

Planning Committee Meeting

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

Thursday, 13 June 2019 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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Access

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

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 13 June 2019 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Andrea Luxford Vaughan	Deputy Chairman
Councillor Lyn Barton	
Councillor Andrew Ellis	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Helen Chuah	Nick Cope
Simon Crow	Robert Davidson	Paul Dundas	John Elliott
Adam Fox	Dave Harris	Theresa Higgins	Mike Lilley
Sue Lissimore	Sam McCarthy	Patricia Moore	Beverley Oxford
Gerard Oxford	Chris Pearson	Lee Scordis	Lesley Scott-Boutell
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 6 are normally dealt with briefly.

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

6.1 Planning Committee Minutes 25 April 2019 7 - 16

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 25 April 2019.

6.2 Planning Committee minutes of 22 May 2019 17 - 18

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 22 May 2019.

7 Planning Applications

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

7.1 183130 Former Homebase Ltd., St Andrew Avenue, Colchester 19 - 42

External alterations and subdivision of the existing Homebase store into two units, including change of use to allow food retail together with associated landscaping and car parking.

7.2 181859 Land north of Wyvern Farm, London Road, Stanway, Colchester 43 - 84

Detailed application for residential development for 102 residential dwellings (Use Class C3), comprising 96 houses (2 - 2.5 storeys) and an apartment building with 6 units (3 storeys), associated car parking, cycle parking, public open space and pedestrian / cycle infrastructure, formation of pedestrian and cycle links and other associated works and improvements. Amended submission 100 no. residential dwellings (Use Class C3), comprising 95 houses (2 - 2.5

storeys) and one buildings containing 5 apartments (3 storeys), associated car parking.

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|-----|--|--------------|
| 7.3 | 190631 Former Bus Depot, Magdalen Street, Colchester
Application to vary Condition 2 of Planning permission 181281. | 85 - 94 |
| 7.4 | 190423 89 Chapel Road, West Bergholt, Colchester
Two new dwellings with associated parking and amenity following demolition of existing dwelling. | 95 - 108 |
| 7.5 | 190690 Springbourne, Spring Lane, West Bergholt, Colchester
Ground floor extension and first floor addition to existing bungalow. | 109 -
116 |
| 7.6 | 183028 Land the corner of Tufnell Way and adjacent to 188 Bergholt Road, Colchester
Creation of a four bedroom detached house. | 117 -
130 |
| | Planning Committee Information Pages v2 | 131 -
142 |
| 8 | Exclusion of the Public (not Scrutiny or Executive)
In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). | |

Part B

(not open to the public including the press)

Planning Committee

Thursday, 25 April 2019

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

Substitutes: Councillor Nigel Chapman (for Councillor Vic Flores), Councillor Dennis Willetts (for Councillor Pauline Hazell), Councillor Gerard Oxford (for Councillor Philip Oxford)

Also Present:

Chairman

In the absence of Councillor Hazell, Councillor Jarvis took the Chair and Councillor Maclean acted as Deputy Chairman for the meeting.

685 Site Visits

Councillors Barton, Hazell Jarvis, Liddy, Loveland, Maclean and Willetts attended the site visits.

686 Planning Committee Minutes of 28 February 2019

The minutes of the meeting held on 28 February 2019 were confirmed as a correct record.

687 Planning Committee Minutes of 14 March 2019

The minutes of the meeting held on 14 March 2019 were confirmed as a correct record.

688 180045 Cowdray Centre, Mason Road, Colchester

The Committee considered a planning application to demolish all existing buildings and redevelop the site, creating 262 one, two and three bedroom houses and apartments plus associated roads, car parking, landscaping and public open space at Cowdray Centre, Mason Road, Colchester. The application had been referred to the Committee because it constituted a major development, a legal agreement was required and objections had been received. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the

proposals for the site.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Martin Mason, Essex County Council Strategic Development Engineer and Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Betty Constable addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that she lived in Margaret Road and was concerned about traffic in the area. She had objected to the application in its original form and her objections still stood. She referred to traffic using the residential roads of Albert Street and Catchpool Road in order to avoid Cowdray Avenue and doing so at excessive speed. She considered the traffic levels were unacceptable, was concerned about vehicle parking on pavements and anticipated that more cars would be generated from the proposed housing development, as such she considered it essential for an additional access road to the development to be included. She was also not supportive of the three storey elements proposed and was of the view that infrastructure needed to be provided prior to the development of the houses.

David Moseley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the site was in a sustainable location, in the Northern Station Regeneration Area and that most of the site had been vacant for more than 10 years. The proposal was to deliver housing on previously developed land, stimulate regeneration and to improve accessibility for existing and future residents. The proposals had been shaped by discussions with local residents, access groups and the council's officers would bring significant improvements in connectivity to the town centre and North Station. The scheme included new public open spaces, footpaths and cycle routes connecting to existing routes along Cowdray Avenue. Beyond the site it was proposed to create a more attractive walking and cycle link to Colchester North Station and to realign the right of way to the south of the subway to provide clearer visibility and to enhance the subway. North of the railway line a footway and cycleway link would be provided along the southern boundary of Highwoods Country Park in addition to a significant financial contribution towards a community facility within the Country Park. He also referred to the upgrading of two local bus stops and the promotion of sustainable travel behaviour. The parking provision would be sufficient for the size and type of housing proposed and confirmed that the proposal would generate a similar level of vehicle use at peak hours and in total as the extant use of the site. Technical assessments had confirmed that the road network was capable of accommodating the level of vehicle use anticipated and this had been endorsed by the Highway Authority. The proposal included £1.2 million education contributions and healthcare enhancements. He confirmed that the proposal accorded with planning policies, would create a new network of parkland, new cycleway connections and the delivery of new homes including affordable housing. The development would be of high quality in a highly sustainable location and the applicant was committed to its early

delivery.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. He explained that he did not object to the development but wished to draw attention to issues for the Committee to consider in more detail. He referred to the proposal to upgrade the pathway which linked with the public right of way known as Brick Kiln Lane to North Station and asked for clarification regarding the inclusion of this within the proposal and what conditions would ensure its provision. He also sought assurances regarding improvements to public transport. He referred to objections regarding traffic generation and the fact that the proposed use would actually lead to fewer additional traffic movements compared to the potential traffic levels should the site revert to its existing planning use. He also referred to the affordable housing element proposed and sought assurances that it would actually be delivered as part of the proposals.

Councillor Laws attended and, with the consent of the Chairman, addressed the Committee. He agreed with the comments made by Councillor Barlow. He referred to the proposed density of the development and voiced his preference for the units to have been higher than three-storey given the specific location. He referred to the east / west cycle route and the potential to link to the railway station to the west, whilst also advocating the acquisition of land behind Colne View Retail Park to the east to extend the cycle link to Highwoods Country Park. He was aware that this east / west cycle route had been an aspiration since 2011 and would be a significant benefit to local residents.

The Principal Planning Officer confirmed that the proposal included the widening and upgrading of the footpath leading to the train station and that this was a requirement of proposed Condition 21. In addition, she confirmed that the proposed Section 106 Agreement included a contribution for the Council to pursue a direct link from the underpass through land in the ownership of Network Rail to realign a blind corner. She also confirmed that Condition 29 provided for the requirement for bus stops, whilst the Section 106 Agreement would also secure 20% affordable housing, together with a schedule setting out where these elements would be located.

The Strategic Development Engineer referred to the previous use of the site and the potential for significantly greater levels of traffic generation if the site was returned to this use. He also referred to the evidence which illustrated that housing located in accessible locations generated very little traffic, as demonstrated by an existing housing development along Cowdray Avenue which had recorded very low trip rates. He considered the proposed application to be in a favourable location to minimise traffic.

Members of the Committee generally welcomed the principle of the development on the site, the potential for the appearance of the site to be improved and the improvements to cycle and footpath links from the site to the railway station. However, clarification was sought on the viability of the proposal and whether there was potential for the developer

to seek a review of viability once development commenced. In addition, clarification was sought in relation to the location of the bus stop improvements, the measures to secure the bus stop provision, the future provision of a bus service to the site, the percentage of affordable housing to be delivered within the proposal, the preservation arrangements which would be put in place should a significant archaeological artefact be found, the provisions proposed for safe spaces for children to play and whether the trigger points for the provision of the new public open spaces were sufficiently robust. Concern was also expressed in relation to the access arrangements to the site and whether the single access route proposed would be sufficient at peak times or in cases of emergency.

A member of the Committee supported the comments made on the application by Myland Community Council and expressed the view that there was potential for a proposed road link to Highwoods Country Park to be used to justify future encroachment of the Country Park with unwanted development and sought the removal of the proposed link from the proposal on this basis.

Another member of the Committee was of the view that, given the location of the site, the opportunity should have been taken for a more progressive approach and for the density of the development to be greater by means of increased height of units, as had been the case with recent developments near the railway station in Chelmsford. Concern was also expressed in relation to the suggestion to remove the proposed vehicular link to Highwoods Country Park as this would then make the proposals non-compliant with the Council's Local Plan but sought assurances that the reference to the link on the application drawings needed to be further to the extreme west of the site at Petrolea Close.

The Principal Planning Officer explained that the reference to a link in the application drawings was in order to comply with the provision for a vehicular link to Turner Rise as set out in the Site Allocation Policy. As such, she considered the Section 106 Agreement would also specify that the link would be to Turner Rise, not Highwoods Country Park. She explained that the Council's independent consultant had confirmed the viability of the scheme and, whilst there was no guarantee that the developer would not question the viability at some point in the future, she referred to the Amendment Sheet which set out the developer's anticipated prompt delivery rates such that she was doubtful that there would be any significant downturn in the market in that timeframe. She explained that the work to upgrade two bus stops would be subject to a condition attached to the planning permission and, as such, an application would need to be submitted to vary that condition if the element was to be omitted. She confirmed that work to widen and the route to the railway station and to improve the route and the public rights of way would also be secured by proposed conditions. She confirmed that 20% affordable housing would be delivered, in accordance with the Council's policy, and she explained that the affordable housing delivery would commence once a trigger point of 70% of the development had been completed. In terms of archaeology and heritage, she confirmed that the Council's Archaeological Adviser had requested that a condition be included

which would require preservation of archaeological finds 'in situ' as well as a financial contribution of £15,000 to cover the cost of display and updating of records should any artefacts be found. She confirmed that the play area would be secured as part of the Section 106 Agreement and would be separate to an additional 'pocket park' primarily for the occupiers of the flats.

The Strategic Development Engineer referred to the potential future link under the railway line which had been a policy aspiration for many years and the intention to seek the safeguarding of land for its future provision. He explained that initial design work for the route to meet up with Petrolea Close had concluded that, for technical engineering reasons, the link to the northern side of the railway line would need to be located at the point illustrated on the plan. He also confirmed there were two points of access to the site and he considered these to be more than adequate in terms of capacity with adequate visibility also being provided. He confirmed it was hoped that the upgrading of the footpath known as Brick Kiln Road was to include use by cyclists. He also confirmed that there were no plans to include access for emergency vehicles along the footpath.

Further clarification was sought in relation to the upgrading of the bus stops and where these would be located, the potential for an amendment to the Section 106 Agreement to provide for a subsidised bus service to the site, the status of the Myland Neighbourhood Plan in relation to the Council's Local Plan, whether there was any more illustrative detail of the design of the dwellings being proposed and the possibility of including a note for the extension of the east / west link in the event that a planning application comes forward for the neighbouring plots of land to the east of the proposal site. Concern was also expressed in relation to the adequacy of the education provision proposed and the current under-provision of school places in certain parts of the Borough leading to unnecessary journeys for children to take up their school places.

The Development Manager referred to concerns regarding the link to the northern side of the railway line to Turner Rise and its potential impact on Highwoods Country Park and suggested that a revised plan be prepared deleting the reference to Highwoods Country Park and, instead, showing the link to Petrolea Close, as intended. He also confirmed that, should the Committee consider the provision of an east / west link to provide wider connectivity be strategic desirable, it would be possible for a note to be made of the Committee's view as an agreed strategic objective. He also reminded the Committee of its obligation to seek mitigation only in respect of the site itself and, as such, given the highly sustainable location of the site, he did not consider it would be reasonable to seek a commuted sum in lieu of the improvements to the bus stops. He also confirmed that the two bus stops were located on each side of Cowdray Avenue, in relatively close proximity to the proposal site.

The Principal Planning Officer explained that considerable negotiation work had been undertaken between the developer and the Council's Urban Designer in order to achieve an appropriate design with continuity of frontage, avoidance of monotony, improvements

to roofline interest, with steeper pitches and chimneys and conditions requiring detailed architectural features. She confirmed that Essex County Council had calculated how many school places the proposed development would generate and had concluded that for early years and child care there was an over capacity so no contribution was required for this tier, whilst, for primary education, North Primary was at capacity and, as such, Essex County Council had identified additional reception places would be needed at the new school at the Chesterwell development so a contribution would be required. In addition, for secondary education, a contribution was being sought for additional places at a new school at Paxman's Avenue and at the new school at the Chesterwell development.

The Development Manager explained that the financial contribution for education had been calculated to mitigate the development and it was for Essex County Council to spend the sum in the most efficient way to deliver the necessary spaces in the closest geographic locations to the development.

RESOLVED (NINE voted FOR and ONE voted AGAINST) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet; subject to pre-commencement conditions under the Town and Country Planning (Pre Commencement Conditions) Regulations 2018 and subject to the revision of the plan to delete the reference to Highwoods Country Park and, instead, to show the link through to Petrolea Close and, in addition, authorised to make changes to the wording of those conditions, as necessary, and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Affordable Housing: 20% (tenure mix being at least 80% affordable rent and no more than 20% intermediate). As part of the affordable housing, 2 No. one-bed flats would be delivered as part M4 Category 3(2)(a) to include a wet room and 2 No. one-bed flats would be delivered as part M4 Category 3 (2)(b) fully adapted wheelchair units. The remaining affordable units, excluding upper floor apartments, would meet part M4 Category 2. Not more than 70% of the market dwellings shall be occupied unless the Affordable Housing Dwellings have been constructed, are available for occupation and have been transferred to an Approved Body;
- Archaeology: £15,125 (+VAT) for the display, promotion and management of archaeological discoveries on the site. If no archaeological remains are affected by the development (to be determined as part of an agreed programme or archaeological investigation secured by condition) £290 (+VAT) would be required to integrate the information from the archaeological investigation with the Colchester Historic Environment Record (HER);
- Community Facilities: £359,000 required towards the provision of a multi-use community facility adjacent to the visitor's centre at Highwoods Country Park;
- Education: Contribution towards Primary and Secondary education provision in

accordance with the Essex County Council formula (£12,734 per Primary place and £19,345 per Secondary place subject to indexation) £1,218,738.00;

- NHS: £96,048 towards providing additional capacity at East Hill Surgery to mitigate the development;
- Open Space, Sport, and Recreation: £240,000 to be spent on a new shared cycle/pedestrian path in High Woods Country Park. Additional £91,445.94 required if the open space provided by the development is adopted by Colchester Borough Council; and
- Transport and Sustainability: £65,000 to provide a north/south cycle and pedestrian link between the development site and the existing underpass (providing clear sight lines through the underpass) as indicated in purple hatching on drawing PH222-PL-11 Rev E.
- The provision of a LEAP play area.
- Land to be safeguarded for a potential future vehicular link under the railway to Turner Rise.
- The provision of an on-site open space and amenity areas (including play area).

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise be authorised to complete the agreement.

689 190217 Homelea, Birch Street, Birch, Colchester

This item was withdrawn from consideration at this meeting.

690 183001 3 Frensham Close, Stanway, Colchester

The Committee considered a planning application for a proposed single storey front addition to the existing garage at 3 Frensham Close, Stanway, Colchester. The application had been referred to the Committee because it had been called in by Councillor Dundas. The Committee had before it a report in which all information was set out.

Daniel Cooper, Planning Officer, presented the report and assisted the Committee in its deliberations.

John Williamson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He wished to appeal against the proposals which he considered to be incompatible with the open plan concept of the road and the estate. He referred to a loss of sunlight to the side lounge window to his property as well as overshadowing and loss of outlook. He explained that the layout of properties in the Close was staggered to allow a view of the roadway and

he considered this would be lost due to the construction of a new building line. He considered that the proposed extension was beyond the front of the neighbouring properties and would contradict the open plan concept and the extension would prevent sunlight entering the lounge. He considered he had a right to light and his view would be lost. He intended to invoke the terms of the agreed covenants for the estate and he asked the Committee's support to reject the application.

Councillor Dundas attended and, with the consent of the Chairman, addressed the Committee. He regretted that the two residents were at variance over the application. He referred to the submission of the application over six months ago and considered it may not be as straight forward as it may seem. He explained that the application proposed the extension of the property in two directions, side wards as well as forwards. He was also not sure that the intent was for parking. He referred to the proposed garage not meeting the required parking standards and disputed the officer's conclusion that the proposal did not extend beyond neighbouring properties on the basis of the original staggered concept for the development. He also considered that the current line was also not being maintained on the north aspect. He also referred to the proposal extending to approximately one metre of the neighbouring property. He disputed the conclusion in the report in relation to the 45-degree angle compliance in elevation form but not plan form, considering this was marginal. He was of the view that the loss of sunlight to the neighbour's secondary lounge window was clear. He referred to other options that the applicant could consider, suggesting the garage could just be extended forwards, or it could be extended just side wards, with the loss of a window to the applicant's property. He considered there were design and amenity issues for the Committee members to consider, whilst other options had less impact on the neighbour. He did not agree with the conclusion in the report that the impact on amenity was not significant and he felt this was the reason why the application had been delayed in order to negotiate a better solution.

The Planning Officer explained that he had described the side window as secondary because it was not the main intake of light to the room and, as such, less weight was given to the light and amenity associated with it. He explained that it was considered that sufficient light was available already and, although there would be an impact as a result of the proposal, it was not of a level to support a refusal of the application. He referred to concerns regarding covenants, confirming that these were not matters which the Committee could take into consideration in planning terms. He explained that the existing garage did not currently conform to the size requirements and, as such, was not considered to be a parking space. In addition, the extension would not provide a policy compliant parking space but that an off-road parking space was being provided by means of paving to the front of the property. There would, therefore, be no net loss of parking on the site. He referred to comments regarding the view of the road due to the orientation of the dwellings. However, the view of a road was not a matter which the Committee could take into consideration in planning terms and to which he was unable to give significant weight. He confirmed that the proposal complied with the 45-degree

angle test in elevation form although not on plan form, but it was only necessary for one element to be compliant not both.

Member of the Committee sought clarification regarding the property's permitted development rights and whether the proposal would fall within these parameters and also in relation to the proximity of the proposed garage wall to the neighbour's property and the arrangements which would need to be made in relation to access for property maintenance.

The Planning Officer explained that the proposal included development forward of the principle elevation and, as such did not fall within the permitted development rights. He also explained that the works may fall within those requiring a Party Wall Agreement but this was not a matter which the Committee could take into consideration in planning terms. In addition, he confirmed that he was not aware of the current use of the garage space and, whilst its proposed dimensions were very close to the measurements required for a parking space, it could not be considered a parking space in policy terms.

