



**Application No:** 160224

**Location:** Gas Rec Football Club, Colchester Sports And Social Club, Bromley Road, Colchester, CO4 3JF

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

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**7.2 Case Officer: Alistair Day**

**Due Date: 05/05/2016**

**MAJOR**

**Site:** Colchester Sports and Social Club, Bromley Road, Colchester, CO4 3JF

**Application No:** 160224

**Date Received:** 4 February 2016

**Agent:** Miss Libby Hindle, Boyers

**Applicant:** Dishland Ltd

**Development:** Erection of 12 no. dwellinghouses with associated parking and improvements to existing access.

**Ward:** St Annes

**Summary of Recommendation:** Conditional Approval subject to signing of Section 106 Agreement and subject to the Council's Arboricultural Officer not raising an objection and Sport England removing their holding objection

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

- 1.1 This application is referred to the Planning Committee because:
- Objections have been received to this development proposal; and
  - A s106 agreement is required.

## **2.0 Synopsis**

- 2.1 This report considers the merits of a proposal to develop 12 dwellings on land that is outside the settlement boundary and currently allocated as private open space. The report considers all relevant material considerations including potential conflict with the development plan and the NPPF. The report concludes that the benefits of securing 'public' access and ownership of a significant area of open space, including at least two playing pitches, outweighs the disbenefit associated with a reduction in overall open space. This is on the basis that the site is currently privately controlled and the public's ability to access and use it can at present be restricted by the owners' discretion.

## **3.0 Site Description and Context**

- 3.1 The application site is located in the north east corner of the Bromley Road Sports Ground. The application site measures some 0.54 ha and consists of a practice pitch, areas of hard standing with rough grass land, and trees.

- 3.2 The main body of the Bromley Road Sports Ground (i.e. excluding the application site) covers an area of approximately 3.74 hectares. This part of the sport ground provides two full-size football pitches, a pavilion with changing facilities, and areas of rough grass; shelter belt planting surrounds the playing pitches. The Bromley Road Sports Ground is served by an existing access on Bromley Road. A PRoW (a restricted by-way, in this case numbered 127\_243) runs up the existing site access and swings north-westwards behind properties that front onto Parsons Heath and Bromley Road; effectively providing a short-cut behind the houses that hug the bend formed by these roads.
- 3.3 A dental surgery shares the same access from Bromley Road with the existing sports facilities on the application site. Welsh Wood forms part of the north east boundary to the site with existing residential uses to the north-west and south east. Bromley Road Neighbourhood Centre is located to the south west of the site and contains small-scale retail and commercial uses. Further residential dwellings are located beyond. Roach Vale Primary School is located to the north west of the site and Hazelmere County Infant School and nursery is to the south.

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

- 4.1 The application seeks full planning permission for the erection of 12 no. dwelling houses on a practice pitch at the sports ground site. It is proposed that the existing pavilion, football pitches and the rest of the open space will be retained and ownership transferred to Colchester Borough Council as a means of securing the long term provision of sport facilities at this site. This means that what was a 'private' open space will (if permission is granted) now become an area of 'public' open space accessible to the wider community.
- 4.2 The existing access from Bromley Road will serve the 12no. dwelling houses and will continue to serve both the dental surgery and the sports ground. The development includes the extension and widening of this existing access to provide a 5.8m wide access for both the proposed development and existing sports ground.

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

- 5.1 Private Open Space

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

- 6.1 140364 Outline for demolition of 2 bungalows and provision of 50 dwellings to include affordable housing Refused. Appeal dismissed
- 6.2 130036 Change of use of the remaining part of the social club to a dental surgery – Allowed
- 6.3 101540 Change the use of part of the former social club (which abuts the application site) to a dental surgery – Allowed
- 6.4 O/COL/04/1792 - Extension of changing rooms and provision of a Multi-Use Sports Court with associated car parking. Refused

## 7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
  - SD2 - Delivering Facilities and Infrastructure
  - SD3 - Community Facilities
  - H1 - Housing Delivery
  - H2 - Housing Density
  - H3 - Housing Diversity
  - H4 - Affordable Housing
  - UR2 - Built Design and Character
  - PR1 - Open Space
  - PR2 - People-friendly Streets
  - TA1 - Accessibility and Changing Travel Behaviour
  - TA2 - Walking and Cycling
  - TA3 - Public Transport
  - TA4 - Roads and Traffic
  - TA5 - Parking
  - ENV1 - Environment
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
- DP1 Design and Amenity
  - DP3 Planning Obligations and the Community Infrastructure Levy
  - DP4 Community Facilities
  - DP12 Dwelling Standards
  - DP15 Retention of Open Space and Indoor Sports Facilities
  - DP16 Private Amenity Space and Open Space Provision for New Residential Development
  - DP17 Accessibility and Access
  - DP19 Parking Standards
  - DP20 Flood Risk and Management of Surface Water Drainage
  - DP21 Nature Conservation and Protected Lanes
- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:
- SA H1 Housing Allocations

