies approximately 160 metres to the east. The park was listed in 1989. The listing description is highly detailed and reads as follows:

‘An old deer park, improved in 1776(80 by Richard Woods to form a landscaped park of 34ha round a country house, with the remains of a garden designed by William Andrews Nesfield between 1847-8.

HISTORIC DEVELOPMENT

The Wivenhoe estate was owned by the Rebow family from 1733 until 1902. When Issac Lemyng Rebow died in 1734 his son, Issac Martin Rebow was only two and it was not until he was twenty-seven years of age and married that he started to build a house within the park inherited from his father. In 1758 Rebow commissioned Thomas Reynolds to design the house and seven years later employed the landscaper Richard Woods to design a new park, the laying out of which did not commence until 1776. Issac died in 1781 and was succeeded by his eldest daughter Mary Hester. Mary's husband, Francis Slater, assumed the name of Rebow when they married in 1796. Mary and Francis extended the park and commissioned Constable to make a series of drawings and a painting of the park in 1816. When Francis died in 1845 the estate passed to his son-in-law John Gurdon (who also assumed the name Rebow). John Gurdon commissioned the architect Thomas Hopper to remodel the House in 1846 and William Andrews Nesfield (1793-1881) to advise on the relocation of the coach roads and entrances and to advise on the planting of the park and the flower garden. John Gurdon died in 1870 and passed the estate, along with extensive debts, to his son Hector Gurdon Rebow, who retired away from Wivenhoe and sold the estate in 1902 to Charles Edmund Gooch. Neither C E Gooch nor his son Charles Michael made many alterations to the House or the landscape, which were occupied by the army during the both the First and the Second World War. The estate was sold by the Goochs to the University of Essex in 1964 and the western half of the park (outside the area here registered) is now covered by an extensive range of university buildings. The House, converted into a conference centre in 1977, was extended by the architect Bryan Thomas in 1986(8. A large car park has been put in below the north front. The site remains (2000) in the single ownership of the University.

DESCRIPTION

LOCATION, AREA, BOUNDARIES, LANDFORM, SETTING Wivenhoe Park lies on the north side of Wivenhoe, in an increasingly developed area just to the south-east of Colchester. It covers c 34ha, bounded to the north by Elmstead Road, to the north-east by Colchester Road, to the south-west by the main University campus and to the south by Boundary Road. The relatively flat parkland is divided by a valley to the north-west of the House where three lakes cross the site from north-east to south-west.

ENTRANCES AND APPROACHES The present approach is from the west of the House, via a drive through the University campus known as Park Road. This leads off Boundary Road which marks the southern edge of the site. The mid C19 entrances are marked by small Gothic-style cottages. The West or Colchester Lodge (listed grade II) on Elmstead Road, known locally as Clingoe Hill, is shown on the Tithe map of 1838 but was given its present gothic exterior by Thomas Hopper in 1848. The line of the drive from the West Lodge was laid out in c 1837 when the park was enlarged to the west. It is no longer in use but its route across the park to the north front is still visible. The East or Wivenhoe Lodge (listed grade II) on Colchester Road is similar in style to the West Lodge. This small, octagonal, Gothic-style building is linked to the House by a short drive through the pleasure grounds.

PRINCIPAL BUILDING Wivenhoe House (listed grade II*) is situated towards the eastern boundary of the park, overlooking the valley and the lakes. It is a red-brick, three-storey mansion with shaped gables and transom windows, in the Victorian Flemish style. It was built by Thomas Reynolds in 1758-61, in the deer park, and was enlarged and refaced by Thomas Hopper for John Gurdon Rebow in 1846-53. Hopper was also responsible for the stable block (listed grade II) to the north-east of the House which was constructed in matching Tudor style, now (2000) incorporating modern extensions associated with the University use.

GARDENS AND PLEASURE GROUNDS To the west and south of the House is a garden area, originally oval in shape, surrounded by a low brick retaining wall (listed grade II) which separates it from the flat parkland beyond. The garden was laid out in 1847-8 by W A Nesfield who also carried out some planting in the park and advised on the entrances and carriage drives, although his proposals for the latter were rejected. There have been late C20 alterations to the garden design.

PARK Wivenhoe Park lies to the north-west and south-east of the mansion and is well scattered with mature oaks, sweet chestnut, lime, and beech. Most of the trees date from the mid C19 and are set in grass, managed for a variety of purposes by the University. The area here registered represents the park designed and laid out by Richard Woods in 1777, the later C19 extensions having been used for the development of the University campus since the 1960s. A series of three lakes runs through the valley. The top two lakes were developed as part of Woods' landscaping, the third, on the site of the kitchen gardens, having been added by the University. A modern house was built in the 1960s on the site of Woods' bridge and dam between the top lakes. Woods designed a rubble grotto for the head of the lakes which has recently (late C20) been rebuilt in red brick. The icehouse stands close by. Woods' plan of the park is dated 1765 but the majority of the work for which he was responsible was deferred until 1776, all his work being well documented in the Rebow archives.

The painting of the park completed in 1816 by John Constable is discussed by Sir Ernst Gombrich in *Art and Illusion* (1960), and by J Clarkson and N Cox in *Constable and Wivenhoe Park* (2000).

KITCHEN GARDEN The site of the late C18 kitchen garden was used to create a third lake by the University since the 1960s.'