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

691 183117 18 Gladstone Road, Colchester

The Committee considered a planning application for a single storey detached garage at the rear of the garden at 18 Gladstone Road, Colchester. The application had been referred to the Committee because it had been called in by Councillor Cope. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

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

692 190551 Town Hall, High Street, Colchester

Councillor Chapman (by reason of his directorship of Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

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

The Committee considered a Listed Building application to face bed a new ashlar in

Portland White bed stone to re-establish the inscription to the foundation stone at the Town Hall, High Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Homes on behalf of Colchester Borough Council. The Committee had before it a report and amendment sheet in which all information was set out.

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

Planning Committee

Wednesday, 22 May 2019

Attendees: Councillor Lyn Barton, Councillor Andrew Ellis, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Martyn Warnes

Substitutes: No substitutes were recorded at the meeting

Also Present:

694 Appointment of Chairman

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

695 Appointment of Deputy Chairman

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



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Item No: 7.1

Application: 183130

Applicant: Lidl Uk .

Agent: Mr Marcin Koszyczarek

Proposal: The external alterations and subdivision of the existing Homebase store into two units, including change of use to allow food retail together with associated landscaping and car parking.

Location: Former Homebase Ltd, St Andrew's Avenue, Colchester, CO4 3BG

Ward: Greenstead

Officer: Lucy Mondon

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the proposed development constitutes a departure from the Local Plan being a town centre use in an out-of-centre location. In addition, the application constitutes major development where an objection has been received.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of development; highway impact; design and layout; and amenity. Matters of flood risk and drainage; ecology; and heritage are also considered. Representations received from consultees, and as part of the public consultation, are taken into account as part of these considerations.
- 2.2 The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The application site is the site of a former Homebase store with service yard, garden centre, and car parking located at the junction of St Andrews Avenue and Ipswich Road (south), with the site being accessed from St Andrew's Avenue. The existing building and car parking areas are set back from the road behind a brick wall, with the case of the car parking area being set behind a grass bund. The site is currently vacant, with the access being sealed off.
- 3.2 The existing building stands at 8.2 metres high (6.6 metres to eaves) but is not particularly dominant within the streetscene. From viewpoints along St Andrews Avenue the roofslope rises away from the road so the overall height of the building is less discernible; the building is also set behind a brick wall which reduces the visual impact of the building. The site is at a much higher level than Ipswich Road, with the dominant feature being the existing retaining wall; the height difference means that views of the building from Ipswich Road are largely obscured.
- 3.3 The site is located within the Colchester Settlement Boundary and is identified in the Local Plan as being a Regeneration Area, although there is no specific Site Allocation Policy attributed to this.
- 3.4 In terms of context, the site is approximately 700 metres (as the crow flies) from the Town Centre. It sits within an area that is predominantly residential, albeit alongside a busy road network of St Andrew's Avenue, Ipswich Road, and Cowdray Avenue. The site is opposite a Waitrose supermarket on its eastern side and borders the railway line to the west.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission to subdivide the existing Homebase store into two units, along with external alterations. The conversion would involve the demolition of the existing glazed garden centre and external front lobby, with a small extension being proposed to the southern elevation of the building for deliveries. As a result of these works the internal floorspace of the building would reduce from 3,539sqm to 2,930sqm.
- 4.2 The smaller of the two units (958sqm) is proposed to be sub-let under the same use/sales restrictions that cover the Homebase permission. The larger of the two units (1,972sqm) is proposed for food and drink retail (Lidl).
- 4.3 The hours of opening are stated as being 0800-2200 Monday to Friday; 0800-2200 Saturdays; and 1000-1600 on Sundays and Bank Holidays. Parking provision is shown to be increased from the existing:

Type of vehicle	Existing number of spaces	Total proposed (including spaces retained)	Difference in spaces
Cars	142	153	11
Disability spaces	14	12	-2
Motorcycles	0	12	12
Cycle spaces	0	16	16

- 4.4 The submitted Planning and Retail Assessment provides further background information on the Lidl format and its position in the UK market. The assessment explains that Lidl is classified as a 'deep' or 'hard' discounter, concentrating on selling a limited range of primarily own brand goods at 'extremely competitive prices', meaning that Lidl is distinct from the mainstream convenience retailers such as Tesco, Asda, Sainsbury's and Morrisons in the offer that they provide to shoppers. There are over 750 stores currently trading nationwide, with approximately 5.5% share of the UK grocery market. Lidl stores serve a relatively compact catchment area and are intended to provide a local shopping facility. The strategy for Lidl stores in urban areas is to serve a catchment area that equates to a 0-5 minute drive. It is expected that customer will use Lidl stores to purchase the 'basic staples' of their weekly shop, before travelling to other retailers to purchase specialist or luxury items that are not offered at Lidl.
- 4.5 Non-food items are limited to approximately 15-20% of floor space in store. The non-food offer is mainly focused on household cleaning and health and beauty products, as well as non-food 'specials' such as garden equipment, furniture, TVs at limited availability.

4.6 The application is accompanied by the following supporting information:

- Drawings showing car parking, topographic and underground services, landscape proposals, tree protection plan, site plan, floor plans, elevations, and swept path analysis.
- Air Quality Assessment
- Colchester Car Park Results
- Drainage Report
- Design and Access Statement
- Ecological Appraisal
- Noise Survey
- Planning and Retail Statement (including further information from Rapleys regarding the Sequential Test, dated 7th May 2019).
- Statement of Community Involvement
- Transport Assessment
- Travel Plan

4.7 Prior to submitting the application, the Agent carried out their own public consultation, advertising the proposal to local residents via leaflet drop (issued to 2,571 properties) and holding a public consultation even where 40 people attended to discuss the proposals.

5.0 Land Use Allocation

5.1 Regeneration Area

6.0 Relevant Planning History

6.1 A summary of relevant planning history is as follows:

- 78/0756 – Planning Permission REFUSED and DISMISSED at Inquiry for a single-storey domestic retail supermarket and associated car parking due to the site being allocated for Office use.
- 79/1360 – Outline Permission REFUSED for a single-storey supermarket and associated car parking due to site being allocated for Office use and inadequate space for car parking.
- 80/0913 – Outline Permission ALLOWED at Appeal for the erection of a retail shop for building, household, garden and leisure products with parking for approximately 216 vehicles plus unloading and manoeuvring space for goods vehicles.
- 80/0913/A – Reserved Matters APPROVED for a shop for the display and retail sale of building, household garden and leisure products.
- 96/0362 – Variation of Condition 3 of Planning Permission COL/80/0913 (Restricting use to retailing home improvement products and DIY goods) APPROVED. Goods permitted to be sold are:
 - Furniture
 - Carpets
 - Electrical goods
 - Home improvement products
 - DIY goods and materials
 - Caravans with ancillary leisure products

- 146471 – Planning Permission APPROVED a variation of condition 1 of planning permission 96/0362 (itself a variation of COL/80/0913) to allow for the sale of all A1 non-food goods by a Catalogue Showroom Retailer within an area of up to 185 square metres within the existing Homebase sales area.

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- CE1 - Centres and Employment Classification and Hierarchy
- CE2a - Town Centre
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- 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 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- 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 The Neighbourhood Plan for Boxted / Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

- Vehicle Parking Standards
- Sustainable Design and Construction
- The Essex Design Guide
- External Materials in New Developments
- Shopfront Design Guide
- Sustainable Drainage Systems Design Guide
- Cycling Delivery Strategy
- Managing Archaeology in Development
- Air Quality Management Guidance Note

8.0 Consultations

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

8.2 Arboricultural Officer: The submitted tree protection plan (18-053-03) is acceptable. No objections subject to the tree protection plan being an approved document and a condition to require approval of a scheme of supervision for arboricultural protection measures.

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

8.4 Building Control: No comments received.

8.5 Environmental Protection: With regards to amenity, no objection subject to condition to control delivery hours.

With regards to air quality, there are some queries regarding the data used, but regardless of these, mitigation is sought in the form of electric charging points for cars (at least 1 x triple standard AC/DC rapid charging point). Provided the development is undertaken to a high BREEAM standard, there would be no need to specifically condition any further mitigation measures.

- 8.6 Essex County Council Highways: The impact of the proposal is acceptable to the Highway Authority from a highway and transportation perspective subject to conditions to agree a construction traffic management plan, bus stop upgrades (Ipswich Road south), and to agree a travel plan. Note: although a Travel Plan has been submitted with the application, the Highway Authority have a number of queries that need to be addressed (details of cycle parking, budget allocation, car sharing opportunities, separate modal targets for staff and customers required, pedestrian links etc).
- 8.7 Essex County Council SUDs: No objection due to the type of development proposed and the improved water quality and discharge rates. Suggested conditions should the Local Planning Authority consider them relevant.
- 8.8 Landscape Officer: The revised landscape proposals submitted are satisfactory and there are no objections to this application on landscape grounds subject to conditions to secure a landscape management plan and detailed landscape proposals.
- 8.9 Network Rail: No comments received.
- 8.10 Parks and Recreation: No comments received.
- 8.11 Transport Policy: No comments received.

9.0 Parish Council Response

- 9.1 N/A

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 One objection has been received on behalf of ASDA Stores Limited on the following grounds:
- On the basis of the information submitted ASDA do not feel there is sufficient information for the Council to make an informed assessment of the impact of the proposed development in accordance with Chapter 7 (Ensuring the vitality of town centres) of the NPPF. The Planning and Retail Statement includes some commentary on impact, but a full impact assessment has not been undertaken due to the proposal falling just below the NPPF threshold and there being no local set threshold at present.

- A full Retail Impact Assessment should be required on the basis of this application and current application 171174 in order to consider the cumulative impact [Case Officer Note: the 171174 application was for new retail, gym, and food and drink units at Turner Rise Retail Park. The application has not however been determined and has been closed due to lack of progress].
- It is not agreed that Lidl's trading philosophy differs from traditional supermarkets by selling from a limited core range of mainly exclusive own labels; there has been a steady change towards that of a traditional supermarket when considering store size, ranges on offer, proportion of comparison goods, and labelled goods.
- The Planning and Retail Statement should be updated to assess a scenario to show a higher food turnover food retailer rather than rely on the benchmark Lidl turnovers. The Council need to be content that they are approving a certain level of food retail floorspace in units which could ultimately be occupied by any retailer.

11.0 Parking Provision

11.1 Details of parking provision is set out in section 4.3 of this report. An assessment of car parking is detailed in the main body of this report.

12.0 Accessibility

12.1 Please refer to section 5 of the submitted Design and Access Statement.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

14.1 The western edge of the site is approximately 25 metres from the East Street and Lower Ipswich Road Air Quality Management Area (AQMA). An assessment of impacts is included in the main body of this report.

15.0 Planning Obligations

15.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. No planning obligations or contributions were considered to be necessary.

16.0 Report

16.1 The main issues in this case are:

- Principle of Development
- Highway Matters and Sustainability
- Design and Layout (including landscaping)
- Amenity (including Air Quality)
- Flood Risk and Drainage
- Ecology

Principle of Development

16.2 The proposal is for a town centre use (retail) in an out-of-centre location. In terms of the principle of development and conformity with the development plan and NPPF, the key elements to consider are: whether the proposed development represents sustainable development, and whether it would have a detrimental impact on centres and employment. Core Strategy Policies SD1, UR1, CE1, CE2, CE3 and TA1 are relevant. These policies relate to the following:

- SD1 seeks to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy (Colchester Town and Stanway being at the top of that hierarchy).
- UR1 is a commitment to regeneration in rundown areas, deprived communities and key centres, with the purpose of building successful and sustainable communities through developments that promote sustainable urban living, enhance the public realm, improve accessibility, and address social deprivation.
- CE1, CE2, and CE3 deal with centres and employment matters, promoting employment generating developments through the regeneration and intensification of previously developed land and through the allocation of land necessary to support employment growth at sustainable locations. Policy CE1a sets out the centres and employment classification hierarchy which includes the Town Centre at the top of the hierarchy extending down to Edge of Centre Locations, District Centres, and Local Centres.
- CE3 - The application site is an edge of centre location that is allocated as a Strategic Employment Zone. Policy CE3 seeks to deliver approximately 45,100sqm (gross) of industry and warehousing floor space, primarily within the North Colchester and Stanway Strategic Employment Zones. Existing office commitments will be supported, but further office development will be primarily directed towards the Town Centre. The policy further states that retail developments will not normally be supported in Employment Zones, except for small scale development that provide for the needs of the local workforce or are ancillary to an industrial use.
- TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy for Colchester. A key aspect of this is the improvement of accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. Developments that are car-dependent or promote unsustainable travel behaviour will not be supported.

16.3 The Focused Review of the 2008 Core Strategy and 2010 Development Policies, the Inspector's report in connection with that review, and subsequent planning appeal decisions, provides the basis for assigning weight to policies in the adopted Local Plan. Appeal decisions concerning employment and retail applications in the Borough (with particular reference to applications at Stane Park in Stanway) have established the limitations on the extent to which the Council can rely on some of the adopted Centres and Employment policies as being up-to-date, given that they conflict with the NPPF on some points. Plan policies that are consistent with the NPPF accordingly should be given full weight. Other policies can be given weight commensurate with their compatibility with the NPPF. In terms of the relevant policies in this case, this approach translates into the following interpretations:

- SD1 and TA1 full weight to be applied;
- CE1, CE2, and CE3 out-of-date and consequently limited weight should be afforded.

16.4 In accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan, unless there are material considerations that indicate otherwise. The fact that certain policies have been deemed to be out-of-date with the NPPF is a material planning consideration that needs to be taken into account in the weight to be applied to certain policies in decision making.

16.5 This interpretation of adopted planning policy means that consideration of sustainable development and accessibility needs to follow the provisions of Core Strategy Policies SD1 and TA1. Given the limited weight of the policies relating to centres and employment, the provisions of the NPPF will be relevant.

16.6 With regards to sustainability, the site is considered to be in an accessible location where travel to and from the site would not be limited to private car. As set out in the submitted Transport Assessment there are a number of bus stops in the vicinity of the site so that public transport can be utilised and the site is accessible by foot from the surrounding residential areas. The highway works currently taking place in the vicinity of the site include dedicated crossing points (zebra crossings and puffin crossings) that would improve pedestrian accessibility of the site. The proposal is considered to accord with the sustainability principles of Core Strategy policies SD1 and TA1.

16.7 In terms of centres and employment the NPPF forms the basis for consideration of sequential and impact issues. The need to consider the sequential and impact tests arise from paragraphs 86-90 of the NPPF.

16.8 With regards to sequential test, the NPPF states that:

86. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

87. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

16.9 A sequential site assessment was submitted by the Applicant as part of their Planning and Retail Statement. The site selection was found to be limited to vacant sites near the Town Centre and excluded existing buildings and other Colchester centres. The Applicant was therefore required by the Local Planning Authority to widen the assessment of sequentially preferable sites, focusing primarily on the New Northern Growth Area Urban Expansion (Chesterwell Woods) Neighbourhood Centre which would accommodate a food store of approximately 2,500sqm. As background, the Neighbourhood Centre forms part of a residential development approved under planning permission 121272; condition 10 of that permission requires that work can start on the Neighbourhood Centre once at least 200 residential units have been constructed; this milestone has been reached so the delivery of the Neighbourhood Centre can take place in order to support the sustainable delivery of the area.

16.10 The Applicant's planning consultant Rapleys subsequently provided further information in respect of the sequential test in a letter dated 7th May 2019, setting out the following points:

1. Neighbourhood Centres fall below the definition of a Town Centre for the purposes of the NPPF assessment.
2. The Chesterwell Neighbourhood Centre is an allocation rather than an existing centre.
3. It follows that the site within the Northern Growth Area cannot be considered more sequentially preferable than the application site.

16.11 The Council's Spatial Policy team considered the submission and disagreed with these points as follows:

1. The Neighbourhood Centre proposed in Site Allocations Policy NGA2 and then further detailed in the adopted Masterplan makes it clear that the Neighbourhood Centre is a key part of the overall growth area and is in no way 'a small parade of shops of purely local significance.'

The northern neighbourhood centre should be located to respond to the opportunity to focus services and facilities in an accessible and commercially realistic way. The greatest likelihood of delivering a self-sustaining and commercially viable centre would be to combine both commercial and community facilities, including new educational facilities in a single coherent core; where this can be associated with a public transport hub and with passing trade. The highest degree of accessibility and footfall can also be delivered.

The Chesterwell Neighbourhood Centre is therefore considered to qualify as a centre and to be sequentially preferable over a non-centre site such as the former Homepage site.

2. NPPF and NPPG requirements for the sequential test do not differentiate between existing and allocated sites. The extent to which a site is deliverable could affect its suitability, but its development status is not relevant in any other respect of applying the sequential test. In this instance, the Chesterwell Woods centre site is considered to be at a deliverable stage in the overall process of developing the Growth Area given steady progress being made in delivering the 1600 houses permitted for the scheme, with the Council's housing trajectory showing that 1200 houses should be completed by the end of the 5-year period in 2023. Rapley's argument about highway access not facilitating passing trade is not considered a strong one given the function of the centre as a local centre.

3. The conclusion is therefore that the Chesterwell Woods site is sequentially preferable to the former Homebase site. The sequential test, however, also includes consideration of the suitability and viability of alternative sites. 'Suitable' is defined here as consistent with the Tesco Stores Ltd V Dundee City Council (2012) appeal decision as meaning 'suitable for the development proposed by the applicant'. Rapleys have submitted information establishing that while its scale and format are acceptable, the Chesterwell site is not suitable for Lidl's purposes on the basis that it is outside the 5-minute catchment area for Colchester town centre. They note that they consider the North Colchester catchment area, which includes Chesterwell Woods, to be a separate catchment area for which they are actively seeking sites.

16.12 Having considered the sequential test in the round it is accepted that, whilst the Chesterwell Woods site is considered sequentially preferable, it can be discounted for the purposes of this application as not suitable for the development proposed by the applicant. It is considered to be unreasonable to insist that the Applicant pursue a site that this not suitable.

16.13 In terms of assessing retail impact, Paragraph 89 of the NPPF provides that, when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, Local Planning Authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of: a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

- 16.14 The objection received on behalf of ASDA asserts that a full Retail Impact Assessment should be required as part of the application. The specifics of the proposal are, however, particularly relevant in respect of this. Whilst the proposed conversion would result in a retail floorspace of 2,930sqm, and therefore be over the NPPF threshold, a proportion of this (958sqm) would remain in the existing permitted use of restricted retail sales, with the 'new' retail use equating to 1,972sqm which is below the 2,500sqm gross floorspace threshold. A retail impact assessment is not, therefore, required. Nonetheless, the Applicant has submitted further information with which to assess the retail impact on Colchester Town Centre, Tollgate District Centre, Highwoods District Centre, Hythe Road-Greenstead Road, Peartree District Centre, and Turner Rise District Centre, with the conclusion that the proposal would not result in any significant adverse impact.
- 16.15 Given that it is agreed that the proposal falls below the retail impact threshold, it is considered that the proposal, which is small scale in the overall context of other centres, would not have a significant impact on existing, committed and planned public and private investment in Colchester centres or on town centre vitality and viability.
- 16.16 In conclusion, the sequential test is passed as sequentially preferable sites are satisfactorily discounted and a retail impact assessment is not required as the proposal is below the threshold for when such an assessment is required. In addition, the proposal is considered to be acceptable in terms of sustainability principles given its location and accessibility.