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

- Backland and Infill
- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- The Essex Design Guide
- External Materials in New Developments
- Affordable Housing

## 8.0 Consultations

### Spatial Planning Team response

- 8.1 This site is currently allocated as private open space and lies outside but adjacent to the Colchester settlement development boundary. There are football pitches and a sports pavilion with changing facilities on the site which are well used.
- 8.2 The Development Plan consists of the Adopted Core Strategy, Site Allocations and Development Policies DPDs. In accordance with policies SD1 (Sustainable Development Locations), H1 (Housing Delivery) and ENV1 (Environment) development within the Borough is directed to sites within existing settlement development boundaries. The Bromley Road sports ground is located outside of Colchester's settlement development boundary and therefore exceptional circumstances have to be demonstrated to justify over-riding these established planning policies.
- 8.3 The site is also allocated as private open space. Policy DP15 (Retention of Open Space and Indoor Sports Facilities) states that development of any existing or proposed public or private open space will not be supported unless it can be demonstrated that:
- alternative and improved provision will be created in a location well related to the functional requirements of the relocated use and its existing and future users;
  - the proposal would not result in the loss of an area important for its amenity or contribution to the green infrastructure network or to the character of the area in general; and
  - it achieves the aims of the Colchester Parks and Green Spaces Strategy.

All three criteria must be met for a proposal to be considered compliant with policy DP15. In this instance this would appear to be the case.

- 8.4 The proposal to retain existing football pitches is welcomed as it recognises that, at present, the sport pitches have an uncertain future because of the private nature of the ownership and usage by the football club could be withdrawn at any time. The proposed development has been promoted as a means of securing the long-term provision of sport facilities at this site. Whilst the application, if approved, would result in the loss of the existing training pitch, the application indicates the potential to provide additional pitches. This needs to be demonstrated to be feasible.
- 8.5 The application includes the proposal to transfer the existing pavilion, football pitches and open space to Colchester Borough Council. This will enable their future to be secured.
- 8.6 The Townscape Character Assessment (TCA) comments that this character area contains interconnected areas of green space and the land use, culture and vitality of the character area is predominantly a quiet residential suburb overlooking a swathe of greenspace at the centre. The site and its connections to adjacent areas of open space, particularly Welsh Wood, is an important part of the character of the area. The proposed development retains the majority of site as open space and secures the character described above.
- 8.8 Two relevant aims of the Colchester Parks and Green Spaces Strategy are to improve the quality of existing parks and green spaces and engage with the local community and Parish Councils on proposals which change the use of or significantly alter the appearance of parks and open spaces. As explained above this proposal will secure the use of the playing fields and open space and has the support of local Ward Councillors and therefore accords with the Strategy.
- 8.9 The area allocated for the pavilion extension is welcomed as it is recognised that the existing facilities are spartan and restrict opportunities for increased community participation. It is considered that there is a need for additional community sports facilities in the area as demonstrated by the demands on existing facilities.

## **Conclusion**

- 8.10 The Bromley Road Sports Ground is located outside of Colchester's settlement development boundary and therefore exceptional circumstances have to be demonstrated to justify over-riding established planning policies. Although the Council currently has more than a 5 year supply of housing sites, a new local plan is under production and additional sites will be required.
- 8.11 A previous larger scheme on the site was refused for a number of reasons which this application seeks to address. The National Planning Policy Framework contains a presumption in favour of sustainable development and seeks to boost housing supply. This application will deliver an additional 12 residential units to boost the housing supply. The development will have minimal impact on the character and appearance of the area with the majority of the green space being retained. It is intended to transfer ownership of the land and pavilion to the Council which will ensure their future use for the community. This should be secured through a planning obligation.

- 8.12 On balance therefore the retention of the open space and sport/community use is considered to outweigh the fact that the site is just outside the settlement boundary. It is therefore recommended that the application be approved subject to the agreement to transfer the land and building, demonstration that two pitches can be accommodated, and that adequate access rights exist.

Community Development Manager

- 8.13 The proposal to retain existing football pitches is welcomed as it recognises that the current users have an established use with the opportunity to develop youth and women's football. The existing sport pitches have an uncertain future in respect of the football club's current insecure use arrangements and the proposed development has been promoted as a means of securing the long-term provision of sport facilities at this site. The proposals include the relocation of the 2 existing adult pitches as part of the development which is noted and welcomed as there is no additional funding being proposed associated with the development to fund any landscaping or pitch enhancement works.
- 8.14 The indication of additional practice pitches is noted. Whilst the loss of the existing training pitch is regrettable the application indicates the potential to provide additional pitches. Practice pitches are shown on land that has not been in sports use for some time. This area of land may require significant modification to be able to deliver those facilities and these facilities should therefore be considered provisional.
- 8.15 An area for car parking by pitch users is identified which again is welcomed as usage of the pitches will generate some traffic movements. Car park capacity of 42 spaces will be adequate for 2 pitches in use at one time assuming it is used by players only and not by other opportunist car owners. Construction of the car park does not form part of the application and will be subject to discussions between the Council and site users.
- 8.16 The area allocated for the pavilion extension is welcomed as it is recognised that the existing facilities are sparse and limit the opportunity for increased community participation. It is considered that there is a need for additional community facilities in the area as demonstrated by the demands on existing facilities.