- 3.4 To the north of the site are a number of listed buildings: Wivenhoe House (Grade II*); Stable Block (Grade II); the Terrace and Garden Wall (Grade II); and East Lodge (Grade II). The listed buildings/structures are described in the listing above, but do have their own individual listings as part of the Heritage List.
- 3.5 The site is within Flood Zone 1. Parts of the University campus are within Flood Zones 2 and 3, but these are at least 450 metres away, with the River Colne being over 750 metres away from the site. A coastal protection belt covers land to the south and west of Boundary Road, some 140 metres away from the site.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the erection of a large sports centre extension to include a 3 No. basketball court sports hall (capable of conversion to 1800 spectator seating), facilities for sports therapy and human performances, classrooms, rehabilitation area, social space and bar, post-graduate study facilities and staff offices. The proposal would primarily be for university purposes, but would be available to the public in the same way as the existing sports facilities are.
- 4.2 The main body of the building measures 76 metres by 36.5 metres, with a height of 12 metres. It would be built on an existing area of grass containing trees and open-air tennis courts. The application was submitted without the benefit of pre-application discussions.
- 4.3 As well as the submitted drawings, the application is accompanied by a number of reports as follows:
- Design and Access Statement
 - SUDs Strategy, later revised as SUDs Strategy Version 2 (dated March 2016)
 - Renewable Energy Report
 - Travel Plan
- 4.4 The site is located in a semi-rural setting (being outside the settlement boundary of Colchester and to the countryside edge of the University Campus) and is in close vicinity to the Grade II listed Wivenhoe Park. It is therefore necessary to consider the impact of the proposal upon the immediate landscape and setting of the listed park, as well as the nearby listed buildings of Wivenhoe House and associated buildings. Following consultation, objections were received from CBC specialists: Historic Buildings and Areas Officer; Landscape Officer; and Urban Designer in respect of these impacts. Objections were also received from Essex County Council SuDs team as the drainage strategy submitted was insufficient. The Council's Arboricultural Officer confirmed that an arboricultural report was required in order to assess the impact upon retained trees (the trees being important with regards to the landscape setting). As a result of these comments, it was agreed (at a meeting on 16th February 2016) that the Applicant and Agent have the opportunity to address the issues raised by providing a necessary heritage assessment, landscape appraisal, tree reports, SuDs information, and design revisions. The following information was then submitted:
- Heritage Statement;
 - Landscape Appraisal;
 - Revised SuDs Strategy; and
 - Tree Survey, Arboricultural Implications Assessment, and Arboricultural Method Statement.

- 4.5 Following further negotiations, a landscape strategy was submitted (11th May 2016), which provides for additional planting in the vicinity of the proposed sports centre as well as planting along the boundary of the listed park and garden. Revised plans for the sports centre extension were then submitted on 26th May 2016. The revisions included changes to the external cladding of the building and changes to the design of the north-west (campus side) elevation.

5.0 Land Use Allocation

- 5.1 The site is allocated for University of Essex purposes.

6.0 Relevant Planning History

- 6.1 A recent planning application for covered tennis courts (152204), to replace those being lost by the sports centre extension, was approved in March 2016. A landscaping concept was agreed as part of the approval (with details being required by condition) in order to enhance the enclosure edge of the park and garden and to soften the appearance of the new courts in their more exposed location. The same strategy has been submitted as part of this proposal (Drawing No. 15425-TLP-PA02).
- 6.2 There are no other relevant planning permissions that directly affect the application site. The car parks to the south and south-west of the application site have been modified over the years to provide additional parking, including a multi-storey car park approved in 2012 (ref: 120151). The sports pavilion to the north-east of the application site, within the listed park, was granted planning permission (without conditions) in 1966 (ref: WIV/37/66). A recent application, for a 4G pitch within the listed park, was refused due to its harmful impacts upon the appearance and appreciation of the historic park (ref: 152211).

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
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
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
DP3 Planning Obligations and the Community Infrastructure Levy
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

- 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 EC7 University of Essex Expansion

- 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
The Essex Design Guide
External Materials in New Developments
Cycling Delivery Strategy

8.0 Consultations

- 8.1 Highway Authority No objection subject to a travel plan (required via condition) and informatives.
- 8.2 Anglian Water No Anglian Water assets affected and there is adequate foul drainage capacity. Recommended conditions for a drainage strategy and surface water management strategy.
- 8.3 Essex County Council Lead Local Flood Authority (SuDs)
(following receipt of the revised SUDs Strategy)
No objection subject to conditions: a detailed surface water drainage scheme; scheme to minimise the risk of offsite flooding; and a maintenance and management plan.
- 8.4 Natural England The proposal would not damage or destroy the interest features of Upper Colne Marshes SSSI. Impact on protected species has not been assessed - referred to standing advice. Biodiversity enhancements are encouraged (opportunities for bat roosting or bird nest boxes).

8.5 Urban Designer

'[The] proposals have improved following dialogue and I am now happy to support the scheme which now suitably mitigates its large massing in a sensitive landscape/conservation setting, subject to the following clarifications/amendments/conditions.'

Suggested Conditions:

- Key materials including the main cladding colour and finish (e.g. matt), main entrance cladding, bricks and frames to glazing.
- Key details including for glazing systems, how cladding will be jointed, ensuring a true curve on the main entrance cladding and for the climbing plant system.

8.6 Landscape Officer (following receipt of further information and amendments)

'Regarding the landscape content/aspect of the concept proposals lodged on 08.01.16, the revised Planning & Heritage Statement lodged on 24.03.16 and revised Landscape Appraisal lodged on 11.05.16:

In conclusion, there are no Planning Projects Team objections to this application on landscape grounds, [subject to conditions].'

8.7 Arboricultural Officer No objections subject to conditions.

8.8 Historic Buildings and Areas Officer No comments received.

8.9 Essex Gardens Trust

'[The] sports hall would be sufficiently detached from the registered landscape not to affect it. Any screening and tree planting to help soften its impact and compensate for loss of trees would be a benefit, but I note that mitigation strategies of this sort have been incorporated into the proposals.'

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 Wivenhoe Town Council have objected to the proposal on the following grounds:

'There is a tree preservation order (TPO) on the trees proposed to be removed. Concern expressed with the loss of permeable land. Additionally, the loss of the view of the river from the public footpath, which is in a protection area, and this application would have a huge effect on the visual impact of Wivenhoe.'

'In policies ENV1, UR2, DP1 and DP14 it states that Colchester's natural and historic environment should be conserved and enhanced and that the development proposals must be demonstrated that they will respect and enhance the character of the site, its context and surroundings, as was applicable to the rejected 3GSports Pitch application.'

'Concerns were expressed regarding the increased amount of traffic which would occur with having such a facility.'

Further comments were received following the receipt of further information and amendments as follows:

‘[The] Town Council’s comments remain the same but with the addition that with a development of this scale the Town Council feel that Wivenhoe should benefit from s106 funding for sporting or recreational facilities within Wivenhoe.’