Highway Matters:

- 16.17 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).
- 16.18 The application is accompanied by a Transport Assessment, as well as a Travel Plan. The Transport Assessment covers matters of accessibility, accident analysis, and trip generation and distribution. The Travel Plan identifies objectives to reduce staff and customer reliance upon private car and improving awareness and usage of alternative modes; promoting walking, cycling, public transport and car sharing; minimising the total travel distance of staff and customers; and promoting healthy and sustainable lifestyles.
- 16.21 In terms of parking, applying the policy requirements to the proposal results in the following:
- A maximum of 189 car parking spaces
 - A minimum of 16 cycle spaces

- A minimum of 7 motorcycle spaces
- A minimum of 10 disabled spaces

The proposed parking provision fully accords with the policy requirement:

- 153 car parking spaces
- 16 cycle spaces
- 12 motorcycle spaces
- 12 disabled spaces

- 16.22 The Transport Assessment has considered car parking accumulation, with forecasting data demonstrating that the proposed car parking provision would be sufficient to meet both weekday and weekend peak car parking demand; indeed the forecasting shows that the car parking provision exceeds peak demand by at least 90 spaces, thereby allowing a contingency.
- 16.23 In terms of trip generation, the Transport Assessment compares the trip rates associated with both the proposed (A1 non-food retail and A1 food retail) and existing (A1 restricted DIY and garden centre) uses in order to establish a projected net impact of trips. It is reasonably anticipated that the use will not solely generate dedicated trips and, as such, the assessment takes into account linked and passer-by trips. The net trip increase varies from negligible to 100 trips, the exception being an increase of 210 trips between 1600-1700 on a weekend.
- 16.24 Traffic flows have also been assessed, with the estimated traffic of the proposed development being expected to 'have minor impact on the operation of the Ipswich Road and Harwich Road roundabouts since the additional traffic represents less than 1% of the total traffic flows of the network'.
- 16.25 Swept path analysis has been submitted to demonstrate that a 16.5m articulated HGV can safely enter, manoeuvre within, and exit the site.
- 16.26 The accident analysis in the Transport Assessment covers the period 1st September 2013 to 31st August 2018 and shows that of the 62 accidents reports, 43 of them were at the Ipswich Road and Harwich Road double mini roundabouts, with the remaining 19 being along Harwich Road and East Street. None of the accidents are specifically associated with the use of the application site (i.e. no accidents are reported at the entrance and egress points).

- 16.27 The site is considered to be in an accessible location, with means of access via public transport, bike, and walking in addition to private car. The Highway Authority have confirmed that the proposal and details submitted are acceptable from a highway and transportation perspective subject to conditions and these are considered to be appropriate. An additional condition to agree cycle parking details and provision is also considered necessary. The Highway Authority have a number of queries on the submitted Travel Plan and have recommended a condition for a revised Travel Plan to be submitted and agreed via condition.
- 16.28 On the basis of the Highway Authority recommendation, the proposal is considered to be acceptable on highway grounds subject to conditions.

Design and Layout (including landscaping):

- 16.29 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings, including its landscape setting.
- 16.30 The proposal is to convert an existing building so the overall scale and form of the building will remain largely unchanged, as would the site layout, albeit with parts of the building demolished (the 'garden centre' and entrance lobby). A notable change to the building, which is currently red brick in the main, would be the introduction of cladding and glazing. The building is currently lacking in visual interest, with a distinct lack of glazing, so the proposed alterations are considered to have some benefit in terms of the appearance of the building. A trolley store is shown on the submitted proposed layout and it is considered necessary to seek further details of its appearance via condition.
- 16.31 There are existing trees on and immediately adjacent to the site boundaries, with the trees along the northern boundary being more readily visible from public vantage points and therefore contributing to the street scene. A Tree Protection Plan has been submitted as part of the application that shows that these trees are to be retained. The Council Arboricultural Officer accepts the plan and the indicated root protection areas and therefore has no objection to the proposal subject to a scheme of supervision for the protection of retained trees to be submitted to and agreed by the Local Planning Authority prior to the commencement of works.
- 16.32 The landscaping of the site, which consists of planting along the boundaries (particularly at the corners) and at the access/egress point, have been considered to be acceptable by the Council Landscape Officer. The existing landscaping is somewhat bare so the landscape proposals are an improvement in terms of landscape setting. Detailed landscape proposals, as well as a landscape management plan, would be required by condition.
- 16.33 On the basis of the above, the proposal is considered to be acceptable with regards to policies UR2 and DP1.

Impact on Amenity and Air Quality:

- 16.34 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. In terms of air quality, Core Strategy Policy TA4 states that the demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character.
- 16.35 The submitted noise survey demonstrates that noise from external plant would have a very low impact at the closest residential properties ('receptors'). Noise from deliveries is also demonstrated as being low, with noise from customer vehicles being very low. The application documents detail that deliveries are typically twice per day, with company policy being that vehicle engines are switched off to avoid noise and disturbance. New stores, such as the one proposed, feature graded ramps in the delivery bay and manual dock levellers (negating the need for noises scissor or tail lifts) and total unloading time is typically 15 minutes. Environmental Protection have considered the application submission and have concluded that delivery hours should be controlled as follows:
- Monday to Saturday 06.00 – 00.00 hours.
Sunday and Bank Holidays 09.00 – 18.00 hours.
- 16.36 An Air Quality Assessment was submitted with the application and has been assessed by Environmental Protection. The submitted assessment provided details to show that the impact of the proposed development would have an insignificant effect on local air quality, concluding that no mitigation is required. Environmental Protection have queried the data reported in the assessment, but have confirmed that mitigation would be required in the form of electric car charging points in any case. Further mitigation is not required provided that the development is completed to a high BREEAM rating. Both of these requirements can be conditioned.
- 16.37 Matters of overlooking and overshadowing are not relevant in this case given that the proposal does not increase the height or footprint of the building, as well as the degree of separation and orientation between the site and nearby residential development.
- 16.38 The proposal is not considered to have an adverse impact on amenity or air quality, subject to necessary conditions.

Flood Risk and Drainage

- 16.39 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.
- 16.40 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.
- 16.41 A Flood Risk Assessment, Surface Water Strategy and Sustainable Drainage Systems Assessment has been submitted to support the application. The submitted assessment details that there is a low risk of surface water flooding at the site which would be addressed by the proposed drainage system. Given that the ground conditions are unsuitable for infiltration techniques (such as soakaways) the surface water is proposed to be discharged to sewer, although the flow would be controlled, and excess water would be temporarily stored on site. An improvement to surface water drainage is that the permeable area of the site is slightly increased from the existing (with additional landscaping).
- 16.42 Following the receipt of comments from Essex County Council, as Lead Local Flood Authority, further information on flood risk was submitted. This information provided a justification for the surface water drainage strategy having underground water storage tanks (as the only viable option for the site), as well as additional justification as to why the impermeable areas cannot be increased (it would require the replacement of large areas of car park) bearing in mind a 50% reduction in surface water outflow is proposed as part of the development.
- 16.43 The proposal is accepted by Essex County Council and conditions have been suggested should the Local Planning Authority consider them to be relevant. Of the suggested conditions, it is considered reasonable and necessary to condition that the drainage scheme (as set out in the flood risk assessment) be fully implemented prior to first occupation of the building and thereafter retained. The suggestion for a detailed drainage scheme to ensure that run-off from the site is limited to greenfield rates for a storm event that has a 100% chance of occurring each year (1 in 1 event) and that the development is able to manage water on site for 1 in 100 year events plus 40% climate change allowance is not considered necessary as the submitted drainage scheme already confirms these requirements.
- 16.44 Subject to securing that the surface water drainage scheme is fully implemented, the proposal is not considered to have an adverse impact in terms of flooding in accordance with policies SD1 and DP20.

Ecology

- 16.45 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 16.46 The site was until recently used as a DIY and garden centre with associated car park and there is limited natural habitat on site. This is confirmed in the Preliminary Ecological Appraisal submitted with the application. The appraisal confirms that the site is of low ecological value, with the existing building having low potential for bat roosts. Enhancement measures, such as replacing the existing ornamental shrubs with native Broadland trees and wildflower species to increase invertebrate species and enhance the attractiveness of the site for birds, bats and their fauna has been recommended as part of the appraisal and has been incorporated into the submitted landscape proposals. An informative can be included to emphasise the requirement for the landscape scheme (details of which are required by condition) to include these features.
- 16.47 The proposal would not have an adverse impact on biodiversity and is considered to provide for some ecological enhancement in accordance with the NPPF and policy DP21.

Other Matters

- 16.48 Matters of heritage have been considered as part of the application. The application site is not in close proximity to any listed buildings or designated conservation areas so the proposal would not have any impact on built heritage. The Council's Archaeological Adviser has considered archaeology implications and has confirmed that the proposal would not have any material harm on below-ground archaeological remains and there is no requirement for archaeological investigation.
- 16.49 The objection submitted on behalf of ASDA has been considered as part of the assessment of the application. The points of objection are considered to have been addressed in this report, but for clarity the Local Planning Authority comments are as follows:
- A full Retail Impact Assessment is not required for this application as the 'new' retail element of the proposal is below the NPPF threshold;
 - The submitted retail impact assessment does not need to include an assessment of the cumulative impact of this proposal with application 171174 as this application has not been determined and has been closed due to lack of progress; and

- Lidl is considered to differ from other supermarket offerings. Detail as to how Lidl operates is set out in paragraphs 4.4 and 4.5 of this report as well as in the submitted Planning and Retail Assessment.

16.50 Additional benefits of the proposal have also been considered as part of the Case Officer assessment. It is recognised that the proposal would generate employment opportunities, both during the conversion works and once the units are in operation. The application states that the proposed Lidl store would employ up to 40 staff in store, with Lidl having a policy to employ local people. Career paths include management and administrative positions, as well as store assistants and cashiers. Management development and training programmes are also offered. This benefit weighs in favour of the application.

17.0 Conclusion

17.1 The proposal is considered to satisfactorily meet the requirements of relevant national and local planning policy and would result in additional benefits in terms of reducing surface water flooding, providing ecological enhancement, and providing employment opportunities.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

- Delegated authority to negotiate, and amend as necessary, the pre-commencement conditions with the Applicant/Agent in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulation 2018; and subsequently
- APPROVE planning permission subject to the following conditions:

1. ZAA Time Limit for Full Permissions

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

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

2. ZAM - Approved Plans/Drawings

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

Proposed Site Plan	7534L-35 Revision B
Proposed Floor Plan	7534L-36
Proposed Elevations	7534L-37
Tree Protection Plan	18-053-03 Revision A

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

3. Non Standard Condition - Materials

The materials used in the external alterations hereby approved shall be as those set out in paragraph 4.38 of the Rapleys 'Design and Access Statement' dated December 2018, unless otherwise agreed by the Local Planning Authority.

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

4. Non Standard Condition - Delivery Hours

Deliveries of goods to the store shall not be permitted outside the following times:

Monday to Saturday 06.00 – 00.00 hours.

Sunday and Bank Holidays – 09.00 – 18.00 hours.

Reason: In the interests of preventing noise and disturbance to the residents of nearby dwellings.

5. Non Standard Condition - Opening Hours

The development hereby approved shall not be open to the public outside the following times:

0800-2200 Monday to Saturday

1000-1600 Sundays

Reason: As this is the basis that the application has been assessed and any alteration to these opening hours would require further assessment in terms of resulting impacts in terms of public amenity and highway matters.

6. Non Standard Condition - Restriction in Sale of Goods for Sublet Unit

The unit identified as 'Sublet Retail Unit' shown on drawing 7534L-35 Revision B shall not exceed 958sqm gross internal floorspace and shall only be used for the sale of furniture, carpets, electrical goods, home improvement products, and DIY goods and materials and for no other purpose (including any other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 and Schedule 2, Part 3, Class C, D, G, J, M of the Town and Country Planning (General Permitted Development) Order 2015, or in any provision equivalent to these Classes in any Statutory Instrument revoking and re-enacting that Order with or without modification).

Reason: As this is the basis on which the proposal was assessed and any changes would require further assessment as to the impacts of the development.

7. Non Standard Condition - Restriction for Food Retail Unit

The unit identified as 'Lidl Store' shown on drawing 7534L-35 Revision B shall not exceed 1,972sqm gross internal floorspace and shall only be used as A1 food retail only, with ancillary non-food sales not exceeding 20% of the permitted floorspace, and for no other purpose (including any other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 and Schedule 2, Part 3, Class C, D, G, J, M of the Town and Country Planning (General Permitted Development) Order 2015, or in any provision equivalent to these Classes in any Statutory Instrument revoking and re-enacting that Order with or without modification).

Reason: As this is the basis on which the proposal was assessed and any changes would require further assessment as to the impacts of the development.

8. Non Standard Condition - Permitted Development Removal

Notwithstanding the provisions of Schedule 2, Part 7 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 enlargement or extension to the building shall be erected or carried out, nor shall any shop trolley stores, click and collect facilities, or modification of shop loading bays take place.

Reason: In order to allow further consideration to the impacts that such a development may cause on this site, at the time that any a proposal comes forward as part of a formal planning application.

9. Non Standard Condition - Construction Traffic Management Plan

No works shall commence until a construction traffic management plan, to include but not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed and undertaken in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety.

10. Non Standard Condition - Scheme of Supervision for Arboricultural Protection Measures

No works or development shall take place until a scheme of supervision for arboricultural protection measures has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

Reason: In the interests of safeguarding trees that contribute to visual amenity.

11. Non Standard Condition - 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 Standard Condition - Trolley Store Details

The trolley store shown on drawing 7534L-35 Rev B shall not be constructed or installed until elevations (at scale 1:100) have been submitted to and agreed in writing by the Local Planning Authority. The trolley store shall then be constructed and installed as agreed.

Reason: In the absence of details submitted with the application and in the interests of visual amenity.

13. Non Standard Condition - 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.

14. Non Standard Condition - Detailed Landscape Scheme

No part of the development shall be occupied 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.).
- 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.
- 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.

15. Non Standard condition - Cycle Parking Details

Prior to the development hereby permitted coming in to use, 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 and to encourage sustainable modes of transport.

16. Non Standard Condition - Bus Stop Upgrades

The development hereby approved shall not be brought into use until the two bus stops located in Ipswich Road south of the proposal site have been upgraded to current Essex County Council specification, with details first being submitted to and approved in writing by the Local Planning Authority.

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

17. Non Standard Condition - Travel Plan

Notwithstanding the submitted details. The development hereby approved shall not be brought into use until a Travel Plan (in accordance with Essex County Council guidance) has been submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall thereafter be implemented as agreed.

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

18. Non Standard Condition - Electric Charging

The development hereby permitted shall not be brought into operational use until at least 1 no. triple standard AC/DC rapid charging point has been provided and made available for use within the customer car park. The charging point(s) shall thereafter be retained.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

19. Non Standard Condition - Surface Water Drainage

The drainage strategy measures set out in the CSG Consulting Engineers 'Flood Risk Assessment, Surface Water Strategy and Sustainable Drainage Systems Assessment' dated December 2018 and the CSG Consulting Engineers 'Addendum Flood Risk Information' dated March 2019 shall be fully implemented prior to the first occupation of the development hereby approved and retained as such thereafter.

Reason: In the interests of reducing flood risk as a result of the development.

20. Non Standard Condition - 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.

19.0 Informatives

19.1 The following informatives are also recommended:

1. 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. Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application

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for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. Informative on Any Application With a Site Notice

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

4. Landscape Informative

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link).'

The detailed landscape scheme should include native Broadland trees and wildflower species in order to increase invertebrate species and to enhance the attractive net of the site for birds, bats and other fauna in the interests of ecological enhancement.



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Item No: 7.2

Application: 181859

Applicant: See Below

Agent: Mr Matthew Parsons

Proposal: Detailed application for residential development; 102 no. residential dwellings (Use Class C3), comprising 96 houses (2 - 2.5 storeys) and an apartment building with 6 units (3 storeys), associated car parking, cycle parking, public open space and pedestrian / cycle infrastructure, formation of pedestrian and cycle links and other associated works and improvements. amended submission 100 no. residential dwellings (Use Class C3), comprising 95 houses (2 - 2.5 storeys) and one buildings containing 5 apartments (3 storeys), associated car parking,

Location: Land North of, Wyvern Farm, London Road, Stanway, Colchester

Ward: Marks Tey and Layer

Officer: Sue Jackson

Recommendation: Approval subject to a legal agreement being signed

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, material objections have been received and residential development is proposed on land currently allocated for employment use.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of residential use and loss of employment land, access arrangements and highway impact and impacts on the amenity enjoyed by adjoining residential occupiers.
- 2.3 This report concludes that the proposed development represents sustainable development' as promoted in the National Planning Policy Framework (NPPF) and as such the application is subsequently recommended for approval subject to a S106 Agreement to secure the specific mitigation of development impacts and appropriate conditions.

3.0 Site Description and Context

- 3.1 The site is described as former agricultural land. It is generally level and has an area of 3.48 hectares. To the north is the A12 Trunk Road. The carriageway of the A12 is a few metres lower than the site and is separated from it by a mature tree belt. Along the east boundary is a hedgerow which separates the site from land to the east known as Stane Park. Land to the west is currently in agricultural use. To the south of the site are three earlier phases of residential development at Wyvern Farm which are nearing completion. The existing residential development is accessed from London Road through two principal estate roads.
- 3.2 Stane Park, Phase 1, is completed and comprises a range of restaurants and drive-through food outlets with access from London Road and an arm of a new roundabout onto Stanway Western Bypass. Land comprising Stane Park phase 2 abutts the east boundary of the site.
- 3.3 Sainsbury supermarket is on the opposite side of Stanway Western Bypass and further south is the Tollgate retail park .

4.0 Description of the Proposal

- 4.1 This application seeks full planning permission for residential development of 100 residential dwellings, comprising 95 houses (2 - 2.5 storeys) and one building containing 5 apartments (3 storeys) plus associated car parking, cycle parking, public open space and pedestrian / cycle infrastructure, formation of pedestrian and cycle links and other associated works.

4.2 The application includes the following documents

- Planning Statement
- Design and Access Statement
- Air Quality report
- Archaeological Desk Based Assessment
- Archaeological WSI Report
- Archaeological Evaluation
- Archaeological Excavation Report
- Arboricultural Impact Assessment
- Ecology Extended Phase 1 Habitat Survey
- Phase 2 Ecological Surveys and Assessment
- FRA and Drainage Strategy Report
- Ground Investigation Report
- Health Impact Assessment
- Landscape Master Plan
- Noise Survey and Report
- Statement of Community Involvement
- Sustainability and Energy Statement
- Transport Assessment

5.0 Land Use Allocation

5.1 Employment land in the Adopted Review Local Plan

5.2 Residential (part of a larger site to the north of Wyvern Farm) in the Emerging Local Plan

6.0 Relevant Planning History

6.1 145494 - Demolition of the existing buildings, the construction of two entrances from London Road and the creation of 358 no. one, two, three- and four-bedroom houses and apartments, plus associated roads and parking, public open space, landscaped buffers and drainage works. Approved

6.2 161380 - Revised development to provide 176 no. one, two, three and four bedroom houses and apartments, plus associated road and parking, public open space, landscaped buffers and drainage works. Approved

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- 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 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

- SA STA1 Appropriate Uses within the Stanway Growth Area
- SA STA2 Phasing of Greenfield sites in Stanway Growth Area
- SA STA3 Employment and Retail Uses in Stanway Growth Area
- SA STA4 Transportation in Stanway Growth Area
- SA STA5 Open Space in Stanway Growth Area

7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF. The relevant policies are:

Policy SG1: Colchester's Spatial Strategy
Policy SG2: Housing Delivery
Policy SG7: Infrastructure Delivery and Impact Mitigation
Policy ENV1: Environment
Policy ENV5: Pollution and Contaminated Land
Policy PP1: Generic Infrastructure and Mitigation Requirements
Policy WC2: Stanway
Policy WC5: Transport in West Colchester

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
ECC's Development & Public Rights of Way
Planning Out Crime
Air Quality Management Guidance Note, Areas & Order
Stanway Joint Design Statement and Parish Plan

8.0 Consultations

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

8.2 Planning Policy

The application site is shown as designated for employment use in the Adopted Local Plan Proposals Map. The January 2015 Employment Land Needs Assessment also shows the site, which forms an element of a wider Stane Park allocation. The ELNA, however, noted that 'In light of the identified surplus of employment (and specifically office) land available to meet future economic growth needs in Colchester over the plan period, it would be difficult to justify retaining the full extent of undeveloped employment allocations at Stanway from both a quantitative and qualitative market perspective. In this respect, it is recommended that the Council adopts a selective approach to safeguarding these undeveloped allocations for future development by retaining those sites with the best intrinsic qualities and greatest prospect of coming forward for employment development in future. (para 8.48)

The recommendation to reduce Stanway employment allocations was reflected in reduced allocations for new employment land for Stanway in the 2017 Employment Land Supply Trajectory and the subsequent emerging Local Plan allocations. The application site was amongst those deleted. The particular decision on the application site reflected the potential deliverability issues raised around access to the site for employment use, which would be expected to involve access from the adjacent commercial Stane Park land, which is under different ownership. Residential use would not raise this access issue given that it would be expected to be through the surrounding residential area under control of the applicant.

The previous employment designation is accordingly considered to have been superseded by the emerging Local Plan designation. For the avoidance of doubt, however, the application is best considered in light of the NPPF given that the adopted Centres and Employments policies are considered to be out-of-date and the emerging Local Plan can only be given limited weight in light of its current status. Paragraph 11(d) provides that the proposal should be given permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

While these comments do not address other aspects of the proposals, in terms of the loss of employment land, the adverse impacts are not considered to outweigh the benefits of the proposal.

8.3 Highway Authority

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions and a £25,000 contribution (index-linked) plus 2% (or up to £2,000) S106 agreement monitoring fee towards improvements at the Stanway Western Bypass/London Road roundabout.

8.4 Highways England

We have examined the Transport Assessment and refer to developments in the vicinity which secure some improvement work to the A12 J26 if these developments go ahead and, collectively, these improvements may provide some spare capacity over and above the development that is associated with them.

The work carried out for Tollgate and Stane Park Phase 2 has identified a comprehensive solution to the likely congestion and possible safety issues at J26, namely signalisation of all four arms of the junction and limited kerblines works to allow the signals effectively to deliver two lanes of traffic onto the roundabout. One single scheme implemented in one 'hit' would be preferable in terms of disruption to the travelling public and is likely to be more cost effective.

We therefore agree with the conclusion that this development is unlikely to have a severe impact upon A12 J26.

8.5 Lead Local Flood Authority (LLFA) ECC

Having reviewed the Flood Risk Assessment & Drainage Strategy Report and the associated documents which accompanied the planning application, acting on behalf of ECC we do not object to the granting of planning permission subject to conditions.

8.6 Anglian Water

Consulted in August 2018 no comments received

8.7 Urban Design Officer

I would support the scheme which has significantly improved informed by pre-application dialogue and through the engaged efforts of the applicant. It is now of good design as required by national policy and guided by adopted local policy, subject to the conditions:

1. Noise mitigation should be conditioned, in consultation with the Environmental Health Officer to ensure the play area achieves recommended noise levels for that specific (play area) use;
2. Key building materials (to be agreed) should be conditioned, with an informative requiring high quality materials (befitting the limited design

palette) and not accepting current proposals (e.g. they currently include brown tiles and the use of red/grey tiles often appears mismatched)

3. Key building details (to be agreed) should be conditioned;
4. Front boundary treatments should be conditioned;
5. Path materials should be conditioned, noting these are currently not identified;

8.8 Contaminated Land Officer

The submitted report is acceptable for Environmental Protection's purposes. It is noted that within the hedgerow along the eastern boundary there are approximately 15 cement sheets suspected to contain asbestos, and some fly-tipped white goods. No other potential sources of contamination were identified. It has been recommended that a simple remedial solution would be for the identified sheeting and fly-tipped material to be appropriately removed from site and disposed of, and that the exposed topsoil in the vicinity of the assumed asbestos-containing sheeting be sampled to confirm that the underlying soils have not been impacted by residual loose asbestos fibres. Based on the information supplied, this approach would appear reasonable and would not preclude the proposed development, with the suggested remedial actions and verification dealt with by way of planning condition.

8.9 Arboricultural Officer

Commented on tree protection and path construction details

8.10 Environment Agency

Made an advisory comment regarding proximity of the site to landfill

8.11 Environmental Protection Air Quality Consultant

Reviewed the Air Quality Impact Assessment and concludes the proposed development is acceptable on air quality grounds.

8.12 Environmental Protection

We were initially concerned about the high noise levels from the A12 measured at the northern boundary of the site and requested that further longer-term monitoring was undertaken at the proposed façades of the units to the north of the site. The additional monitoring has shown that, owing to the A12 being significantly below the level of the site, the noise drops off and reasonable internal and external noise conditions should be achieved if the recommendations in the acoustic report are followed and the facades of the northern properties are no closer than 25m from the northern boundary, as shown on the plans.

We therefore recommend conditions in respect of passive ventilation with appropriate sound insulating properties, the erection of an acoustic barrier

and fencing in-addition to conditions requiring a Construction Method Statement and limiting hours of work.

8.13 Landscape Officer

Comments to accord with the Council's Landscape strategy for development sites the landscape element of the proposal needs to be cross-checked against the Council's standard generic requirements under Landscape Guidance Note LIS/A and where applicable amended accordingly to fully accord with them. In particular the clause(s) of LIS/A noted in the Appendix to this document need(s) to be cross-checked against the current submission.

If further phases of the wider Wyvern Farm development immediately to the west of the site have been secured as part of an agreed development plan then there would be no objection to the proposed layout, this as the rather abrupt termination of the western boundary of the site would merely form a phase of the wider development. If not then that western boundary should be considered as the settlement/rural edge and be designed accordingly, i.e. with units set well back behind native hedging and hedgerow trees facing onto the rural edge (as with the adjacent development currently under construction). This in order to help protect the character of the adjacent rural landscape and public views from that landscape, particularly from PRow 149_27 located 100m or so to the west of the site.

Tree planting should be proposed as set a minimum 1-1.5m away from enclosure at or over 1.8m high (see clause 4.6 of LIS/A). Review trees proposed to plot 6, 22, 34 & 79 accordingly.

8.14 Essex Ecological Services Ltd (CBC consultant on ecology)

We have reviewed the relevant documents for this application.

In this case, the potential ecological issues associated with the development appear to have been dealt with in a thorough manner, employing an appropriate type and level of survey effort for notable species and habitats. The recommended ecological enhancement measures are particularly welcome, most notably the inclusion of integral bat and swift boxes in new housing and the use of a lighting scheme that minimizes impacts upon wildlife.

We also note that, in this case, an HRA has been carried out, the conclusions of which appear to be sound.

8.15 Natural England

It has been identified that this development site falls within the 'Zone of Influence' (Zoi) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester Borough Council, working together to mitigate the

recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these mitigation measures. Officer comment a financial contribution will be secured in the legal agreement and onsite by conditions.

8.16 CBC Archaeological Advisor

No objection

9.0 Parish Council Response

- 9.1 The Parish Council have stated that I refer to the above application and can confirm that Stanway Parish Council raises NO OBJECTIONS in principle but does have great concerns about the lack of parking, the volume of traffic versus available access points and the density of the housing.

10.0 Representations from Notified Parties

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

- 10.2 Priti Patel MP has commented

"My constituent has concerns about the development works on the site where she lives not being completed with conditions not fulfilled and road surfaces not constructed or maintained to a decent standard. Photographs are attached for some examples. I would be most grateful if you could ensure that these matters are investigated, conditions fulfilled and repairs undertaken.

Officer comment: these matters have been investigated by the Enforcement Team

In relation to planning application 181859, my constituent has expressed concerns about the impact of this development and I would be grateful if you could consider these as part of the decision-making process.

Furthermore, I have viewed the proposal and it would appear that housing is proposed to be constructed extremely close to the boundary with the A12. In view of the intention to widen the A12 north of Marks Tey (once the Chelmsford to Marks Tey widened scheme is more advanced) I would be grateful if you could let me know whether the Council has assessed the impact of this proposal on a future widening scheme.

Officer comment: The applicants Planning Statement includes the following paragraph "an issue raised during the public consultation was the impact of the proposed widening of the A12. Highways England have consulted on improving the A12 from junctions 19 (Boreham Interchange) to 25 (Marks Tey Interchange) to create better safer journeys. None of the options include widening the section of the A12 located to the north of the site which lies close to junction 26.

Your officer can also confirm the response from Highways England does not make any reference to future widening and does not require any land to be safeguarded.

10.3 Forty-Eight residents have made representations in respect of the application, the majority raising the same objections as set out below

- Persimmon already breach various regulations regarding working hours, health and safety matters and general standards regarding speed of vehicles on site. The roads and pavements are unfinished causing damage to vehicles, dust and pollution. The proposal will mean more HGV's passed residents' properties this is already a safety issue. The site is a mess. This will only extend residents misery.
- Roads need to be finished as residents are already paying maintenance fees
- Houses have not been completed to a satisfactory living standard as promised in agreements when exchanging contracts. Customer service, after care poor and snagging delayed because they started a new phase
- Residents were promised no traffic of heavy work vehicles would pass our road as it is paved, however persimmon have not kept to that promise.
- The landscaping is not complete.
- The proposed land is not earmarked for residential.
- The Transport Assessment impact is out of date and was taken prior to the vast majority of new estates being built and occupied.
- Infrastructure cannot take it, there is not enough schools to take 100 more families on, emergency services are stretched as it is. Health service cannot cope
- The residents of the area to which we have formed an association feel there is no way to express our grievances with Persimmons as all complaints have been ignored and the council won't take any responsibility until the estate is adopted
- Cheetah Chase, Lemur Lane and Wombat Way part of the existing development provide no walking pathways at present and will be dangerous for small children and anyone walking to the designated pathways, with the increased traffic this will exacerbate an already dangerous situation
- The Air Quality Survey is flawed
- The provision of social housing in the Plan should not be at the expense of those people buying these houses
- Street lighting has not been connected
- Street Signs have not been provided
- Provision for a children's play area and open space and quality landscaping features have been discarded/ignored by Persimmon
- The Council/Planners have a duty placed upon them to preserve and enhance the quality of living of its residents and those yet to move into the area. The taking of this land out of its proposed Zoned use in such an inhabitable area is both criminal and a dereliction of its duty to future generations living in Stanway.
- The two access roads to the proposed development are in no way suitable to take the required traffic. Both routes are chock full of young families with small children for whom HGV's, noise, dust and building waste are serious potential health risks.

- On the basis that the average household has two cars each, the current proposal suggests that at least 204 cars are to be funneled down just two roads. One of these roads is block paved and has no discernable footpath.
- Has consideration been given to the proposed widening and potential re-routing of the A12 given the plans for the A120 relief road and the West Tey development?

10.4 Thirty-Six residents have commented on revised plans raising similar objections to those set out above in addition the following comment were made;

- Vehicular access to this site for further housing having access via our road was not proposed when we bought our house this road was meant to lead to a footpath around the perimeter of the development
- houses would be built so close up to the A12
- we are living in a building site.
- cars have been damaged by a works vehicle
- complaints had to be made to building control and environmental health during phase 1 and phase 2 builds due to complete disregard to time and noise restrictions for loud construction. This was escalated to various council departments and demonstrates a complete lack of care by Persimmons towards residents already living on site
- The existing estate does not have visitor parking bays
- Main access roads (Sealion Approach) remains unfinished as does the cycle path circulating the existing phases.
- The solution should be a temporary road coming off the new roundabout for the Stane Park Retail development. Entering the site from that direction would all but nullify many of the objections raised regarding this proposed development.
- Most of the 2014 survey recommendations / findings have not been implemented (bus through the estate and the overcapacity identified in the London road area for example).
- The now proposed additional 100+ dwellings or 30% increase will make the justifications contained in the 2014 reports risible; therefore, how much faith can the council have in the current summation?
- Apparently, in 2014 most movements in and out of the estate were to be by bus. In practice the West bound London road is often stationary caused by vehicles turning into the estate, particularly the at the West entrance
- In essence, the traffic experience immediately off the estate roads is not being reflected in the presented surveys.

11.0 Parking Provision

11.1 Parking provision within the development meets the Council's current minimum parking standards of 2 off street spaces per dwelling (and 1 off-street space for 1 –bed units). Visitor parking is provided in a combination of off-street, on-street and parking lay-by locations within the development.

12.0 Accessibility

- 12.1 The submitted Design & Access Statement sets out how duties under the Equalities Act are addressed

13.0 Open Space Provisions

- 13.1 The development provides over 6000 square metres of open space, including an equipped LEAP. The provision exceeds the 10% open space required by policy.

14.0 Air Quality

- 14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones. However, the application includes an Air Quality Report, this document has been reviewed by Environmental Protection specialist consultant who has concludes the proposed development is acceptable on air quality grounds.

15.0 Planning Obligations

- 15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The exact trigger points, mechanisms and associated clauses will need to be discussed with the solicitors for both sides.
- 15.2 But the Obligations that would be agreed as part of any planning permission would be:
- Parks & Recreation: a contribution of £251,337.00 to be used towards the provision and/or maintenance of a wheeled sports facility and ancillary items at Stanway Country Park. Open Space and fully equipped LEAP on site. A commuted sum will be required if the Council adopts the open space/LEAP
 - Community Services: a contribution of £165, 000 to be used on phase 2 of the community centre on the Western Bypass.
 - Education: there is agreement in principle to contributions in respect of Early years / Primary and the Secondary Education (discussions with ECC are ongoing in respect of the calculation of these contributions)
 - Archaeology: a contribution of £281
 - Highways a £25,000 contribution (index-linked) plus 2% (or up to £2,000) S106 agreement monitoring fee towards improvements at the Stanway Western Bypass/London Road roundabout to be paid prior to the occupation of any dwellings
 - NHS: a contribution of £36,271.00
 - RAMS: a contribution of £122.30 per dwelling as per the draft HRA Mitigation Strategy SPD.

- Affordable Housing provision has been the subject of detailed negotiation with the Affordable Housing Strategy Officer who now fully supports the affordable housing proposed. Twenty units are proposed as affordable housing including 2 wheel chair accessible units, full details of the units and tenure are set out in the table below.

House Type Ref	Beds	Number of units	Floor Area (sq ft)	
AFFORDABLE				Tenure
FT1 (WC)	1	1	667	Rent
FT2 (WC)	2	1	775	Rent
FT3	2	1	775	Rent
FT4	2	2	667	Rent
P	2	2	643	Rent
P1	2	1	663	Rent
P1	2	1	663	Intermediate
Q	3	3	811	Rent
Q	3	2	811	Intermediate
G	3	1	999	Rent
Q1	3	2	835	Rent
Q1	3	1	835	Intermediate
R	4	1	1168	Rent
M	4	1	1222	Rent
Total		20		

The AH Officer comments: that we would require the two bed ground floor apartment to meet Part M4 Cat 3 (2) (a) adaptable with a wet room, so it can be suitable for a wheelchair user and we would expect to see the one bed ground floor apartment to meet Part M4 Cat 3 (2) (b) fully adapted. We would expect all other affordable homes (Excluding upper floor apartments) to meet a minimum Part M4 Cat 2 in lieu of lifetime homes.

16.0 Report

16.1 The main issues in this case are:

The principle of development

16.2 The application site is shown as designated for employment use in the Adopted Local Plan Proposals Map.

- 16.3 However, the January 2015 Employment Land Needs Assessment (ELNA) considered the site which forms a part of a wider Stane Park allocation. The ELNA, noted that 'In light of the identified surplus of employment (and specifically office) land available to meet future economic growth needs in Colchester over the plan period, it would be difficult to justify retaining the full extent of undeveloped employment allocations at Stanway from both a quantitative and qualitative market perspective.'
- 16.4 The report recommended that the Council adopted a selective approach to safeguarding these undeveloped allocations for future development by retaining those sites with the best intrinsic qualities and greatest prospect of coming forward for employment development in future.
- 16.5 The recommendation to reduce Stanway employment allocations was reflected in reduced allocations for new employment land for Stanway in the 2017 Employment Land Supply Trajectory and subsequent emerging Local Plan allocations. The application site is amongst those deleted.
- 16.6 The Draft Local Plan identifies new sites for residential development including:

Land to the North of London Road (this includes the application site)

Policy WC2: Stanway

All proposals must also satisfy the Local Planning Authority with regard to the site specific requirements as identified below.

Land to the North of London Road

Development of these sites will be supported where they provide;

- (i) Up to 630 dwellings of a mix and type compatible with surrounding development
- (ii) A new primary school with co-located early years and childcare nursery places;
- (iii) A comprehensively planned highways access which takes into account adjoining residential allocations in order to minimise the number of new access points onto London Road but without prejudice to the development of the adjoining sites;
- (iv) Suitable landscaping and open space provision to the north of The site to form a buffer between future residential uses and the A12;
- (v) An integrated cycleway and footway serving the development and connecting to the existing network;
- (vi) A design and layout to minimise the impacts from, and mitigate against any impacts associated with noise from the A12; and
- (vii) Suitable landscaping and open space provision to the west of the site to form a defensible boundary and visual separation from Copford.

Policy WC5: Transport in West Colchester

Developments in West Colchester will be expected to contribute to a package of sustainable transport measures including walking, cycling, public transport, travel planning and the promotion of sustainable travel.

Where it is demonstrated that proposals will impact on the highway network, contributions will be sought towards mitigation and improvements, including to the following projects;

- Improvements to the A12 Junctions 25 and 26 to provide measures which reduce queuing at junctions.
- Improvements to the southern distribution road network to smooth the flow of traffic along this route including the Maldon Road/Warren Lane junction.
- Improvements and extension to the current bus services and routes, to serve developments and link the key attractors in the area and to the town centre. Provision of additional routes to serve the area as it develops further towards the West.
- Improvements to the existing cycle and walking network providing connections from Stanway through the Lakelands and Tollgate area to ensure that the new developments are permeable and connected to the existing services as identified in the Essex Cycle Strategy and the Colchester Cycle Delivery Plan.

For areas with large multiple sites located in close proximity to each other the cumulative impact of all the development in the area must be considered.