9.2 Officer Comments: Wivenhoe Town Council have expressed a number of concerns regarding the proposal. For clarity, these points are addressed in turn below:

- TPO trees to be removed: There are no TPO trees on site.
- Loss of permeable land: The building is proposed to be sited on existing tennis courts, which are not permeable. Although some permeable land outside the existing tennis courts would be lost, this has been assessed as not having a significantly detrimental impact upon surface water drainage, subject to an appropriate drainage scheme (to be conditioned).
- Loss of view of the river from the public footpath: There are a number of existing intervening features between the nearby footpaths and the River Colne, such as the multi-storey car park and student accommodation, including the accommodation towers. As such, the addition of the proposed building is not considered to restrict views from the footpaths.
- Effect on visual impact of Wivenhoe: The proposal is not considered to have a significant impact on views to or from Wivenhoe due to its siting amongst existing development within the University campus.
- Policies ENV1, UR2, DP1, and DP14 state that the natural and historic environment should be conserved and enhanced. The application needs to demonstrate that the proposal respects and enhances the character of the site, its context and surroundings: A number of reports have been submitted with the application that address the natural and historic environment of the site. These have been considered as part of the overall assessment of the application.
- Concern regarding the increased amount of traffic: The Highway Authority have assessed the proposal and do not have any objections in terms of traffic implications or highway safety.
- S106 funding: The development would not generate a demand on sport or recreational services in Wivenhoe as it is providing sports facilities. Therefore, the request for a financial contribution towards sports or recreational facilities in Wivenhoe cannot be justified; it does not meet the tests of the Community Infrastructure Levy Regulations 2010 as it is not necessary to make the development acceptable in planning terms.

10.0 Representations

10.1 One letter of support has been received expressing the opinion that ‘this facility is desperately needed within the University of Essex’.

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 proposal does not include any car parking, but does include 10 cycle spaces which are located close to the entrance of the building.

- 11.2 The current parking standards for non-residential education developments (as per the Vehicle Parking Standards SPD) include maximum car parking standards; there is no minimum requirement. The absence of car parking does not, therefore, conflict with adopted standards.
- 11.3 In terms of cycle parking, there is a minimum requirement of 1 cycle space per 5 staff and 1 cycle space per 3 students. As the building would be available to the university as a whole, this would equate to a disproportionate number of cycle spaces (there are over 11,000 student and almost 4,000 members of staff currently). The requirement for sports halls is 10 spaces (plus 1 space per vehicle space) and this is considered to be more relevant and appropriate to the development being proposed. The 10 cycle spaces proposed accords with these cycle parking requirements and can be secured by condition.

12.0 Open Space Provisions

- 12.1 There is a large sports field as part of the university campus. No additional open space is provided as part of the proposals.

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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. Over the course of several meetings it was concluded that no planning obligations are required.

Matters discussed:

- The need for a signing and lining scheme (including an extension of the 20mph zone on Boundary Road) to make it clear to motorists and cyclists that Boundary Road is a cycle route. It was ultimately determined that this could be secured via a planning condition rather than a S106 contribution as the land is entirely within the Applicant’s ownership and they can undertake the works without making a contribution to the Council. The provision of signing and lining for the cycle route along Boundary Road has therefore been required as part of the University Travel Plan (recommended condition 14);
- For the University sports facilities to be available to the general public for perpetuity via a Community Use Agreement. The University confirmed that, whilst they actively welcome and encourage public use of their facilities, they do not wish to enter into a formal agreement securing such use. In terms of the three statutory tests for planning obligations in the Community Infrastructure Levy Regulations 2010 (whether it is necessary to make the development acceptable in planning terms; directly related to the development; and whether it is fairly and reasonably related in scale and kind to the development) the Development Team determined that a Community Use Agreement would not be necessary in order to make the development acceptable in planning terms, although they were disappointed that this could not be secured. An informative is recommended to advise the Applicant that the Council would wish for public use of the facilities to be secured for perpetuity.

15.0 Report

- 15.1 The main planning considerations are: principle of development; design, layout and landscaping (including impact on trees); impact on the surrounding area; impact on neighbouring amenity, biodiversity; flood risk and drainage; and highway matters.
- 15.2 Principle of Development:
Core Strategy Policy SD1 states that, 'when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework'. The University of Essex lies adjacent to, but outside, the settlement boundary of Colchester and is covered by Site Allocation Policy SA EC7, which states that permission will be granted for academic expansion within the area denoted by University Purposes on the Proposals Map provided that it relates satisfactorily to its setting on the edge of the built up area of Colchester. The policy goes on to state that proposals within the existing campus will be acceptable providing they have full regard to the landscape setting and nature conservation interests. All proposals for development will need to include the following information:
- o A Flood Risk Assessment; it should satisfy the Sequential Test and the Exceptions Test of PPS25 and provide open space to the river frontage;
 - o A comprehensive landscaping scheme;
 - o A biodiversity enhancement plan.
- 15.3 The proposal, for a sports centre and associated classrooms, is therefore acceptable in principle ('permission will be granted for academic expansion'), subject to the provisions of the site allocation policy, as well as other policy requirements and material planning considerations.
- 15.4 Design, Layout, and Landscaping (including impact on trees):
Core Strategy Policy UR2 states that the Borough Council will promote and secure high quality and inclusive design in all developments to make better places for both residents and visitors. Development Policy DP1 states that all development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. The policy goes on to state that development proposals must demonstrate that they, and any ancillary activities associated with them, will (inter alia) respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, landscape setting, and detailed design features.
- 15.5 The proposal is for a very large building, located within an existing university campus of distinctive architectural design and in the vicinity of a listed historic park. Therefore, the visual impact of the proposal and its relationship to its setting and context is a primary consideration. The proposal has been amended during the application process, with vertical cladding, climbing plants, and an additional landscape strategy incorporated into the scheme in order to address Planning Officer comments regarding the impact and massing of the building in its immediate context.