- 16.7 In their response the policy team comment that the previous employment designation is considered to have been superseded by the emerging Local Plan designation for residential development.
- 16.8 However, they then explain that for the avoidance of doubt, the application is best considered in light of the NPPF given that the policies in the Adopted Plan for Centres and Employment are considered to be out-of-date and that the emerging Local Plan can only be given limited weight in light of its current unadopted status.
- 16.9 The NPPF has at its core the presumption in favour of sustainable Development and states “The purpose of the planning system is to contribute to the achievement of sustainable development”

Paragraph 11 of the NPPF is relevant to the determination of the application, (the whole paragraph is quoted below for context with the relevant section highlighted)

11. Plans and decisions should apply a presumption in favour of sustainable development.

For plan-making this means that:

- a) plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;
- b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:**
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or**
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.**

- 16.10 The policy team have confirmed that in terms of the loss of employment land, the adverse impacts are not considered to outweigh the benefits of the proposal.
- 16.11 When considering wider sustainability issues, the Adopted Local Plan in Core Strategy Policy SD1 seeks to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy (Colchester Town and Stanway being at the top of that hierarchy). Policy TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy for Colchester. A key aspect of this is the improvement of accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel.

- 16.12 The site is located in Stanway, which is at the top of the settlement hierarchy of policy SD1. Development in this location is therefore supported in broad sustainability terms. The requirements of TA1 are such that development needs to be focussed on highly accessible locations to reduce the need to travel and, given the proximity of the site to bus routes, retail and leisure facilities, and employment opportunities this is considered to be the case.
- 16.13 Paragraph 120 of the NPPF states
“Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:
a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and
b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.
- 16.14 The site is unlikely to come forward for employment use due to the difficulties in gaining access via Stane Park. Accessing employment uses through the existing residential streets would clearly be unacceptable. The site is in a sustainable location within Stanway evidenced by its proximity to existing and proposed residential allocations and the proposal is therefore considered to be acceptable in principle.

Design and Layout

- 16.15 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Development Plan Policy DP16 sets out space standards for both public and private (garden) space. In addition, Policy DP12 focusses on dwelling standards and the requirement for high standards of design, construction and layout.
- 16.16 The scheme has undergone extensive revision over the course of the planning application in order to achieve good design in terms of creating connectivity, adequate public and private space, and appropriate scale, form and architectural detailing and the Urban Design Officer has revised his recommendation from one of refusal to support for the application.
- 16.17 Street frontages have been revised to achieve continuity of frontage and avoid a formulaic approach in order to create interesting street scenes. The form and external design of the house types and blocks of flats have also been extensively revised, particularly with regards to roof form (i.e. pitch) and elevational treatments, elements of which will need to be conditioned to ensure that these design principles are adhered to. Architectural detailing,

such as (but not limited to) articulation, depths of reveals to windows and decorative panelling, window details are all required to be conditioned to ensure acceptable finishing, as are facing and roofing materials. Car parking which was previously visually dominant is now provided on plot to the side or rear of dwellings.

- 16.18 The proposed development meets the Councils adopted amenity, privacy and parking standards and policy DP 12 and DP16 are met.

Scale, Height and Massing

- 16.19 The development comprises residential dwellings of traditional domestic design, scale and massing. The majority of the units are houses comprising detached, semi-detached or small rows of linked units. The houses are all 2 storeys in height with 14 units 2 1/2 storeys. A small building of apartments is also proposed this is 3 storeys high and contains 5 units.

Impacts on Neighbouring Properties

- 16.20 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 16.21 A considerable number of representations have been received from residents living on the earlier phases of Wyvern Farm
- 16.22 However, the objections raised do not relate to matters of privacy or overlooking. The neighbouring properties nearest the site are on the north boundary of phase 3 Wyvern Farm. These dwellings are separated from the site by a linear area of open space. This open space is approximately 15 metres in width and extends the full length of the south site boundary.
- 16.23 The objections received from residents are set out above. A large number of the comments relate to issues residents have had with their new dwellings; in terms of quality of build and after sales care and building practises in respect of working hours, noise/dust from traffic and roads not being completed. These comments have been made forcefully and residents clearly have genuine concerns. However, they are not planning matters and should not influence the consideration of this application which should be determined on its planning merits.

- 16.24 Residents claim plans shown to them by Persimmon did not show roads continuing to this site and residents assumed access to the site would be through Stane Park. The original application for residential development on Wyvern Farm reference 145494 secured a bus gate (i.e. buses only) at the east boundary of the site to the Stane Park roundabout. This bus gate enters at Phase 2 of the Wyvern Farm development.
- 16.25 The application site is north of this roundabout and it would require a new road of over metres, on land forming part of Stane Park phase 2, in third party ownership to provide vehicular access to the application site.
- 16.26 Phase 2 of Stane Park application reference 172935 was reported to the planning committee in August 2018, and there is a resolution to approve the development subject to a legal agreement, does not secure access to the application site.
- 16.27 The emerging local plan proposes changing the employment allocation to residential and in their response to this application the policy team identify the difficulties in securing access over third party land. If the land were to remain as employment the vehicular traffic generated would have an adverse impact on resident's amenity.
- 16.28 The Highway Authority is satisfied the existing roads are of appropriate design and have the capacity to safely accommodate the additional residential traffic.
- 16.29 Highways England has considered the submitted information and do not require any additional works to junction 26. They have not referred to any possible widening of the A12 in respect of this application.
- 16.30 Noise and disturbance is considered to be minimal given the residential nature of the proposed development. The construction phase is likely to cause some noise and disturbance and, as such, the Council's Environmental Protection team have recommended conditions to limit the hours of work and establish a construction method statement.

Public Open Space Provision

- 16.31 A linear area of open space is proposed which includes pedestrian and cycle paths. Following negotiation an equipped LEAP is now included within the open space. The total area exceeds the 10% policy requirement.

Parking Provision

- 16.32 Car parking and cycle parking is proposed in accordance with the Parking Standards set out in the Essex County Council's Parking Standards (2009).

Highway Matters (including sustainability and accessibility)

- 16.33 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. The policy also states that the demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity, and built character. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements). It is relevant that the parking standards note that a reduction to the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport.
- 16.34 The application is supported by a Transport Assessment which reviews the relevant policy including the parking standards; describes the sustainability of the area and access to local facilities; details the development proposals and sets out the proposed parking provision; considers the travel characteristics of the development; considers the impact of the development on the highway network and sets out mitigation measures;
- 16.35 The assessment sets out that the proposed development would be sustainable in terms of access to a number of local amenities without reliance on private car. These amenities include, Stanway school, Post office, dentist, pharmacy, surgery and a range of retail, employment and leisure opportunities at Stane Park and the Tollgate Centre. Vehicular access is proposed by extending two existing vehicular accesses which serve the earlier Wyvern Farm phases into the proposed site providing vehicular access between the site and London Road. The site layout is designed as a loop connecting at two points (east and west) with the existing internal street network. At the western side, the Street Type is continued into the development with a carriageway and footway arrangement. This Street Type E becomes a Street Type F along the northern edge of the site and this connects at the eastern side to the existing shared surface street in the southern site. The existing accesses onto London Road are simple priority junctions.
- 16.36 The vehicle accesses to the site will also provide access for pedestrians and cyclists. Footpaths are provided along both sides of the Street Type E. A pedestrian footway is also proposed along the southern edge of the site connection with the existing residential development.
- 16.37 Car parking and cycle parking is proposed in accordance with the Parking Standards set out in the Essex County Council's Parking Standards (2009).

As part of the Transport Assessment (TA), the following junctions have been assessed:

- Site access on to London Road (east);
- Site access on to London Road (west).
- B1408 London Road/Stanway Bypass roundabout;
- Stane Park/Sainsbury's access roundabout; and
- Essex Yeomanry Way 'teardrop' roundabout;

16.38 The capacity analysis of the three junctions and two site accesses in the TA concludes that the proposed development can be accommodated safely on the highway network, without the need for mitigation measures.

16.39 Highways England and the Highway Authority have not expressed any concerns regarding the findings and conclusions of the Transport Assessment, the Highway Authority has also raised no objection to the layout. Highways England does not require any improvement to the trunk road. It is noted Priti Patel MP has queried whether the proposed development takes account of possible future widening of the A12 however Highways England have not made any comment on possible road widening and have raised no objection to the proposal as submitted.

16.40 Neither Highways England nor the Highway Authority have raised any objection to the application and it is therefore considered to be acceptable with regards to highway matters.

Drainage SUDS

16.41 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of the site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.

16.42 A Flood Risk Assessment and Drainage Strategy Report has been submitted with the application and both Essex County Council SUDs (as Lead Local Flood Authority) and Anglian Water have been consulted. Essex County Council SUDs have confirmed that they have no objection to the proposal subject to conditions to secure a detailed surface water drainage scheme and a surface water drainage maintenance and management plan. This is considered appropriate in order to mitigate any impacts in terms of surface water run-off and flooding.

16.43 The report indicates the site is currently greenfield and is being developed to provide 100 no. residential units. The site is the 4th phase of the Wyvern Farm development, with Phases 1 to 3 located to the south of the site; There is no existing drainage network on the site, but the previous development

(Phases 1 to 3) has connection points that both the surface and foul water can connect into.

It is confirmed the site is located in Flood Zone 1 and so has a low risk of flooding from fluvial/tidal sources; it is also at low risk of surface water, groundwater and reservoir flooding. The allowable surface water flows from site will be attenuated to the Greenfield Q1 year run-off rate (5 l/sec) as required by the Essex "Sustainable Drainage Systems – Design and Adoption Guide";

Due to the high-water table, infiltration is not a viable SuDS method to use on site and swales, permeable paving and modular attenuation tanks will be used to attenuate the water on site with a final connection into the Phases 1-3 surface water network. The foul water from the development site will connect into the existing foul water pumping station within the phases 1-3 development, which eventually outfalls to the public sewers in Chitts Hill.

- 16.44 The proposal is not, therefore, considered to be susceptible to flooding or cause flooding elsewhere, will (subject to condition) manage surface water run-off, and would be adequately served in terms of foul drainage. It is considered the proposal complies with policies SD1 and DP20.

Landscape/Ecology

- 16.45 Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 16.46 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.

- 16.47 Arboricultural Impact Assessment indicates the site includes 4 individual trees and 3 groups trees on the boundaries, none of the trees are to be removed although pruning and remedial work will be carried out. Appropriate tree protection measures will need to be installed during the construction period. The only hedgerow which is on east boundary is to be retained
- 16.48 A phase 1 Ecology report concludes that the site consists predominantly of an arable field with semi-improved grassland field margins and boundary hedgerows with trees. Immediately adjacent to the north of the site is a broad-leaved woodland. Whilst the boundary hedgerows and adjacent wooded areas provide moderate value to biodiversity the majority of the site is considered of low biodiversity value. However, phase 2 surveys were recommend as the site is considered to have the potential to be of value for a range of protected species. The phase 2 surveys included a Badger, Reptile and Notable mammals.
- 16.49 Surveys for harvest mouse, hedgehog and brown hare found no notable mammals found. As some field boundaries will be lost as part of the proposals. Mitigation for the loss of foraging and sheltering habitat is recommended to include species rich, native mixtures and fruit-bearing, native plan throughout the soft-landscaping scheme. Grassland habitats on site will should also be improved.
- 16.50 No reptiles were found during surveys. The surveys also found no evidence of badger setts, commuting or foraging activity was recorded on site despite suitable habitats being present and therefore no badger setts will be affected as a result of the proposed development. However, as the site offers suitable sett building, foraging and commuting habitats a preconstruction badger survey is recommended before construction takes place to ensure that badgers have not moved onto site since the previous badger survey. It is also recommended that precautionary measures take place to ensure that in the event of a badger coming onto site during construction the risk of injuring and killing is minimised including, covering any trenches at night or leaving a plank of wood leant against the side to ensure they can escape if they were to accidentally fall in; chemicals appropriately sealed and stored and sensitive lighting. Precautionary mitigation measures are recommended for bats including retention and protection of trees and hedgerows and protection during construction, sensitive design and lighting Mitigation and enhancement measures will be secured by condition which will improve existing habitats.
- 16.51 The ecological report concludes no part of the proposed development site has any type of statutory or non- statutory conservation designation. The proposed development site is within a zone of influence for Abberton Reservoir S.P.A. - RAMSAR site, Essex Estuaries Special Area of Conservation, and Colne Estuary S.P.A. The proposed development will not reduce the size or conservation status of these designated sites, nor affect their management regimes or future ecological potential. The proposed development area does not create new access to these Natura 2000 sites.

- 16.52 The proposed development could however have some minor recreational/disturbance impact alone or when considered alongside other new developments within the same zone of influence for these Natura 2000 Sites and so is subject to a Habitat Regulations Assessment (H.R.A.). Natural England advise that a suitable contribution to the emerging Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) would enable the local authority to be able to reach a conclusion of “no likely significant effect” - and addressing the need for the suggested H.R.A. The legal agreement will secure the RAMS contribution.

Other Matters

- 16.53 The documents submitted with the application include an Air Quality Impact Assessment and the specialist consultant has reviewed the document and is satisfied the development will not have an adverse impact on air quality.
- 16.54 The site is close to the A12 and whilst Environmental Protection were initially concerned about the high noise levels from the A12 the additional monitoring requested has shown that, owing to the A12 being significantly below the level of the site, the noise drops off and reasonable internal and external noise conditions should be achieved subject to appropriate mitigation.
- 16.55 In terms of land contamination, the Councils specialist officer has considered the reports and has raised no objection subject to conditions.
- 16.56 Finally, the results of the archaeological evaluation demonstrate the presence of a low density and low complexity of archaeological remains within the site. The Councils archaeologist is satisfied with the report.

17.0 Conclusion

- 17.1 The NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as establishing new residential development where residents can readily utilise and support nearby businesses, services and facilities. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high-quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure benefits in terms of ecology and biodiversity, as well as provide homes in an area that is highly accessible.

- 17.2 The NPPF also indicates planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. The Employment Land Needs Assessment considered the site which forms a part of a wider Stane Park allocation and concluded it would be difficult to justify retaining the full extent of undeveloped employment allocations at Stanway from both a quantitative and qualitative market perspective. The draft local plan therefore proposes to change the allocation from employment to residential.
- 17.3 The site is unlikely to come forward for employment use due to the difficulties in gaining access via Stane Park and accessing employment uses through the existing residential streets would clearly be unacceptable. The site is in a sustainable location within Stanway evident by its proximity to existing and proposed residential allocations and the proposal is therefore considered to be acceptable.
- 17.4 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts and, as such, Members are recommended to resolve to grant planning permission subject to the conditions set out below.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to:

- Agreement with the Agent/Applicant to the pre-commencement conditions under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and delegated authority for officers to make changes to the wording of conditions as necessary;
- 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 to deliver the obligations set out at paragraph 14.3. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement; and

18.2 The Permission being subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

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

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

Site Location Plan 1:1250 001 – A,
Masterplan 1:500 002 – F, 1:500 003 – F,
Storey Heights Plan 1:500 004 - F,
Tenure Plan 1:500 006 – F,
Amenity Space Plan 1:500 007 – C,
Hard Surfacing Plan 1:500 008 – C,
House Type A 1:100 010 -,
House Type B 1:100 011 – B,
House Type C 1:100 012 - C,
House Type D 1:100 013 -,
House Type E 1:100 014 – C,
House Type F 1:100 015 – A,
House Type G 1:100 016 – D,
House Type H 1:100 017 – D,
House Type J 1:100 018 – D,
House Type K 1:100 019 – C,
House Type L 1:100 020 – A,
House Type M 1:100 021 – D,
Apartment Block - Plans 1:100 022 – E,
Apartment Block - Elevations 1:100 023 – E,
Garage Types 1:100 024 – A,
House Type N 1:100 025 - A
Car Ports 1:100 026 – C,
House Type B1 1:100 027 -,
House Type P 1:100 028 – A,
House Type P1 1:100 029 - B,
House Type C1 1:100 033 -,
House Type Q 1:100 034 - A
House Type Q1 1:100 035 - B,
Private Car Port 1:100 036 -,
Site Section 1:100 037 – B,
House Type R 1:100 038 -,
Canopy Types 1:100 039 -

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

3. Non Standard Condition - Code of Construction Statement

Prior to commencement of the development the developer shall submit a code of construction statement for approval to the local planning authority. That statement shall include details of the following:

- Pre-adoption maintenance arrangements at the developer's expense for roads, kerbs, paths, street lights, dog and litter bins, open space (including litter picking), landscaping and the public realm generally.
 - Arrangements for the prominent display in a publicly accessible location of the following:
 - Site manager contact details. (email and telephone)
 - Out of hours contact details for the reporting of problems during construction
 - The display of the planning permission and all associated conditions and an approved layout drawing
 - Summarised build programme
 - Arrangements for the prominent display of a notice board in a publically accessible location within the area that will become the central open space providing information of the central open space with play facilities coming soon on that site.
 - Compound location
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - Overall build programme
 - 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.
 - Delivery routing plan
 - Construction /delivery hours limitations
 - Concrete breaking methodology
 - Dust suppression
 - Tyre washing
 - Concrete plant location
 - Noise suppression (vehicles reversing alarms)
 - Site manager contact details for residents
 - Show house locations
 - Top soil mound positions
 - Recycled material storage areas
 - Local newsletter arrangements and catchment
 - Floodlighting
 - Fuel storage arrangements
 - Asbestos removal methodology
 - Demolition methodology
 - the erection and maintenance of security hoarding including decorative displays facilities for public viewing, where appropriate;
- Development shall not proceed until such details have been agreed in writing by the local planning authority and thereafter the developer shall comply with such detail as shall have been agreed.

Reason: In order to safeguard the amenity of existing local residents living on adjacent plots.

4. Non Standard Condition - Access for Disabled Persons*

The two bed ground floor apartment shall be constructed to meet Building Regulation Part M4 Cat 3 (2) (a) adaptable with a wet room, suitable for a wheelchair user and the one bed ground floor apartment shall be constructed to meet Building Regulation Part M4 Cat 3 (2) (b) fully adapted.

Reason: To ensure that these units are suitable for disabled users.

5. Non Standard Condition - 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.

6. Non Standard Condition - Ownership/maintenance for SUDS

Prior to the first occupation of any of the dwellings hereby approved drawings clearly showing future intended ownership and maintenance responsibilities for every part of the site (including those parts comprising landscaping buffering and/or Sustainable Urban Drainage (SUDS) features on the periphery) shall be submitted to and approved by the local planning authority.

Reason: In order that the local planning authority can be satisfied that responsibility for maintenance of every part of the site can easily be established in the future in the interest of maintaining the quality of the environment and or public safety.

7. Non Standard Condition - Retention of garages

The garage 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. Non Standard Condition - Street names

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

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

9. ZGX - 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

10. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

11. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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.

12. ZG0 – 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 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, 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 11

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

13. ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 12.

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

14 – Non Standard Condition - Surface water drainage scheme

No works shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s) . The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Provide further evidence of exceedance flow routes, exceedance flows cannot flood existing properties. Please provide evidence of this.
 - Evidence of the provision of suitable 'urban creep' allowance
 - The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
 - Detailed engineering drawings of each component of the drainage scheme.
- The scheme shall subsequently be implemented prior to occupation.

Reason:

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

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

15 – Non Standard Condition - SUDS maintenance plan

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

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

16. Non Standard Condition - Minimise Risk of offsite flooding

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 and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 163 and 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to unacceptable levels of water pollution. 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.

17. Non Standard Condition - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

18. Non Standard Condition - Sound insulation

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime. The development shall thereafter be carried out in accordance with any details approved and shall be retained in accordance with these details thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

19. Non Standard Condition - Acoustic Barrier

A 2.5m acoustic barrier shall be provided in accordance with details and in a location, all to be submitted to and agreed in writing with the local planning authority, prior to the commencement of development. The approved barrier shall be erected prior to the occupation of any residential unit and shall thereafter be properly maintained so that it does not deteriorate and reduce acoustic performance.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise.

20 – Non Standard Condition - Boundary Walls/Fences

Prior to the commencement of development a scheme of boundary walls and fences at least 1.8 metres in height to screen rear gardens shall be submitted to and approved in writing by the local planning authority. The approved walls and fences shall be erected prior to the occupation of any residential unit and shall thereafter be maintained.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise.

21. Non Standard Condition - Materials To Be Agreed

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

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

22. Non Standard Condition - Materials Shown on Plan to be Excluded

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the external materials. No external materials shall be used until details of these 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.

23. Non Standard Condition - Refuse and Recycling As Shown

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.

24. Non Standard Condition - 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.

25 – Non Standard Condition - 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.

26. Non Standard Condition - 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.

27. Non Standard Condition - 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.

28. Non Standard Condition - Tree and Hedgerow Protection: General

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). 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.

29. Non Standard Condition - Tree Canopy Hand Excavation

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

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

30 – Non Standard Condition - Construction traffic management plan

Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety in accordance with adopted as County Council Supplementary Guidance in February 2011

31. Non Standard Condition - Residential Travel Information Packs

No occupation of the development shall take place until the following have been provided Residential Travel Information Packs in accordance with Essex County Council guidance.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

32. Non Standard Condition - 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.

33. Non Standard Condition - Cycle parking

Prior to the development hereby permitted coming in to use, 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. To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

34. Non standard Condition - Artificial Lighting

All lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) during and post construction shall fully comply with the Institute of Lighting Professionals (ILP) Guidance Note 8 Bats and Artificial Lighting (2018).

Reason: In order to minimise risk of disturbance of potential features that may provide bat commuting and foraging habitat.

35. Non Standard Condition - Ecological Mitigation and Management Plan (EMMP)

Prior to the commencement of development an Ecological Mitigation and Management Plan (EMMP) including an Implementation Timetable shall be submitted to and approved in writing by the local planning authority. The EMMP shall include, but not be limited to, the proposed mitigation detailed in the submitted Ecological Assessment including the additional survey work identified in the document. The development shall then be carried out and maintained in accordance with the approved EMMP.

Reason: In order to mitigate the impact of the development upon ecology and biodiversity and in the interest of ecological enhancement.

36. Non Standard Condition - Car Electric Charging Points

The development hereby approved shall be provided with at least 1 No. electric vehicle (EV) charging point per dwelling with dedicated parking and at a rate of at least 10% provision for unallocated parking spaces. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

37. Non Standard Condition - Architectural Detailing

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include but not be limited to window detailing (including details of the depth of reveal and any dormer features); rooflights to be used; recessed/projecting brickwork and cladding; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high-quality design in the interests of visual amenity.

38. Non Standard Condition - 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.

39. 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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.

40. Non Standard Condition - Details of Communal Cycle Parking

Notwithstanding the submitted details, prior to the occupation of any of the apartments hereby approved, 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.

41. Non Standard Condition - RAMS Mitigation

Prior to the commencement of development a detailed mitigation scheme to demonstrate the development secures full adherence with the Essex Coast RAMS shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with an agreed timetable.

Reason: To ensure the development does not have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled

'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

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

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

4. ZT1 – Informative on Street Naming & Numbering

For the safety of residents, it is the developer's obligation to ensure that

1. street name signs are in place before the first property is occupied on any new street, and
2. each property is marked with a house number visible from the highway before occupation.

5. ZTC - Informative on Noise and Sound Insulation Competent Persons

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'.

6. ZTG - Informative on Section 106 Agreements

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

7. ZTJ - *Informative on Land Contamination Advisory Note*

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.

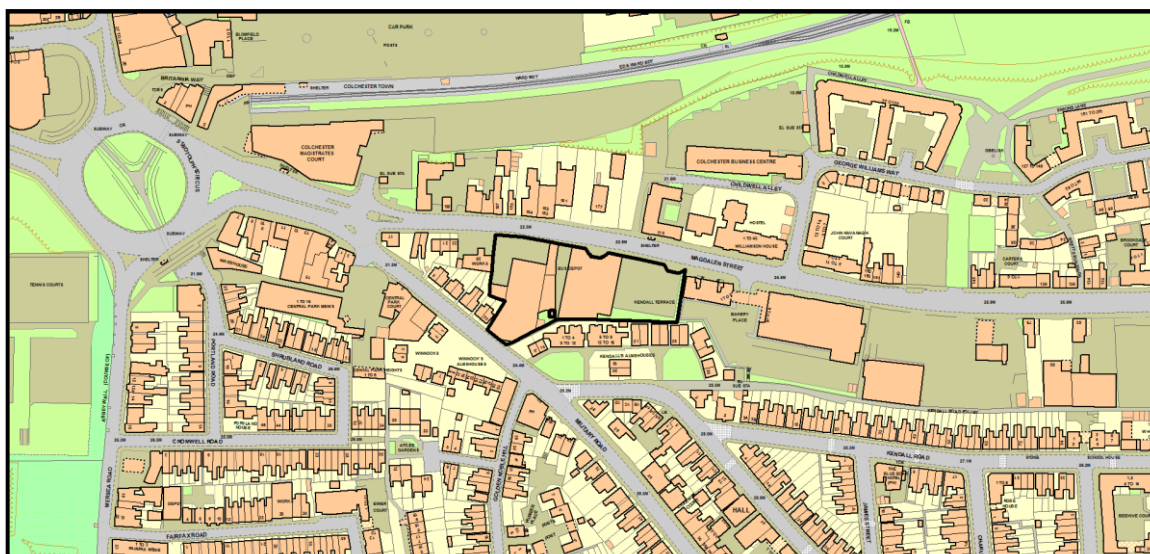
The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site.

The Local Planning Authority will provide a Validation Certificate mentioned in Condition 13 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.

8. Non Standard Informative

Environment Agency Advice to applicant

New development within 250m of an existing landfill (waste) facility could result in the community at the proposed development being exposed to odour, noise, dust and pest impacts. The severity of these impacts will depend on the size of the facility, the nature of the waste it takes and prevailing weather conditions. If the operator can demonstrate that they have taken all reasonable precautions to mitigate these impacts, the facility and community will co-exist, with some residual impacts. In some cases, these residual impacts may cause local residents concern, and there are limits to the mitigation the operator can apply. Only in very exceptional circumstances would we revoke the operators permit.



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Item No: 7.3

Application: 190631

Applicant: Vh (Colchester) Limited

Agent: Laura Dimond

Proposal: Application to vary condition 2 of planning permission.
181281

Location: Former Bus Depot, Magdalen Street, Colchester, CO1 2LD

Ward: New Town and Christ Church

Officer: Sue Jackson

Recommendation: Approval subject to signing a linking legal agreement

1.0 Reason for Referral to the Planning Committee

This application is referred to the Planning Committee because an increase in the height of the buildings is proposed and whilst the increase is minor the height of the buildings was an issue raised by Members when the original application was discussed by the Planning Committee.

The application also requires a linking agreement to ensure the obligations secured under the original application are also required under this revised submission.

2.0 Synopsis

- 2.1 The key issues for consideration are a comparison of the approved development and the proposed amendments and their impact on residential and public amenity.
- 2.2 The application is subsequently recommended for approval subject to a linking agreement.

3.0 Site Description and Context

- 3.1 The former bus depot site is irregular in shape broadly rectangular with a small projection on the south boundary towards Military Road. It has an area of 0.4322 hectares and has twin frontages of 104 metres to Magdalen Street and 13 metres to Military Road. The site backs onto Winnock Road. It was last used as a bus depot.
- 3.2 Buildings on the site, with the exception of a small locally listed building, have recently been demolished following the grant of planning permission. The brick façade of the locally listed building (Tram Shed) on the Military Road frontage is retained in the approved and revised schemes.
- 3.3 There is a significant change in ground level between Magdalen Street and Military Road with the latter being at a higher level. The grade II listed Kendalls Almshouses located to the rear of the site are approx. 2.5 - 3.5 metres above the ground level of the site.
- 3.4 Magdalen Street is a classified road and described as a Radial Feeder, Military Road also classified is described as a Secondary Distributor. There are double and single yellow parking restriction lines in operation outside the site on Magdalen Street and a single yellow line in operation outside the site on Military Road. Residential streets in the vicinity have residents parking schemes.
- 3.5 The site is 250 metres from the town railway station, and 430 metres from the bus station. There are bus stops on both sides of Magdalen Street and Military Road. Colchester town centre is close to the site with Culver Square and High Street being a 10 minute walk away.
- 3.6 There are a range of uses and building of various styles and heights along Magdalen Street. On the opposite side of the road are buildings of a traditional

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design some of which are locally listed, generally 2 and 3 storey in height and include retail, office and residential use. There is also a restaurant and a MOT garage. The recently erected Emmaus building is of a contemporary style and whilst mainly 3 storey includes a 4-storey element; whilst the YMCA building which is also relatively new is constructed of brick with pitched tiled roof and is 3 storeys in height. To the east of the site is a modern residential building of a traditional style, 3 storey faced in yellow brick with a pitched tiled roof, adjacent is the Aldi store with residential development above constructed of red brick under a pitched tiled roof. On the west side of the site is Robertson's self-drive vehicle hire in a 2-storey building with offices in a converted dwelling; with residential properties adjacent. Magdalen Street is generally an area of a mixed uses; including residential, retail including food retail, office and commercial uses which include restaurants, a car dealership, petrol filling station and MOT garage; there are also sections of undeveloped or underdeveloped frontage.

- 3.7 The rear boundary of the site abuts Kendall Almshouses, no's 1-16 Kendall Terrace are Grade II Listed buildings other Almshouses in this group are locally listed. These Almshouses are located in close proximity to the site's southern boundary with their main amenity area to the front of the buildings. Kendall's Almshouses are within the New Town Conservation Area; the boundary of which is the northern almshouses boundary. There are also almshouses to the west of the site and 8-22 Military Road also locally listed; these properties have small rear gardens ranging in length from 4-9 metres where they back onto the site. On the opposite side of Military Road is Winnocks Almshouses listed grade I. A former public house, no 25 Military Road on the corner with Golden Noble Hill is also listed and there is a further listed building on the corner of Military Road and Magdalen Street.

4.0 Description of the Proposal

- 4.1 This application is to vary condition 2 of planning permission 181281, this condition lists the approved drawing numbers. Amended drawings have been submitted proposing the following revisions;
- The storey height of buildings increased from 2850mm floor to floor to 3000mm floor to floor to accommodate the proposed construction method;
 - Block A: Southern stair omitted; Internal arrangement of southern 'leg' revised; Elevations amended to suit internal reconfiguration;
 - Block B Level 00 – Glazed Fire Escape Door added to Common Room (East Elevation);
 - Block C: Block level raised by 600mm; Level 03 – Roof Maintenance Access Door (East Elevation);
 - Substation: Flat roof amended to be a slate pitched roof.

If approved condition 2 will be revised to include the new drawing numbers.

5.0 Land Use Allocation

- 5.1 East Colchester Special Policy Area
East Colchester Regeneration and Growth Area
Air Quality Management Area

6.0 Relevant Planning History

- 6.1 160103 Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across five blocks of one, two, three and four storeys to provide 230 bed spaces (61 cluster flats and 16 studio flats), communal facilities (to include bin stores, cycle stores, site management office, gym and communal amenity areas) as well as undercroft car park (20 car parking spaces), landscaping and a new public pathway through the site. Planning permission was granted on 20 December 2017 and is subject to a legal agreement.
- 6.2 181281 Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across three blocks of up to four storeys to provide 250 bed spaces (50 units comprising, 46 cluster flats and four studio flats), communal facilities (to include bin stores, cycle parking, site management suite, quiet study area, common rooms, launderette and communal external amenity areas), two car parking spaces, landscaping and a new public pathway through the site. Approved subject to a legal agreement and conditions.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR1 - Regeneration Areas
UR2 - Built Design and Character
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP14 Historic Environment Assets

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

SA EC1 Residential development in East Colchester
SA EC2 Development in East Colchester
SA EC5 Area 3: Magdalen Street

- 7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

The following policies are relevant;
SP1 - Presumption in Favour of Sustainable Development
EC3: East Colchester
DM15: Design and Amenity

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

The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Contaminated Land Officer no comment
- 8.3 CBC Archaeologist no comment
- 8.4 Urban Design Officer offers no comment on the amendments

9.0 Parish Council Response

9.1 N/A

10.0 Representations from Notified Parties

10.1 No representations have been received.

11.0 Parking Provision

11.1 The amendments do not generate a requirement for any additional parking.

12.0 Accessibility

12.1 The proposed changes do not affect the access arrangements from those approved under the previous application.

13.0 Open Space Provisions

13.1 There is no policy requirement for the provision of open space for student accommodation. The amendments do not generate a requirement for any additional open space.

14.0 Air Quality

14.1 The site is within the Air Quality Management Area; the amended proposals do not require any air quality mitigation measures other than those secured under application 181281.

15.0 Planning Obligations

15.1 This application proposes amendments to a “Major” application and whilst no new obligations are required for the amended proposals the original obligations, set out below, will be secured via a linking agreement;

- Upgrading of buses with a catalytic reduction system;
- Upgrading to current ECC specification, including real time information, of a bus stop;
- Travel Plan including monitoring;
- CCTV (the applicant will be installing a private CCTV system) but a financial contribution will fund the provision of 2 cameras one on each road frontage linking to the Council's CCTV network;
- Provision of a pedestrian link through the site to connect Military Road to Magdalen Street with public access in perpetuity.

16.0 Report

16.1 The main issues in this case are:

The Principle of Development

16.2 The principle of development is established under application 181281.

The Proposed Amendments

16.3 The following amendments are proposed to the approved development:

- Storey heights for all the buildings to be increased from 2850mm floor to floor to 3000mm floor to floor to accommodate construction method
- Block A: Southern stair omitted; Internal arrangement of southern 'leg' revised; Elevations have been amended to suit the new internal reconfiguration
- Block B: Level 00 – Glazed Fire Escape Door added to Common Room (East Elevation)
- Block C: Block level raised by 600mm; Level 03 – Roof Maintenance Access Door (East Elevation)
- Substation: Flat roof amended to be a slate pitched roof.

16.4 The applicant has explained the rationale for the proposed changes as follows;

“It is proposed to vary the overall building heights in order to accommodate the contractors’ preferred construction method. The additional height is required to accommodate the depth of the beams and to allow mechanical and electrical services to be routed beneath the structure whilst maintaining a standard internal ceiling height to the habitable spaces”.

16.5 Changes are sought to Block A as a sprinkler system is now proposed within the development in order to reduce the risk of fire. Within Block A this amendment has allowed the secondary stair to be removed following the internal reconfiguration of the building.

16.6 The changes proposed to Block B include the addition of a fire escape door to the common room. This amendment is proposed in response to recommendations received from Building Control.

16.7 Changes are proposed to Block C as the approved Block C ground floor level (+22900) is approximately 1.5m below existing adjacent external/building levels along the eastern boundary. Due to the proximity of Block C to the existing building to the east and the difference in height, the proposed excavation and foundation construction would require extensive structural works to underpin/retain the existing substructure. By raising the Block C ground floor level by 600mm to +23500 the building will relate better to the levels of the adjacent site and will also align with the existing pavement level at the eastern end of the site.

- 16.8 Amendments are also sought to the substation to vary the flat roof to a pitched slate roof. This amendment is proposed to provide additional support to the top section of the retained façade and to ensure the replacement roof is in keeping with the original material, fabric and form of the existing building. This amendment is welcomed as it will provide structure to the retained façade.

Impact on the Surrounding Area and Neighbouring Properties

- 16.9 The storey height of each floor of each building will increase by 150mm. Buildings A and B are 3 and 4 storeys in height the maximum total increase in height for these buildings is therefore 600mm (just under 2 feet). The 4 storey elements of the buildings are shown as between 13-14 metres on the approved drawings.
- 16.10 The storey height of each floor of building C (also 3 and 4 storeys) will also be increased by 150mm and in addition the ground floor is to be raised by 600mm a total increase of 1.2 metres for the 4-storey element.
- 16.11 From public viewpoints the changes to the height of the buildings will be virtually indistinguishable from the approved scheme and there will be no adverse impact on the surrounding area. Similarly, the increase in height will not be apparent from private properties and the amenity of residents will not be affected.
- 16.12 The removal of the secondary stair to Block A has resulted in a minor reduction in the footprint of the building on the rear south elevation. The internal reconfiguration includes a revised location to windows to the first and second floors on the east, west and south elevations. As these windows have the potential to overlook the almshouses they will either be glazed with translucent glazing or have graded film from the bottom of the window up to 1.5 metres. Conditions are proposed to secure these measures which will mitigate any adverse impact on neighbouring properties.
- 16.13 The fire escape door proposed to Block B is on the ground floor rear elevation and will not be visible to neighbouring properties.

17.0 Conclusion

- 17.1 To summarise, the revisions proposed are considered minor and will not impact on either the street scene or resident's amenity.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a linking agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting to link this application to the legal agreement for application reference 181281.

In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions:

or

APPROVAL of planning permission subject to the following condition:

1. Removal/Variation of Condition(s) Approval

With the exception of condition 2 of Planning Permission 181281 which is hereby varied, the requirements of all other conditions imposed upon planning permission 181281 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

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 1745-10-001, 1745-10-005 C, 1745-20-001 C, 1745-20-002 C, 1745-20-003 C, 1745-20-004 C, 1745-20-004 C, 1745-20-005 C, 1745 -20-010 C, 1745-20-011 B, 1745-20-012 B, 1745-20-013 B, 1745-20-020 B, 1745-20-021 C, 1745-20-022 B, 1745-21-001 A, 1745-21-002 and 1745-21- 003 except where the conditions below require amended or further 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 - Scheme of Features To Mitigate Overlooking

Prior to any above ground works taking place a detailed scheme, including samples where appropriate, to mitigate overlooking from the east, south and west elevation of Block A shall be submitted to and approved in writing by the local planning authority. The scheme shall include, but not be limited to, the measures described in the application documents and shown on the submitted plans. The approved scheme shall be implemented in full prior to the occupation of the development and shall thereafter be retained.

Reason: To protect the privacy and amenity of adjacent residents.

4. Non Standard Condition - Additional drawings of screening features

Prior to the commencement of any above ground works, additional drawings that show details of all screening features including, but not limited to, parapet to Block A, graded film, brise-soleil, glazed screens, parapet, 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 features which are essential elements of the design to protect the privacy and amenity of adjacent residents.