- 15.6 In terms of the University context, the proposal would not appear out of scale or character. The sports centre would not be incompatible with the scale of existing development, being in close proximity to an existing multi storey car park of similar height and having a backdrop of the accommodation towers. The incorporation of the blue/black brick into the design of the building provides a visual connection with the brick of the existing accommodation towers, which are an iconic feature within the campus. The Council's Urban Designer has considered the proposals and has no objections to the scheme subject to conditions to establish details, such as materials and glazing systems.
- 15.7 The proposal is not considered to have an adverse impact upon the nearby historic park nor the setting of listed buildings (Wivenhoe House (Grade II*); Stable Block (Grade II); the Terrace and Garden Wall (Grade II); and East Lodge (Grade II)). A Heritage Statement and Landscape Appraisal were submitted with the application which provided some history and further information about the park, its setting, and relevant views to and from the listed building and helped to inform the subsequent amendments to the proposal. Following receipt of this information, Essex Gardens Trust, which is a statutory consultee, as a Garden History Society, on development proposals that are likely to affect registered gardens and parks, commented that the sports hall would be sufficiently detached from the registered landscape not to affect it. In addition, the landscape strategy put forward, which incorporates planting in and around the site as well as along the park boundary with Park Road, would strengthen the enclosure edge of the park; this not only acts to soften the impact of the built form, but also improves the quality of the setting of the park which is supported. In maintaining and improving the setting of the park, any impacts upon the setting of Wivenhoe House and its associated buildings is reduced and it is not considered that the proposal would have a significantly harmful impact upon the character or setting of these buildings. Therefore, it is considered that the proposal accords with Core Strategy Policy UR2 and Development Policy DP14 which seek to enhance Colchester's unique historic character and protect any features of specific historic, archaeological, architectural or artistic interest from inappropriate development.
- 15.8 Aside from the existing tennis courts, which are hardstanding with fencing, the application site is quite heavily planted with trees, some of which are intended for removal as part of the proposed development (for clarity, there are no TPO trees in this area). A Tree Survey, Arboricultural Implications Assessment, and Arboricultural Method Statement has been submitted as part of the application and sets out tree removal and replacement. The statement confirms that the proposed development requires the loss of a number of trees of varying quality and significance in terms of the amenity they provide and their contribution to the wider University Campus. The trees are all contemporary with the development of the university and represent a series of plantings over the last 50 years. The loss of trees would be mitigated by additional planting; seventeen new standard trees are proposed in the immediate vicinity of the proposal, with more tree and shrub planting proposed alongside the open-air sports courts and along the enclosure edge of the park and garden. As concluded in the statement, the planting 'will complement the existing retained parkland trees, securing the long term large tree element of the campus for the future'. The landscape scheme and additional tree planting is considered to adequately compensate for the trees that require removal. This assessment has also taken into account that, of the trees proposed for removal (fourteen trees and two groups of trees), two Oak trees and one group of Oaks would be likely to require removal regardless of the development due to their poor condition.

- 15.9 Energy efficiency has also been considered in assessing the acceptability proposal. Core Strategy Policy ER1 sets out the Council's commitment to carbon reduction, including the promotion of efficient use of energy and resources, alongside waste minimisation and recycling. New development will be encouraged to provide over 15% of energy demand through local renewable and low carbon technology (LCT) sources, with non-residential developments being encouraged to achieve a minimum BREEAM rating of 'very good'. A Renewable Energy Report has been submitted as part of the application, with recommendations for heating, air conditioning, and energy generation (photovoltaic panels) in order to meet the 15% on-site renewable energy generation. This is considered to be very positive and can be conditioned so that the recommendations are carried out. A condition to require the development to achieve a minimum BREEAM rating of 'very good' is also recommended.
- 15.10 Impact on the Surrounding Area:
Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline. The policy goes on to state that development will be supported at appropriate locations to improve public access, visual amenity and rehabilitate the natural environment.
- 15.11 The impact upon immediate setting has been discussed above. In terms of impacts on the wider area, the application site is within the University campus, amongst existing development (multi-storey car park to the south; existing sports centre to the south-west; fenced open-air sports court to the east and academic buildings further to the north). The proposal would be a large building and would by no means be obscured by existing development, but would not appear unduly prominent in its context. Views of the proposed building from the listed park and garden would be filtered by additional tree planting provided as part of the landscape strategy submitted. The visual impact of the proposal on the surrounding area is not, therefore, considered to be significant or harmful.
- 15.12 Impact on Neighbouring Amenity:
The proposal is within the University campus and is not in close proximity to any residential dwellings. Therefore, the proposal is not considered to have a detrimental impact upon neighbouring amenity.
- 15.13 Biodiversity:
Policy SA EC7 requires that all proposals within the University site allocation should provide a biodiversity enhancement plan. This has not been provided as part of the current planning application, but is not considered to be a reason for refusal in this case as enhancements can be secured by condition. Natural England have not expressed any concerns regarding the impact of the proposal upon the interest features of Upper Colne Marshes SSSI and have recommended that bat and/or bird nest boxes be provided as a biodiversity enhancement. The additional tree planting proposed as part of the scheme, as well as the provisions of bat and bird boxes (secured by condition) are considered to be appropriate enhancements for the biodiversity of the site.

15.14 Flood Risk and Drainage:

The site is in a Flood Zone 1, where flooding from rivers and the sea is very unlikely and there is less than a 0.1 per cent (1 in 1000) chance of flooding occurring each year. As a Flood Zone 1, the site is unlikely to be susceptible to flooding and the development is not considered to pose a flood risk, subject to the conditions recommended by Essex County Council as Lead Local Flood Authority as discussed below.

15.15 Development Policy DP1 requires development proposals to incorporate any necessary infrastructure and services including, where appropriate, Sustainable Drainage Systems (SuDS), with Policy DP20 requiring all development proposals to incorporate measures for the conservation and sustainable use of water, to include appropriate SuDS for managing surface water runoff within the overall design and layout of the site and measures to conserve water within individual building designs. A SuDS strategy was submitted with the application and Essex County Council were consulted, as Lead Local Flood Authority, with regards to surface water flooding and sustainable drainage. Following receipt of a revised SuDS Strategy, there are no objections subject to conditions for a detailed surface water drainage scheme; scheme to minimise the risk of offsite flooding; and a maintenance and management plan. The conditions are considered to be appropriate in the interest of reducing surface water flood risk.

15.16 For clarity, Essex County Council have also advised that the Local Planning Authority need to take account of the availability of insurance cover as part of their assessment of development proposals. However, the availability of insurance is not a material planning consideration and has not, therefore, been considered as part of the assessment of the application.

15.17 In terms of foul drainage, Anglian Water have confirmed that no Anglian Water assets are affected by the proposal and that the foul drainage from the development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows. A drainage strategy is required (via condition) in order to determine foul flows downstream.

15.18 Highway Matters:

The Highway Authority have assessed the proposal and do not have any objections in terms of traffic implications or highway safety. A travel plan is required by condition, which will in all likelihood be an updated version of the current University travel plan to take the new development into account. The current travel plan aims to 'significantly decrease car parking demand on campus and reduce the impact of University generated traffic on the local environment, particularly in terms of congestion and carbon emission levels..... by increasing the opportunities for staff, students and other campus users to travel to campus by alternative means of transport other than private cars'. It is recommended that the Travel Plan include a scheme to promote and signpost the existing cycle route along Boundary Road, by means of signing and lining, as this is currently absent. The promotion of the cycle route would accord with Core Strategy Policies TA1 and TA2 which seek to change travel behaviour towards sustainable modes through travel plans, improvements to gateways, and by managing travel demand; walking and cycling will be promoted as an integral and highly sustainable means of transport.