19.0 Informatives

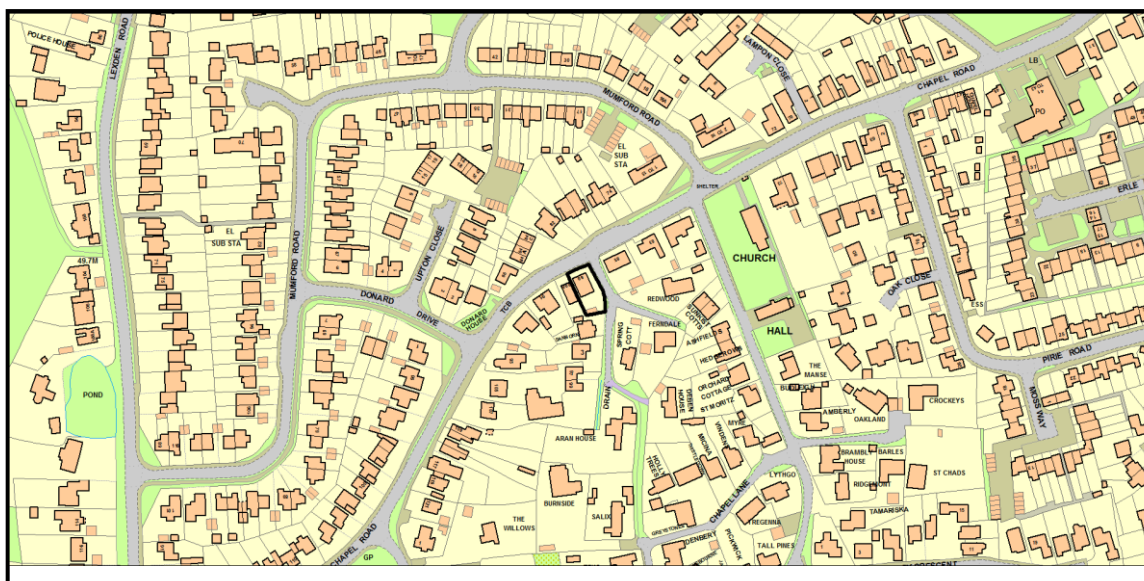
19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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



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Item No: 7.4

Application: 190423

Applicant: S Cullis

Agent: Mr Andy Cameron

Proposal: Two new dwellings with associated parking and amenity following demolition of existing dwelling.

Location: 89 Chapel Road, West Bergholt, Colchester, CO6 3HB

Ward: Lexden and Braiswick

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Barber who states: “The grounds of the call in are the planning reasons set out in the comments made to the portal by West Bergholt Parish Council.”

2.0 Synopsis

- 2.1 The key issues for consideration are the design, scale, form and layout of the semi-detached dwellings, impact upon the character of the street scene and the impact upon neighbouring residential amenity and highway safety.
- 2.2 The scheme has been revised to improve the design of the dwelling and to address highway concerns. The application is subsequently recommended for approval. It is considered that the revised design, scale, form and layout of the dwellings would be in keeping with the character of the street scene and surroundings and would not represent an overdevelopment of the site. It is not considered there would be any significant impact upon neighbouring residential amenity owing to the positioning and scale of the dwelling and proximity to neighbouring property. The revised scheme has now overcome the original objections from the Highway Authority and would not be detrimental to highway safety. There would be adequate parking provision for each dwelling on site and adequate private amenity space provision in accordance with Local Plan Policy.

3.0 Site Description and Context

- 3.1 The site lies within the settlement limits of West Bergholt and contains a twin gabled, modestly sized single storey dwelling with a flat roofed rear extension. Vehicular access is taken off Spring Lane which runs alongside the dwelling and serves other dwellings. Two parking spaces are currently provided on site off Spring Lane.

4.0 Description of the Proposal

- 4.1 The proposal is for the demolition of the existing single storey dwelling and its replacement by a pair of semi-detached 1 ½ storey dwellings. Two additional parking spaces would be provided on site to make 4 in total. Rear garden spaces would be 70 m² and 72 m² respectively.
- 4.2 The scheme has been amended from its initial submission by reducing the gable width down from 7.9 m to 6.00 m in order to give a more traditional gable width and having a pair of pitched roof rear gables to make up for the lost floorspace. The front dormer windows have been reduced slightly in size and the hips on the ends of the roof omitted.
- 4.3 The revised plan has also removed the proposed 4 spaces that were to be at the front of the site and repositioned them to the rear. The existing frontage hedge would thus be retained.

5.0 Land Use Allocation

- 5.1 Settlement limits.
Residential curtilage

6.0 Relevant Planning History

- 6.1 None recent of relevance.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour

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

DP1 Design and Amenity
DP11 Flat Conversions
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

- 7.4 Some “allocated sites” also have specific policies applicable to them in accordance with the adopted Site Allocations (adopted 2010) policies, although the policies are not applicable to this case.
- 7.5 The Neighbourhood Plan for West Bergholt is also relevant. This forms part of the Development Plan in this area of the Borough.
- 7.6 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Affordable Housing
Sustainable Construction
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
West Bergholt Parish Plan & West Bergholt Village Design Statement

8.0 Consultations

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

8.2 Highways Authority stated (on the original submission):

The proposal will lead to confusing signalling, slowing and turning vehicular movements in the immediacy of the junction of Chapel Road with Spring Lane where no vehicular accesses currently exist, contrary to the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

On the revised scheme the Highway Authority state:

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

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

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

2. All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

3. No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The Highway Authority observes that vehicular access is proposed from Spring Lane which is classified as a Private Road; the applicant should be requested to demonstrate the rights of vehicular access exist and are maintained in perpetuity.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

- 8.3 In-house Archaeologist states: No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

9.0 Parish Council Response

- 9.1 The Parish Council stated on the original submission:

“The Parish Council are disappointed with the proposed redevelopment of the site, which is uninspiring. The proposals are clearly over development in a village location, the chalet style houses will be overpowering to the bungalow at 89A Chapel Road and will have a dominating effect to the junction of Spring Lane and Chapel Road. The current proposals are out of keeping with the existing street scene. Parking for four cars will affect the special nature of Spring Lane will be detrimental to the village townscape and will be out of keeping with surrounding built form. The proposals are contrary to the Village Design Statement (adopted as planning guidance by CBC) Policies DG2, DG3, DG4, DG5, DG7, DG8, DG10, DG11, DG35 and DG37. The proposal is contrary to the emerging West Bergholt Neighbourhood Plan. The Parish Council are of the view that a one for one replacement would be more appropriate and the preferred option.

DG2 Where it is a planning issue any remaining hedgerows, native trees and small copses should be retained in the new landscape plans

DG3 General Design all proposed new build and extensions must enhance the area and make a positive architectural contribution

DG4 Back land and infill proposals will be resisted except in exceptional cases, nuisance of adjacent dwellings will be considered

DG5 Garden sizes may need to be substantially larger than these minimum standards in order that garden sizes reflect the size and shape of gardens in the area

DG7 Buildings must be in harmony with the surroundings in respect of materials, colour, texture, proportion and scale.

DG8 Planning applications must show contextually the impact of their proposals on adjacent building by means of adequately detailed plans with accurate street elevations

DG10 Any infill development should reflect the character of the surrounding area and protect the amenity of neighbours. It should reinforce the uniformity of the

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street by reflecting the scale, mass, height, form, materials, fenestration and architectural details of its neighbours.

DG11 The width of new building plots should be similar to that prevailing in the immediate area

DG35 New parking directly in front of property should be avoided

DG37 General street-scape Guidance

Village Design Statement

The Parish Council produced a Village Design Statement (VDS) in 2011 and this was adopted as Supplementary Planning Guidance by Colchester Borough Council subsequently. The VDS provides a detailed description of the existing character and main features of design in the village of West Bergholt and a guideline for how this should be respected in any new development. The VDS was a product of consultation with the community and a derivative document of the successful Parish Plan. The VDS describes how the residents of West Bergholt would like new development including new buildings, change of use, alterations or improvements to buildings or the landscape to contribute to the unique character of the village. The VDS contains 37 policies and the most important strategic ones have been incorporated within the general Housing Planning Policies at the end of this section."

9.2 Following submission of the revised plans, the Parish Council have made the following additional comments:

"The Parish Council still considers this application as overdevelopment. The parking remains an issue and the Parish Council has been made aware that the previous owners of this property did not possess or park vehicles to the rear of the premises. Spring Lane is a private road and it is not at all clear whether there are private access rights for this property to all parking as shown on the planning application. This point should be checked before any granting of planning permission. There has been no improvement on the overpowering nature of the proposal on 89A Chapel Road. The Parish Council would therefore like to reiterate their previous comments:

The Parish Council are disappointed with the proposed redevelopment of the site, which is uninspiring. The proposals are clearly over development in a village location, the chalet style houses will be overpowering to the bungalow at 89A Chapel Road and will have a dominating effect to the junction of Spring Lane and Chapel Road. The current proposals are out of keeping with the existing street scene. Parking for four cars will affect the special nature of Spring Lane, will be detrimental to the village townscape and will be out of keeping with surrounding built form. The proposals are contrary to the Village Design Statement (adopted as planning guidance by CBC) Policies DG2, DG3, DG4, DG5, DG7, DG8, DG10, DG11, DG35 and DG37. The proposal is contrary to the emerging West Bergholt Neighbourhood Plan. The Parish Council are of the view that a one for one replacement would be more appropriate and the preferred option."

10.0 Representations from Notified Parties

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

10.2 11 letters of objection have been received which make the following comments:

- Highway safety concerns. Sharp bend. School children near.
- Spring Lane is narrow and private.
- Spring Lane would need to be reinstated after development.
- High fence will increase perception of narrowness
- Overdevelopment
- Not aesthetically pleasing
- Parking close to kitchen window
- Should only be one dwelling.
- A single bungalow would maintain privacy. Village needs bungalows and they are in demand by the elderly.
- Existing bungalow may contain asbestos
- Right to light taken away. Silver birch will also take away light and roots close to property.
- Where will visitors park?
- Oppose building forward of plot.
- The postal address for the site is 89 Chapel Road not Spring Lane so access should not be from Spring Lane. The driveway onto the plot has never been used in the 41 years we have lived in Spring Lane so to put 4 parking spaces exiting onto a private lane is unreasonable. Inevitably also visitors will park in Spring Lane.
- Spring Lane (as its name suggests) can in wet weather have a lot of water coming down it and with the addition of more hard standings for cars will mean even more water.
- Don't understand why the Agent is so intent on copying the style of other nearby properties. Diversity would be much better.
- We question the legal right for the Agent to propose access onto a lane which is privately owned and maintained by residents of existing properties. The Agent continually states that "parking as agreed by Highways". Do Highways have the right to agree access onto a private lane that they recently stated in another planning application they have no interest in.
- Pulling further forward will overshadow us.

11.0 Parking Provision

11.1 4 car parking spaces

12.0 Accessibility

12.1 Under the Equalities Act, the proposed dwellings are relatively accessible and could accommodate adaptation to increase accessibility were this to be required by future occupants.

13.0 Open Space Provisions

13.1 Not applicable.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle of Development

16.1 The site lies within the settlement limits of West Bergholt. Accordingly, the proposal should be judged on its planning merits having regard to settlement policy SD1 which aims to direct development to the most accessible and sustainable locations in accordance with the settlement hierarchy.

Design, Form, layout and Impact in the street scene

16.2 It is considered that the revised design and layout of the proposal is now acceptable and in keeping with the character of the street scene and surroundings. The dwelling has had the gable reduced to 6m, which gives it a more traditional appearance, including a steeper pitched roof. The dormers have also been reduced in size and the hipped ends omitted. The revised design represents a dwelling of traditional proportions, scale and form, which, whilst larger than the existing single storey dwelling it replaces would be in keeping with its surroundings, in accordance with Policy DP1 which provides that development must respect the character of the site, its context and surroundings. As new dwelling would not be out of keeping with the surrounding built form it is thus not considered the proposal would contravene the provisions of the Village Design Statement to any significant degree. The single storey dwelling to be removed does not have any significant historic merit that would warrant its retention and the rear flat roofed extension also is not particularly visually attractive.

- 16.3 The frontage hedge is now shown to be retained rather than removed and replaced by car parking. This will retain this attractive feature and preserve the character of the street scene in this respect too.
- 16.4 In terms of layout, the site is considered to be large enough to accommodate a dwelling of this footprint without appearing cramped or representing an overdevelopment of the site. There are sufficient gaps between the dwelling and both side boundaries and the positioning of the dwelling also respects the building line in the street, being a bit further forward than the neighbouring dwelling to the West but slightly further back than the dwelling to the East in a varied street scene.

Impact upon neighbouring residential amenity

- 16.5 It is considered that the proposed dwelling is in such a location to avoid appearing overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.6 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.7 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. The rear windows would face towards the rear garden of the application site rather than directly facing the neighbouring dwelling and garden area. The side facing landing windows can be obscure glazed to a height of 1.7 m above floor level in order to avoid overlooking from these windows.
- 16.8 It is not considered that there would be a significant impact upon neighbouring amenity from noise and disturbance from the manoeuvring of cars that would use the 4 car parking spaces on site. Whilst these spaces are close to the neighbouring boundaries there is already provision for two car parking spaces in this location anyway. The additional spaces and additional associated movements are not considered to represent an intensity of use that could justify a refusal in this respect.

Highway Safety and Parking

- 16.9 The revision to the scheme involving locating the parking spaces to the rear of the property rather than at the front of the site have overcome the highway authority objections to the scheme. This revised layout avoids having to reverse onto Chapel Road close to a junction and is therefore not considered the scheme would be detrimental to highway safety. There is now ample space for vehicles to reverse into Spring Lane and to then enter Chapel Road in forward gear. The parking spaces are also of sufficient size to meet the highway standards of 5.5m by 2.9 m each, in accordance with Policy DP19 and the adopted car parking standards. The highway arrangements are now considered to be safe which accords with Policy DP1 which provides that development must create a safe environment.

- 16.10 The fact that permission may be granted by the Local Planning Authority for the use of Spring Lane for potentially additional cars does not overrule any private property rights or covenants in respect of the use of this lane.

Private Amenity Space Provision

- 16.11 The proposal shows the provision of approximately 70m² of private amenity space for each dwelling. This accords with the provisions of Policy DP16 which states that for two-bedroom houses such as these properties, a minimum of 50m² of private amenity space should be provided.

Other Matters

- 16.12 There are no trees or vegetation of significance that would be affected by the proposal. The low frontage hedge would now be retained.
- 16.13 There are no archaeological implications so the proposal would not conflict with Policy DP14 which aims to protect features of archaeological interest.
- 16.14 It is not considered there would be a detrimental impact upon wildlife on the site. The wildlife mitigation (RAMS) payment has now been paid as the proposal involves the creation of an additional dwelling. Accordingly, it is not considered the proposal would contravene Policy DP21 which aims to conserve or enhance biodiversity.

17.0 Conclusion

- 17.1 To summarise, it is considered that that the revised design, scale, form and layout of the dwellings would be in keeping with the character of the street scene and surroundings and would not represent an overdevelopment of the site. It is not considered there would be any significant impact upon neighbouring residential amenity owing to the positioning and scale of the dwelling and proximity to neighbouring property. The revised scheme has now overcome the original objections from the Highway Authority and would not be detrimental to highway safety. There would be adequate parking provision for each dwelling on site and adequate private amenity space provision in accordance with Local Plan Policy.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Development in Accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: P01e & P03b received 9/5/19, P02 received 21/2/19.

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

3. ZBC – Materials To Be Agreed

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

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

4. Non Standard Condition – Parking Provision

All off street car parking shall be provided as shown on drawing P01E prior to occupation of the new dwellings and in precise accord with the details contained within the current Parking Standards and shall be maintained free from obstruction and retained thereafter.

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

5. Non Standard Condition - Construction Management Plan

No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

6. ZFQ- Tree and Natural Feature Protection

No works shall take place until the front and side boundary hedging has 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 on the site.

7. ZDF- Removal of PD Obscure Glazing

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the 1st floor landing windows in the side elevations shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity (1.7 m above floor level) before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

8. ZDC - Removal of PD for All Residential Extensions & Outbuildings

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

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

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application

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for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. Non Standard Highway Informative

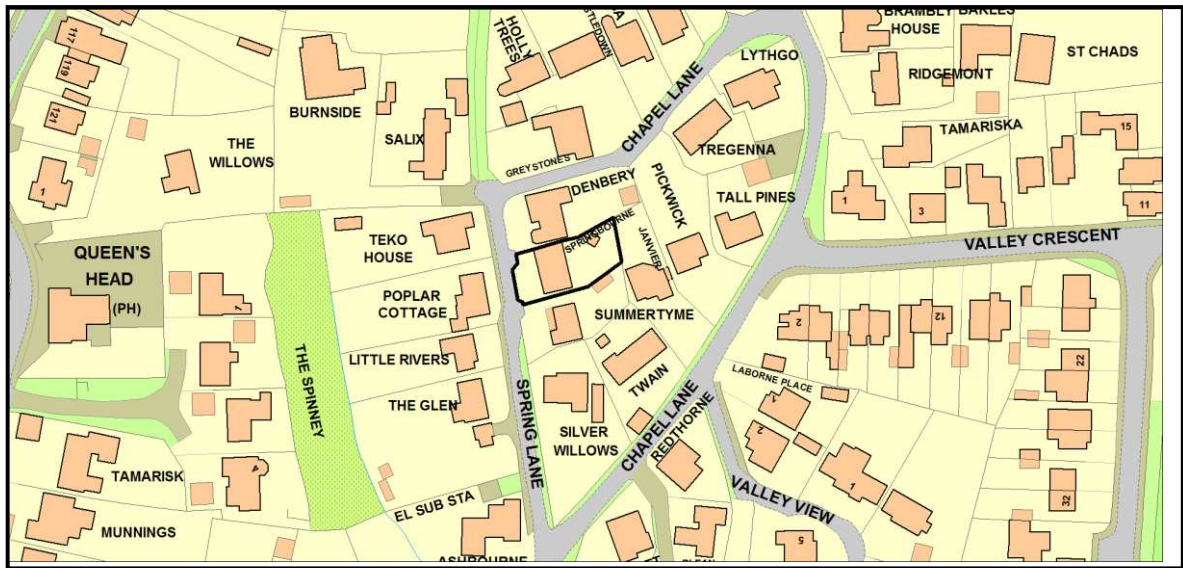
All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

4. Non-Standard Informative

This permission does not grant permission for the erection of sheds as shown on the layout plan which are deemed to be shown as for illustrative purposes only and no elevations are shown.



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Item No: 7.5

Application: 190690

Applicant: Mr Richard Brett

Agent: Not Applicable

Proposal: Ground floor extension and first floor addition to existing bungalow.

Location: Springbourne, Spring Lane, West Bergholt, CO6 3HJ

Ward: Lexden and Braiswick

Officer: Sean Tofts

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application has been called-in by Councillor Lewis Barber due to representations received from objectors resident in the immediate vicinity.

2.0 Synopsis

- 2.1 The key issues for consideration are the contextual appropriateness of the development, in terms of scale and mass and the potential impact on neighbouring properties and upon the street scene.

- 2.2 The application is recommended for approval.

3.0 Site Description and Context

- 3.1 Springbourne is a detached bungalow located on Spring Lane, West Bergholt. Though all the properties along this road are detached, but there is a noticeable variation in the character of dwellings in many respects including the style, scale and height of properties. The lane has no overarching coherent style or strict standard rhythm although there is a prevailing building line fronting the lane. It is appreciated that the lane has evolved over time due to the incremental additions and amendments to the dwellings in the vicinity including infill development. The existing dwelling is located on land slightly raised above the level of those to adjacent to the property on the opposite side of the lane (Poplar Cottage), on slightly lower ground than that to their immediate neighbours to the north (Denbery) and are raised in relation to the dwelling to the south (Summertyme). The property is set back from the lane along the same established building line as the immediate neighbours and the rear garden is a relatively generous size with a high level of privacy is afforded to the host property and neighbours. Many of the gardens adjacent to the property benefit from mature and well-established planting.

4.0 Description of the Proposal

- 4.1 The scheme seeks to convert the existing bungalow from a single storey dwelling to a two-storey dwelling. The proposal incorporates features including lowered eave heights and dormers/gables typical of chalet bungalows. The additions to the dwelling do not increase the footprint of the dwelling on the ground however the proposal does include an increase in ridge height and massing.

5.0 Land Use Allocation

- 5.1 The land is in existing residential use and will remain so.

6.0 Relevant Planning History

- 6.1 There is no relevant planning history for the property however the dwelling to the North, Denbery, has been redeveloped to a similar mass and scale. Opposite this the new relatively new infill plot, Teko House, is also of a similar character to the proposal in terms of style, scale and mass.

7.0 Principal Policies

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

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. In Particular, the following policy is of direct relevance to this application:

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh

the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards

8.0 Consultations

- 8.1 The Archaeological Advisor commented that no material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

9.0 Parish Council Response

- 9.1 The West Bergholt Parish Council object and stated that

“The Parish Council is not opposed to an extension to this dwelling in principle, however, the proposal is not in keeping with the surrounding buildings. The application is contrary to the Village Design Statement adopted by CBC listed below:

Policy DG3 General Design: all proposed new build and extensions must enhance the area and make a positive architectural contribution.

DG7 Buildings must be in harmony with the surroundings in respect of materials, colour, texture, proportion and scale.

DG8 Planning applications must show contextually the impact of their proposals on adjacent building by means of adequately detailed plans with accurate street elevations.

DG10 Any development should reflect the character of the surrounding area and protect the amenity of neighbours. It should reinforce the uniformity of the street by reflecting the scale, mass, height, form, materials, fenestration and architectural details of its neighbours.

Policy DG37 (lack of a street scape), providing no information on the visual impact it will have on neighbouring properties and the greater affect on the street scene.

DG13 (New buildings should respect the height of buildings immediately adjacent), being too tall next to the neighbouring bungalow and the existing extension of the house to the left. The roof pitch is significantly steeper.

The neighbouring bungalow garden wraps around the back of Springbourne, and will now be overlooked by the first floor of the proposed extension.

This area is identified in the emerging Regulation 16 West Bergholt Neighbourhood Plan Map PP6 identified Spring Lane as part of a Character Area and therefore the loss of the uniqueness of the properties in this area which contribute to its particular character should be resisted.

The PC would support a proposal with a reduce ridge height and more in keeping with the adjacent properties and with mitigating measures to address the overlooking.”

10.0 Representations from Notified Parties

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

- The scale, mass and bulk of the proposal is not acceptable and too large on considering the impact upon neighbouring properties and the street scene;
- The inclusion of the second floor will impact on the privacy of neighbouring properties;
- The sewage system will be under further pressure;
- The telegraph pole will need to be moved and this will impact on neighbours;
- The increase roof area will impact on the streets ability to contend with removing water suitably in times of heavy downpours;
- There has already been a lot of development within the road – this further development will further exacerbate this;
- Larger shadows will be cast on the neighbouring gardens;
- Issues of loss of light and privacy to neighbouring properties;
- Several issues that are not general planning considerations were raised such as the potential impact on the structural integrity of the proposed dwelling.

11.0 Parking Provision

11.1 There is no change in the quantum of parking and no additional parking need has been identified in conformity with adopted parking standards.

12.0 Accessibility

12.1 Not applicable and no issues arising.

13.0 Open Space Provisions

13.1 The rear garden area complies with adopted policies concerning private amenity space. .

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

- 16.1 The main issues in this case are:

- The Principle of Development
- Design, Layout, Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Other Matters

The Principle of Development

- 16.2 In principle, the creation of accommodation at first floor level is considered acceptable. The dwelling is a detached dwelling on a proportionately scaled plot and a further material consideration is that the existing property benefits from permitted development rights. Permitted development rights would allow for the current dwelling to potentially convert the existing loft space to create first floor accommodation; albeit in a different manner to that currently sought by this application.

Design, Layout, Scale, Height and Massing

- 16.3 The proposed alterations to the dwelling amount to a second-floor extension that will not increase the ground floor footprint of the dwelling. The material considerations pertinent to this proposal are whether the scale mass and height of the dwelling will have a materially harmful impact upon the street scene and amenity of neighbouring properties. The design, layout, scale, height and massing of the proposal in isolation are considered generally acceptable and the potential for material harm to neighbouring amenity and the street scene are dealt with in the following relevant sections of this report.

Impact on the Surrounding Area

- 16.4 The dwelling is sited along a lane of dwellings that vary in height and type (bungalows, chalet bungalows and full two storey houses in some cases). The lane is eclectic in style and there is no overriding prevailing character to the lane as would be expected in such a location where over time homes have been extended, amended and in some case developed later than other homes (There are 2 infill plots within the lane).

- 16.5 Though the proposal seeks to increase the ridgeline of the dwelling it is considered that there is no material harm caused by this in terms of the street scene. The street scene has as suggested evolved over time and some of the dwellings have benefitted from larger extensions than that sought in this case.

Impacts on Neighbouring Properties

- 16.6 One of the points highlighted within the consultation process with neighbours was the various perspectives of the impact on the amenity of surrounding properties and the amenity enjoyed from them. The proposal does include the addition of non-habitable rooms (bathrooms and bedrooms) to the first floor however the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties. There are 2 bedrooms proposed facing the front of the dwelling at first floor. However these windows will not be forward of the current building line and the location of the two current bedrooms within the dwelling. To the rear of the property there will be 2 bathrooms and a third bedroom, and it is suggested that the level of oblique overlooking into surrounding neighbouring gardens is as would reasonably be expected and is acceptable for a residential area. In summary the development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45-degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement in all instances.
- 16.7 The consultation has also raised issued in relation to loss of light. The combined plan and elevation tests (45 degrees from the centre point of the affected habitable room windows – Essex Design Guide) have not been breached. The proposal therefore satisfies the Councils adopted policy standards for assessing this issue as set out in the Essex Design Guide. The issue of loss of light to the dwelling to the south is can be given little weight when considering the orientation of the plots and siting of the dwellings relative to the sun path.
- 16.8 It is evident that the ridge height of the proposed extension to the dwelling is higher than currently in place however it is deemed to be acceptable in terms of the relationship with neighbouring properties and issues arising from the increased ridge height are mitigated by the lowered eaves. It is noted that the building is as low in height as reasonably practicable to include the accommodation sought by the applicants. It is also considered that the proposal would not be overbearing on neighbouring properties.

Other Matters

- 16.9 Finally, in terms of other planning considerations (e.g. damage to trees or highway matters), the proposed development does not raise any concerns. There have been some other points raised through the consultation process such as the structural integrity of the dwelling however this is generally not a matter for planning in this case. This is a Building Control issue.

- 16.10 The points raised by the Parish Council note the schemes compliance or otherwise in relation to the Village Design Statement. Village design statements do not hold statutory weight in planning decisions and though it is noted that the emerging Neighbourhood Plan identifies the location as a character area the Council do not consider that the proposal within this application would impact negatively on the prevailing mixed character of the area. It is also appreciated that the Neighbourhood Plan can only hold limited weight until formally adopted.

17.0 Conclusion

- 17.1 To summarise, the proposed development generally accords with the Council's adopted policy requirements and though several objections have been received, the development is considered acceptable based on the merits of the scheme. No material harm has been identified in terms of the impact on the amenity of neighbouring dwellings or resultant changes in the street scene.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition(s):

1. ZAA – 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. ZBB – Materials

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

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

3 ZAM (Development to accord with approved plans)

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings 16004 REV B and 16006 REV B.

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



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Item No: 7.6

Application: 183028

Applicant: Hornchurch Construction

Agent: Michael Smith

Proposal: Creation of a four bedroom, detached house.

Location: Land at the corner of Tufnell Way and adjacent to, 188 Bergholt Road, Colchester, CO4 5AJ

Ward: Mile End

Officer: Benjy Firth

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application has been called into Planning Committee by Councillor Goss on the following basis:

The application is over development for the size of land, the area will be dangerous for traffic access due to it coming out onto a main junction and the area is used for a main route to school.

2.0 Synopsis

- 2.1 The key issues for consideration are the design of the proposal, its impact on public amenity and its impact on neighbouring amenity.
- 2.2 The application is subsequently recommended for Approval, subject to the payment of an appropriate contribution to the Essex Coast Rams scheme.

3.0 Site Description and Context

- 3.1 The site comprises a piece of relatively well-maintained vacant land on the corner of Axial Way and Tufnell Way. A Willow tree is located to the rear of the site. A PRow runs along the rear boundary (outside of the site). A substation is located beyond that.
- 3.2 In effect this site marks one side of the gateway to the New Braiswick Park recently constructed residential development. The wider area is generally residential in character with a number of turn of the century dwellings plus later infill.

4.0 Description of the Proposal

- 4.1 The application seeks permission for the construction of a two-storey detached dwelling, associated landscaping and garage.

5.0 Land Use Allocation

- 5.1 The application site is unallocated.

6.0 Relevant Planning History

- 6.1 The application site previously contained a pair of semi-detached dwellings prior to forming part of the application site for planning permission O/COL/03/1019. This permission approved the demolition of the two dwellings as part of the scheme to redevelop the former Flakt Woods site.
- 6.2 Since the completion of the Flakt Woods development application 160048 has been refused for flats at the site, this decision was appealed and the appeal was subsequently dismissed. A further application for a dwelling at the site has also subsequently been refused by the Council, application 180096.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
H1 - Housing Delivery
UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

7.4 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Managing Archaeology in Development.
Myland Parish Plan AND Myland Design Statement

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Council's Urban Design Officer made the following comments:

I have no objection to the application which is reasonably designed in response to the context and prominent corner/gateway location, and given the leftover nature of the landscaping. However I would suggest the verge is widened more neatly in line with the building line, retaining a good sense of greenery and to ensure adequately sized trees can be planted having regard to proximity to the boundary wall. I would also suggest key materials and details are conditioned consistent with the context, in accordance with the Essex Design Guide and befitting the prominent location, ensuring a good local type stock brick with handmade type qualities, slim-line 'slate', and 100mm recess to masonry openings. The tree officer should also be consulted over the proposed loss of trees.

- 8.3 The Council's Archaeological Officer made the following comments:

This proposal is located in an area of archaeological interest, defined in the Colchester Historic Environment Record (HER). There is a dwelling within the red line boundary marked on the Lexden Tithe Map, i.e. the building is mid 19th century or earlier in date. Consequently, there is high potential for encountering buried archaeological remains relating to this earlier dwelling at this location. 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 199), any permission granted should be the subject of a planning condition to record and advance

understanding of the significance of any heritage asset before it is damaged or destroyed.

- 8.4 The Council's Arboricultural Officer is in agreement with the tree report provided and is satisfied with the arboricultural content of the proposal subject to compliance with the submitted tree report.

- 8.5 The Council's Landscape Officer made the following comments:

The landscape content/aspect of the revised strategic proposals lodged on 08/04/19 would appear satisfactory. However it should be noted that currently the head of Tufnell Way is characterised by what would appear to be a deliberately designed 'gated' feature (i.e. the free standing scalloped walls either side of the junction) to the Flakt woods development, here. The application would appear to propose the removal of the eastern half of this feature, which may result, in urban design terms, in the access having a lop-sided feel. It is recommended therefore the Urban Design Officer be consulted on the proposed removal of this feature.

- 8.6 Natural England identified that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

- 8.7 The Highway Authority made the following comments:

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

9.0 Parish Council Response

- 9.1 The Parish Council have stated that:

MCC would object to this application as it has done to previous applications for this site.

The proposed dwelling will disrupt light amenity to and overlooks 188 Bergholt Road.

The proposed development would impair driver vision at the Tufnell Way & Bergholt Road junction (this junction is increasingly busy and the only route to and from New Braiswick Park school).

The trees should be valued as should the site as a small but important green and welcoming entry to the estate.

The proposed development is unnecessary infill.

MCC also notes that no bat survey has been performed despite notification of their presence.

10.0 Representations from Notified Parties

10.1 The application resulted in 44 letters of objection. The full text of all the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Increased traffic generation
- Overdevelopment of the site
- Loss of green space
- Substandard access arrangements
- Design out of keeping with the character of the areas
- Detriment to neighbouring amenity
- Lack of parking
- Highway safety
- Construction traffic
- Impact on wildlife

11.0 Parking Provision

11.1 The proposal includes the provision of policy compliant parking in accordance with adopted standards.

12.0 Accessibility

12.1 The proposed dwelling is relatively accessible and could accommodate adaptation to increase its accessibility were this to be required by future occupants.

13.0 Open Space Provisions

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

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle

- 16.1 The application site is located within the settlement limits in a predominantly residential area. On this basis the proposed development is acceptable in principle. Notwithstanding the residents' concerns, the space does not enjoy any protection as public or private open space so although many residents would like it to stay as such there is no policy reason to refuse this scheme on that basis.

Design

- 16.2 During the previous appeal relating to the development of the site, the Planning Inspector stated:

The two storey Block A would face Bergholt Road. The front of the block would follow the local building line and its scale and form would be generally consistent with the adjoining two storey semi-detached pairs and short terraces.

The footprint of the proposed building has been reduced in contrast to the previous proposals, though its scale and form remain largely the same.

- 16.3 The footprint and height of the proposed building are not dissimilar to existing buildings surrounding the application site. The size and scale of the proposed dwelling is therefore considered reflective of existing buildings in the vicinity of the application site. It is noted that a large number of dwellings within the street scene are semi-detached or terraced, however there are examples of larger detached dwellings and as such the proposal is not considered out of keeping with the existing character of the area. Additionally, it is held that the general architectural approach adopted reflects the character of the area and is acceptable.
- 16.4 Similarly the proposed double garage adopts a traditional architectural approach, appears well proportioned and is of a size befitting of its purpose and setting.
- 16.5 The layout of the proposed development has been altered since the previous application was refused, addressing two of the reasons for refusal. Firstly, the proposed garage has not only been reduced in size but has also been set back within the plot, thus reducing its prominence within the street scene to an acceptable level. Secondly the footprint of the proposed dwelling has been reduced, allowing the dwelling to be set back from the site's boundaries.

- 16.6 During the previous appeal relating to the development of the site, the Planning Inspector stated:

It is notable that, at junctions giving access to significant areas of later residential development, such as Fernlea and Enid Way, the adjoining buildings are set back to provide more open, well planted layouts. These arrangements provide attractive, green relief to the tighter grain of development elsewhere along Bergholt Road and contribute positively to local distinctiveness.

It is considered that the proposed site layout delivers a sufficient level of space between the boundary and the building, to provide adequate separation. Enabling the proposal to maintain the junction's open and spacious character and reflect the local distinctiveness previously identified by the Planning Inspectorate.

- 16.7 It is noted that the level of green relief provided will not be identical to that on the other side of the junction, however the layout of the pavement also differs on the other side of the junction. It should also be noted that the Planning Inspector previously stated that *it would not necessarily be appropriate to seek a high degree of balance between the two sides of the road.*

- 16.8 In light of the above, and having consideration to previous comments made by the Planning Inspectorate, the design and layout of the proposed development are considered acceptable. Additionally, by virtue of its design and layout the proposal would not cause significant harm to the amenity of the surrounding area. The specific details of materials will be agreed by condition to ensure that an optimal design quality is achieved.

Residential Amenity

- 16.9 The application site, by virtue of its position adjacent to the junction, is isolated from neighbouring residential land uses, with the exception of number 188 Bergholt Road.

- 16.10 With regard to the neighbor at 188 Bergholt Road and in light of the Inspectors conclusions on the matter, the dwelling itself would not be materially oppressive to the neighbour at 188 Bergholt Road. As before it would however result in an unpleasant feeling of being overlooking from the new side facing windows. The windows in question are all proposed to be fixed shut and obscure glazed but this will not prevent the 'feeling' of being overlooked. When standing in the well-used part of their garden nearest to the rear elevation the residents will see the windows in the flank facing down towards them in an unacceptably unpleasant manner.

- 16.11 This issue was also dealt with by the Inspector and he did not consider side facing windows of this nature to be materially harmful in terms of overlooking or a perception of such. On that basis it is not held to warrant a refusal.

- 16.12 The scheme has one significant difference in terms of residential amenity when compared to the previously refused scheme, that being the removal of the raised terrace to the rear of the property. This adequately deals with this aspect of the previous refusal reason and removes any issue of overlooking from the rear garden.

Private Amenity Space

- 16.13 The proposal makes provision for adequate and policy compliant private amenity space in line with DP16.

Landscaping & Trees

- 16.14 The Council's Tree Officer is satisfied with the Tree Report, in that the trees proposed to be removed are not of significance and that those to be retained will not be affected by the proposed development and can be protected during its construction.
- 16.15 The Council's Landscape Officer is satisfied with the submitted landscaping scheme, in that it will ensure the proposal makes a positive contribution to the amenity of the local area.

Highway Safety and Parking Provisions

- 16.16 The proposal contains adequate and policy compliant parking provision. It is also considered that the proposed garage would suffice in provided cycle storage facilities.
- 16.17 The Highways Authority are satisfied with the proposed access arrangements. The access is a sufficient distance from the junction and adequate site splays are provided.
- 16.18 The impact of the proposal on visibility at the junction has also been raised as an issue. When this junction was originally granted permission as part of the wider Flakt Woods redevelopment site splays of 90 x 2.4m were required. The proposed development would not impinge on said site splay.

Other Matters

- 16.19 The applicant has agreed to make an appropriate contribution to the Essex Coast RAMS scheme, subject to the application gaining a positive outcome at Planning Committee. It is considered that said payment would provide appropriate mitigation for the impact of recreational disturbance caused on European Sites by the proposed development.
- 16.20 The site has been surveyed for bats and the subsequent report recommends no further action is required.

17.0 Conclusion

- 17.1 To summarise, the proposed development is acceptable in principle, achieves an appropriate standard of design and would not significant harm to public or residential amenity has been identified. As a result, the proposal complies with adopted policy and is considered acceptable.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the agreed Essex Coast RAMS contribution and following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM - Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers OC071-PL-01 Rev.A, OC071-OP5-PL-02 Rev. I, OC071-SE-01 Rev. C, OC071-HT-02 Rev. A, OC071-DG-01 Rev. A, JCN/1537/19 and Arboricultural Impact Assessment dated 26th February 2019.

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

3. ZBB - 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 Non Standard Condition - Archeology

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.

5. Non Standard Condition - Construction Method Statement

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

6. Non Standard Condition - 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.

7. Non Standard Condition - Landscape Plan

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

relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

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

8. Non Standard Condition - Obscure Glazed & Non-Opening

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor windows in east elevation shall be non-opening below 1.7m from finished floor level and glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

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

9. Non Standard Condition - Provision of Access

Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

10. Non Standard Condition - Unbound Materials

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

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

11. Non Standard Condition - Visibility Splays

Prior to the proposed access being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be retained and maintained free from obstruction clear to ground thereafter. These splays must not form part of the vehicular surface of the access.

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

12. Non Standard Condition - Car Parking

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered OC071-OP5-PL-02 REV I. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

13. Non Standard Condition - Removal of PD for All Residential Extensions & Outbuildings

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

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

19.0 Informatives

19.1 The following informatives are also recommended:

1. 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. Informative on Conditions Stating Prior to Commencement/Occupation

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

3. Highways Informative

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

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 withstand 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 scrapyards or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) "single household" shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a "house in multiple occupation" does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