In addition, Policy TA2 and Development Policy DP17 seek to enhance accessibility for sustainable modes of transport and improve the design and construction of facilities and infrastructure to make walking and cycling more attractive, direct and safe. Improving accessibility and reducing car dependence helps to improve equality, reduce congestion, and respond to the challenges of climate change and environmental sustainability. It also helps to promote an active and healthy population.

- 15.19 Improvements to the cycle route are a clear contribution to the University's aims within their travel plan and are considered to be a reasonable requirement in terms of helping to reduce demand on car travel as a result of the proposed development as well as contribute to sustainable development in accordance with the aforementioned policies.

16.0 Conclusion

- 16.1 The proposal is considered to be acceptable in principle, having had regard to national and local planning policy, and is satisfactory in terms of visual impact, impact upon heritage assets, amenity, highway, ecology, and drainage and flood risk matters, subject to necessary conditions.

17.0 Recommendation

APPROVE subject to the following conditions

18.0 Positivity Statement

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.

19.0 Conditions

1 - Time Limit

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

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

2 - Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 22302A 40 Rev D; 22302A 41 Rev D; 22302A 50 Rev D; 22302A 51 Rev D; 22302A 52 Rev D; 22302A 53 Rev D; 22302A 60 Rev D; 22302A 61 Rev D; 22302A 62 Rev D; 22302A 63 Rev D; 22302A 70 Rev D; 22302A 71 Rev D; 22302A 72 Rev A; and 22302A 73 Rev A.

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

3 Renewable Energy

The development hereby approved shall incorporate the recommendations at section 1.08.00 of the JSH Renewable Energy Report AC/SP/5285/RENEW Revision P2 (December 2015).

Reason: In the interests of carbon reduction and energy efficiency as part of sustainable development.

4 - Materials

Notwithstanding the submitted details, no works shall take place, other than groundworks and drainage works, until precise details (and samples if requested by the Local Planning Authority) of the manufacturer, types, colours and finishes of the external facing, window frames 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 - Window and Cladding Details

Notwithstanding the submitted details, no works shall take place, other than groundworks and drainage works, until details of the glazing systems, depth of window reveals, and cladding joints have been submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.

6 - 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 dwellings 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.

7 - 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. The scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Discharge rates must be limited to 1l/s
- Sufficient storage must be provided to manage all surface water on site up to the 1 in 100 year storm plus climate change.
- Appropriate treatment must be provided in line with the CIRIA SuDS manual (C753)

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; and to provide mitigation of any environmental harm which may be caused to the local water environment

8 - Minimising risk of offsite flooding during construction

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 then 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 topsoils 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

9 - Surface Water Drainage Maintenance and Management Plan

No works shall take place until a Maintenance and Management Plan (to include details of who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, as well as yearly logs of maintenance), 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 and to ensure they are maintained for the lifetime of the development so that they continue to function as intended to ensure mitigation against flood risk.

10 - Full Landscape Proposals

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.

11 - 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.

12 - 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.

13 - Bird and Bat Boxes

Prior to the first use of the development, precise details (to include the siting, position, type and size) of bird and bat boxes to be erected shall have been submitted to and agreed, in writing, by the Local Planning Authority. The bird and bat boxes shall be erected as approved and thereafter retained and maintained to a suitable standard. Reason: In order to enhance bird and bat habitat.

14 - Landscape Management Plan

Prior to the first use 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 site.

15 - Travel Plan

No occupation or use of the development shall take place until a travel plan has been submitted to and agreed, in writing, by the Local Planning Authority. The Travel Plan shall include a lining and signing scheme for the cycle route along Boundary Road. The Travel Plan shall thereafter be implemented as approved.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

16 - Cycle Parking

Prior to the first occupation or use of the development hereby permitted, cycle parking for no less than 10 bicycles shall have been laid out within the site in accordance with details that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority. The agreed cycle parking provisions shall thereafter be maintained and made available for this use at all times.

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

17 - External Lighting

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution, including impacts upon the ecology of the area.

18 - Trees and Tree Protection

The works hereby approved shall be carried out in strict accordance with The Landscape Partnership Tree Survey, Arboricultural Impact Assessment; Arboricultural Method Statement, dated March 2016.

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

19 - Site Clearance

Site clearance operations that involve the destruction and removal of vegetation on site shall not be undertaken during the period between 1st March and 1st September in any given year, except when approved in writing by the Local Planning Authority.

Reason: In order to safeguard protected wildlife species and their habitats.

20.0 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. Please pay particular attention to these requirements.

(4) Landscape Guidance

Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Councils Landscape Guidance Note LIS/C @ Guidance Notes LIS/C.

(5) Community Use

The Council would wish for public use of the building to be secured for perpetuity via a Community Use Agreement and encourages the University to undertake such an agreement.



Application No: 160974

Location: Creffield Medical Centre, 15 Cavalry Road, Colchester, CO2 7GH

Scale (approx): 1:1250

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7.9 Case Officer: Eleanor Moss

LISTED BUILDING

Site: Creffield Medical Centre, 15 Cavalry Road, Colchester CO2 7GH

Application No: 160974

Date Received: 28 April 2016

Applicant: Sir Bob Russell

Development: Erection of commemorative plaque

Ward: New Town and Christ Church

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 an Honorary Alderman.

2.0 Synopsis

- 2.1 The key issues explored below are the impact upon the listed building. The scheme is considered to be acceptable as the setting of the listed building is not adversely affected by the commemorative plaque. The historic fabric of the building will not be compromised by the plaque.

3.0 Site Description and Context

- 3.1 The application site is a Grade II listed building within the Garrison Conservation Area. Creffield Medical Centre is the former riding centre, as part of the Le Catteau Barracks.

4.0 Description of the Proposal

- 4.1 This application seeks listed building consent for the erection of a green commemorative plaque in order to honour Robert Baden, founder of the Scout Movement.

5.0 Land Use Allocation

- 5.1 D1 use - Medical Centre

6.0 Relevant Planning History

- 6.1 None relevant to this application.

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must 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:

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
DP14 Historic Environment Assets

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

The Essex Design Guide
External Materials in New Developments

8.0 Consultations

8.1 None received at the time of writing.

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 Two representations of support were received.

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

11.0 Parking Provision

11.1 N/A

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

15.1 Design

The detailed design respects the listed building in terms of scale, height, massing and alignment. The proposed plaque is 14” in diameter, including the base. Its scale, height, mass and design are considered to be acceptable within its own merits. It will be set against the backdrop of the existing brick wall and accompanied by a metal plaque.

15.2 Impact on Listed Building

The works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building.

15.3 Impact on Conservation Area

The site is located in the Conservation Area for Garrison. It is considered that all of the finishes and materials proposed are acceptable within the conservation area and will have no detrimental impact on it.

15.4 Impact on surrounding area and residential amenity

There are a number of properties within the vicinity of the area, including residential properties and listed buildings. Due to the nature of the proposal, residential properties within the vicinity of the site that would not be affected.

15.5 The nature of the use proposed respects the character of the setting of the listed building. The listed buildings on Cavalry Road are located towards the north east of the proposal site. The proposal respects the character of the setting of the listed buildings.

16.0 Conclusion

16.1 The proposal is considered to be acceptable with minimal impact upon the listed building and conservation area.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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.

19.0 Conditions

- 1.0 The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2.0 The development hereby permitted shall be carried out in accordance with the details submitted with the application.

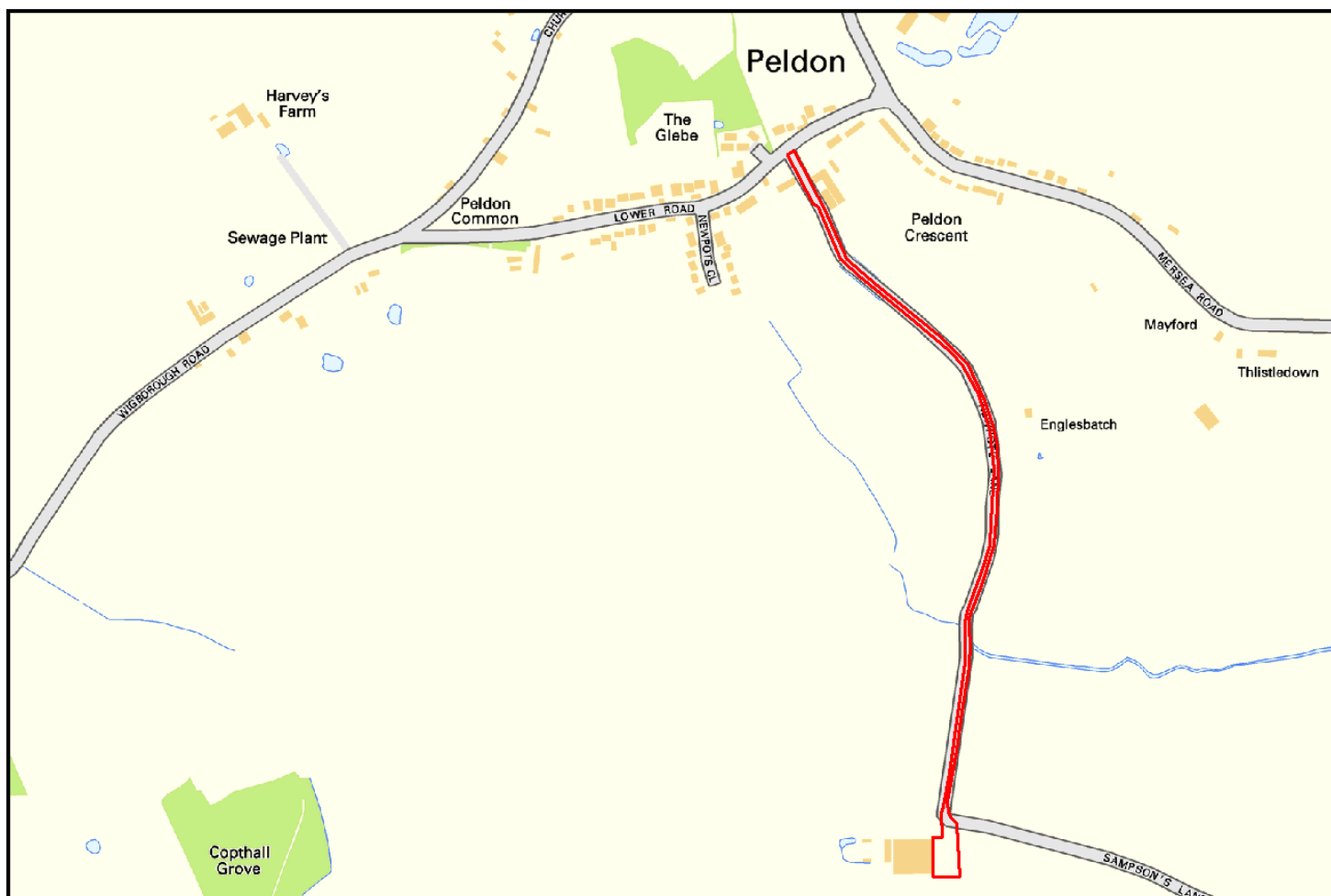
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

20.0 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.



Application No: 160990

Location: R Davidson & Son, Brickhouse Farm, Lower Road, Peldon, Colchester, CO5 7QR

Scale (approx): 1:5000

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Site: Brickhouse Farm, Lower Road, Peldon, Colchester, CO5 7QR

Application No: 160990

Date Received: 13 May 2016

Agent: Mr Marc Hinton

Applicant: Mr Robert Davidson

Development: General purpose extension to existing farm building to include self-contained and sectioned off wash down area.

Ward: Mersea and 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 Borough Councillor.

2.0 Synopsis

- 2.1 This report describes a proposal for an agricultural building at New Potts Farm in Peldon. It is explained that this building is required as part of the working farm.
- 2.2 Consultation replies are reported and are responded to where appropriate and it is concluded that the scheme is acceptable.

3.0 Site Description and Context

- 3.1 The proposal site is set amongst an existing range of agricultural buildings, equipment and hardstanding quite remote from any other buildings. The proposed footprint of the building overlaps hardstanding, scrub and a small part of an agricultural field.
- 3.2 The site is accessed off Lower Road, via Newpotts Lane between the listed Brickhouse Farm house and its farm buildings. It is approximately one kilometre to the south, just where Newpotts Lane strikes east and becomes Sampson's Lane. The nearest dwelling is Englesbatch some 600 metres to the north.

4.0 Description of the Proposal

- 4.1 This application seeks planning permission for the erection of an agricultural which matches and continues the existing range of agricultural buildings. The application form has described the use of this building as general purpose.

4.2 The new building would be 7.9 metres in height (at ridge) with the roof sloping down to an eaves height of 5.8 metres. The proposed building measures 46.2 metres deep by 15.2 metres deep, this creating a footprint of 647.5m², which is in keeping with the existing range of buildings.

4.3 The proposed materials are typical for a building of this nature and are in keeping with the existing buildings on site.

5.0 Land Use Allocation

5.1 Unallocated

6.0 Relevant Planning History

6.1 160605 - Application for a new grain store to store grain to 4m.
Approved 3rd May 2016

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:

UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

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

DP1 Design and Amenity
DP8 Agricultural Development and Diversification

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:

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

- External Materials in New Developments
- Winstred Hundred Village Design Statement

8.0 Consultations

8.1 Highways Authority – No comments

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 the following:

- 9.1 Winstred Hundred Parish Council declines to comment on application no. 160990 owing to the fact that the applicant is known by all and will leave it to the professionals.

10.0 Representations

- 10.1 At the time of writing, no representations had been received. Any comments will be reported on the amendment sheet.

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

11.0 Parking Provision

- 11.1 N/A

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

- 15.1 Principle: NPPF paragraph 28 supports a prosperous rural economy and states that local authorities should "promote the development and diversification of agricultural and other land-based rural businesses." This is carried through to our Development Policy DP8 which encourages general support for existing agricultural uses.

15.2 Design: The building is large scale at 647m², but this is not out-of-scale with the adjacent set of agricultural buildings. The proposed design is standard fare with neutral colours that blend with the rural and agricultural nature. Because it is so far removed from public view (the nearest dwelling not involved with the farming enterprise being Englesbatch 600 metres distant and there being no Public Right of Way in the vicinity), it would be entirely unreasonable to request a higher specification of materials.

15.3 Landscape Impact: The building, in common with the existing group of buildings, is on the highest point of land. This has less impact to the north where the land is only a little lower. However, the land slopes away to the south and this gives the buildings a longer visual throw. Given that the new building is to be slightly separated from the group (by ten metres, due to the risk of fire-spread and so on), this effect would be even greater.

16.0 Conclusion

16.1 Expansion of existing farm enterprises is encouraged both nationally and locally and the visual impact of the proposal is acceptable. The scheme is, therefore, recommended for approval.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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.

19.0 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 Number 11677/Planning Revision A dated March 2016

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

20.0 Informatives

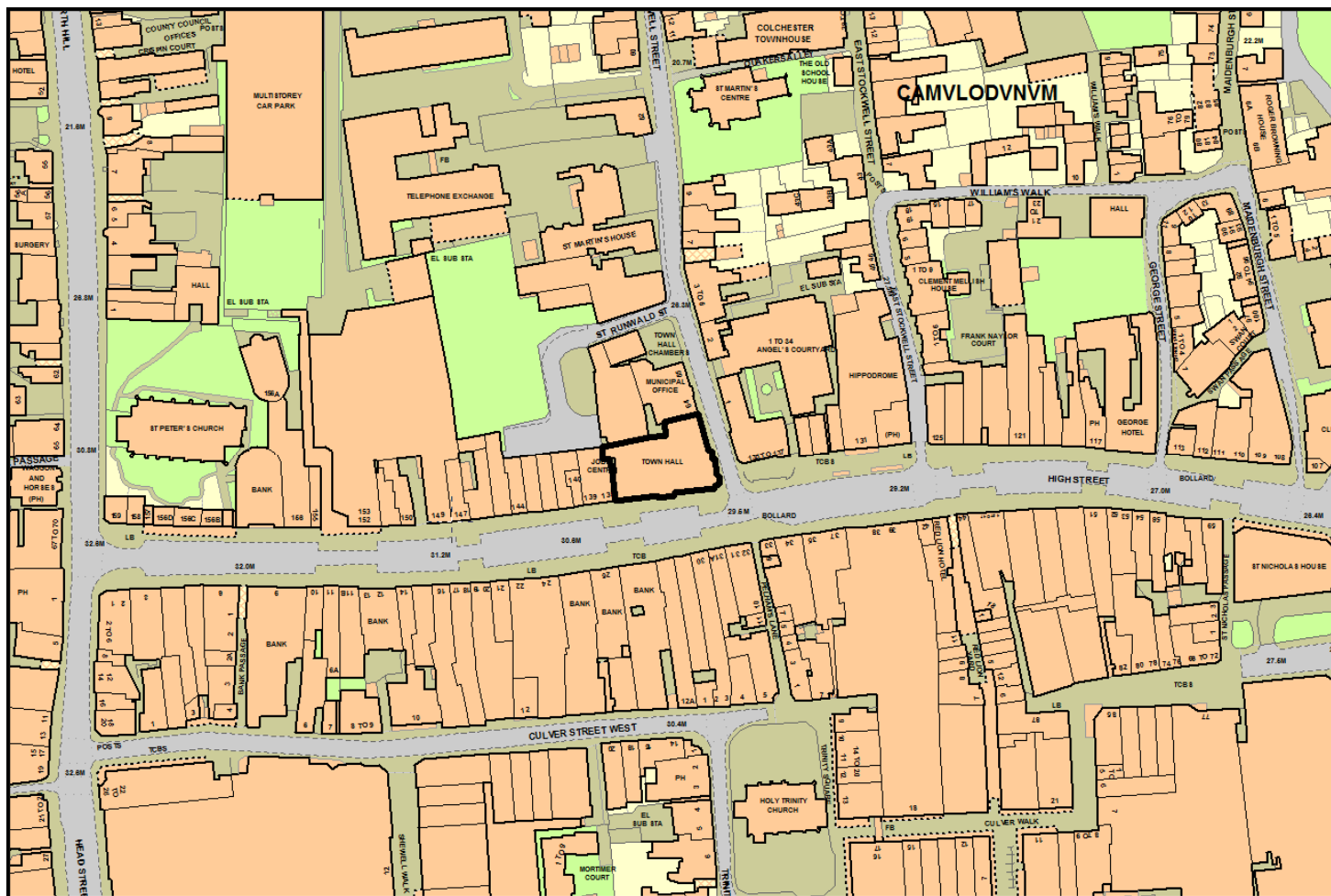
(1) ZT0 – Advisory Note on Construction & Demolition

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. Please pay particular attention to these requirements.



Application No: 161058

Location: Town Hall, High Street, Colchester, CO1 1PJ

Scale (approx): 1:1250

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7.11 Case Officer: Libby Kirkby-Taylor

LISTED BUILDING

Site: Town Hall, High Street, Colchester CO1 1PJ

Application No: 161058

Date Received: 21 April 2016

Agent: Mr Martin Leek

Applicant: Colchester Borough Council

Development: Restoration of clock face, including removal of opal glass, and replacing glass with opal perspex.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application for listed building consent is referred to the Planning Committee because the Town Hall is owned by the Borough and the applicant is Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the proposed works to the clock on the special interest of the listed building.

3.0 Site Description and Context

- 3.1 The Town Hall is a grade I listed building and a key town centre landmark dating from the closing years of the Victorian period and constructed in a Baroque freestyle with Italianate clock tower.

4.0 Description of the Proposal

- 4.1 The works comprise the restoration of the historic skeleton clock to address long term fatigue. The works consist of the restoration of the clock including repainting and regilding of the clock face and an overhaul of working parts. The proposed works to the face include replacement of surviving areas of the opal glazing with Perspex of a similar appearance.

5.0 Land Use Allocation

- 5.1 Town Centre Uses – DP6

6.0 Relevant Planning History

- 6.1 The Town Hall has a long history of successive applications for minor internal alterations. The most recent was considered at the meeting of 26 May 2016 under reference 160502 when consent was granted for reordering of the Committee Chamber for the installation of a new bench on a raised platform.

7.0 Principal Policies

- 7.1 Planning law requires that applications for listed building consent must be determined in accordance with section 16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990 that states: "In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." .
- 7.2 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. Part 12 of the Framework titled 'Conserving and enhancing the historic environment' provides strategic policy guidance in relation to the interplay of planning and the conservation of heritage assets including listed buildings. Paragraph 132 states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification" Two categories of harm are identified, namely substantial and less than substantial harm. These are addressed at paragraphs 132-134 of the framework. However, all harm to a listed building is undesirable and requires clear and convincing justification.
- 7.3 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:
- UR2 - Built Design and Character
ENV1 - Environment
- 7.4 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
- DP14 Historic Environment Assets

8.0 Consultations

8.1 Historic England (formerly English Heritage) comments:

“Colchester’s Town Hall is an exceptionally fine civic building, from a period in which civic architecture flourished. A bravura essay in the Edwardian Baroque, the Town Hall was built between 1897 and 1902 to the designs of John Belcher. It is listed at grade I on account of its exceptional architectural and historic interest.

With this application consent is sought to repair the clock faces on the clock tower, replacing opal glass with opal perspex. Some panes of the historic glass have been broken, and the remainder are likely to be lost when the clock faces are refurbished or repaired. It is proposed to replace the glass with perspex on the grounds that perspex will not break and that it will be safer, while looking little different to the historic glass.

Historic England have considered this proposal in the light of the National Planning Policy Framework’s policies for the conservation of designated heritage assets - of which the Town Hall is an exceptional example - and in particular of its injunction that great weight should be given to the conservation of such assets and their significance (NPPF, especially 131, 132, 134).

The repair of the clock is evidently desirable. The substitution of perspex for the historic glass would take away something from the authenticity of the building.

These points notwithstanding, the effect of the change on the significance of the building is unlikely to be material.

Recommendation

In the light of these considerations, Historic England concludes that the proposed works would be consistent with the National Planning Policy Framework’s policies for the conservation of designated heritage assets, provided that your Council is satisfied that the proposed new material will perform adequately, both practically and aesthetically.”

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 N/A

10.0 Representations

10.1 None received at the time of report drafting

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

11.0 Development Team and Planning Obligations

11.1 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.

12.0 Report

12.1 This report considers:

- *The justification for the works*
- *The impact of the proposed works on the special interest (significance) of the listed building*
- *Conformity with good practice and the NPPF*

12.2 Justification for the works

The Town Hall is a historic building and requires continuous cycles of maintenance. The clock face is constructed from opal glass set in a cast iron framework. The glazing is face puttied into the frame and has suffered from inevitable losses and breakages. The remainder of the works are non-contentious comprising redecoration (including regilding) and refurbishment of the clock mechanism. The scheme proposes to replace the remaining opal glass with opal Perspex as it is considered that this will reduce breakages and losses that necessitate the removal of the face for repair. We understand that in any event most of the remaining opal glass is likely to be lost in the renovation process.

12.3 The impact of the works on the special interest of the listed building

The majority of the proposed works will retain historic fabric and enhance the condition and appearance of the clock. The replacement of the glazing within the skeleton clock face will result in a modest loss of historic fabric. The proposed replacement would be in a different material but it is considered that any change will be imperceptible and only a marginal loss in integrity would result. It is important to note that Historic England do not object to the proposed works.

12.4 Conformity with good practice and the NPPF

The works in the main comprise repair and maintenance and this is considered wholly compliant with statute and the basic premise in the NPPF that heritage assets should be conserved in a manner consistent with their significance. The marginal loss of original glazing (if any) is considered not to be material when considered against the works of maintenance/repair as a whole. Whilst it could be argued that this element is less than substantial harm (paragraph 134 of the framework) when taken in the round the works are conservative and justified to maintain the clock feature in a good state of repair.

13.0 Conclusion

13.1 It is considered that the repair works are fully justified and any limited harm identified with the loss of any original glazing is more than offset by the scheme's benefits as a whole.

14.0 Recommendation

14.1 APPROVE subject to the following conditions

15.0 Positivity Statement

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.

16.0 Conditions

1.0 ZAB - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2.0 ZLA - Only Works Shown Within Application

This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved, in writing, by the Local Planning Authority prior to any works commencing.

Reason: For the avoidance of doubt as to the scope of the permission and to ensure that the historic building is preserved from any other potentially harmful works.

17.0 Informatives

1.0 LUA

PLEASE NOTE: This listed building consent relates solely to the plans, drawings, notes and written details submitted with the application or as subsequently amended in writing and referred to in this notice. Any variation of the works or additional works found necessary before work starts or while work is in progress or required under the Building Regulations, or by the County Fire Services or environmental health legislation may only be carried out after approval by the Local Planning Authority. Unauthorised modifications, alterations or works not covered by this consent may constitute an offence under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and may render the applicant, owner(s), agent and /or contractors liable to enforcement action and/or prosecution.