Highway Authority

- 8.17 The Highway Authority has advised that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirements:

Prior to commencement of the development a construction management plan, to include but shall not be limited to details of 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

No occupation of the development shall take place until improvements to the site access off Bromley Road as shown in principle on planning application drawing number C82858-SK-212 have been provided or completed. Improvements shall include delineation of the Public Right of Way (details shall be agreed with the Local Planning Authority prior to commencement of the development)

#### Landscape Officer

8.18 The Council's Landscape Planning Officer rightly points out that Welsh Wood and the rural landscape beyond falls within Character Area 6 of the Colchester Borough Landscape Character Assessment where there is a strategic objective to conserve and enhance the landscape within this character area. He comments that if the planning view is that the proposed playing pitches are acceptable in this regard then a series of technical requirements will need to be met. He also points out that the wider playing fields form a key element in the local landscape contributing to the green link to Welsh Wood. He also suggests that some of the adjacent new residential units be redesigned to extend passive surveillance of the playing field and that a line of new trees be planted between the adjacent new dwellings and the closest pitch to provide enclosure to the open space. That said, he believes that if planning permission is granted the landscape proposals can be agreed in principal at this stage and finessed through the submission of additional detail by condition.

8.19 *Officer comment: Whilst the Landscape Planning Officer's comments are noted in respect of the quality of the existing landscape hereabouts, the proposal is not considered to harm that character because the nature and character of the space closest to Welsh Wood will not materially alter even with the extension of the pitch area. Sufficient land will exist between the most north-eastern pitch and the belt of existing trees on the site boundary for additional planting at a later date if this proves desirable. Whilst it may be possible to re-orientate the proposed dwelling to plots 5 & 6 by turning them through 190 degrees this may result in a discordant appearance. It would be possible to add additional windows at upper levels to enhance surveillance and this would certainly be true towards the proposed car park. Having properties facing onto the playing fields will bring its own amenity issues in so far as it is desirable to provide suitable noise attenuation along the boundary and this would probably be best served by a 2m high wall. It would not be particularly desirable to have the fronts of buildings close to such a wall whereas the current orientation allows such walls to frame rear gardens rather than windows serving habitable rooms.*

#### Tree Officer

8.20 The Tree Officer has advised that the Tree Report needs to be updated to include all trees affected by the proposed development.

### Environmental Protection

8.21 No objection is raised but two conditions are suggested in the event of planning permission being granted:-

- Limits to Hours of Work
- Limits to Hours of Construction Deliveries/Worker Traffic
- NOTE: Demolition and Construction

*Officer comment: These are considered appropriate in view of the close proximity of existing residential premises in order to safeguard reasonable amenity through the avoidance of disturbance during unsocial times.*

### Contamination

8.22 The submitted report is the same report as that submitted for development proposals which have now been superseded (140364). However, based on the information provided in the 2013 report, it would appear that any contamination present would not preclude development and that the updated 'Phase 1' risk assessment, intrusive investigations and (where necessary) remediation and validation could be dealt with by way of condition. Consequently, should permission be granted for this development, Environmental Protection would recommend inclusion of the model contamination conditions. Environmental Protection note that proposals involves the demolition of buildings and recommend that an appropriate asbestos survey be undertaken and acted upon where necessary.

*Officer comment: The suggested conditions are considered reasonable and appropriate.*

### Natural England (N.E.)

8.23 N.E. formally states that it "has no comments to make" on the basis that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

### Anglian Water

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

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

8.26 The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable.

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

#### Sports England

8.27 Sport England supports the principle of this application but there is inadequate compensation for the loss of a mini pitch and a lack of information to demonstrate secured and deliverable adult pitch relocation meaning the application as currently presented does not meet NPPF Par. 74 or our policy exception E4. Sport England therefore raises a **holding objection** to this application

8.28 In Sport England's opinion the losses and gains are as follows:

- Loss of a mini pitch for which there is no compensation
- Loss of part of a full size football pitch for which there is no secure compensation. This is proposed to be addressed through the relocation of the two large football pitches further up the site. No information has been provided as to whether the scrub land at the north east end of the site is suitable for pitch provision or what works are required to construct the re-positioned pitches or indeed who is responsible for under taking this work and when it will be done?
- There might be space left for car parking, a clubhouse extension and provision of mini pitches but this space already exists and no means of delivery is being provided through the scheme.
- The residual playing field site will be transferred to the Council

8.29 It would appear therefore that no secured deliverable compensation for the loss of playing fields as a direct result of the planning application, other than transferring the remaining site to the Borough Council? At pre-application stage Sport England advised that compensation for the loss of the mini pitch and secured informed delivery of adult pitch relocation would be a necessary pre-requisite of any housing scheme to demonstrate that the capacity of the site for pitch provision would not be reduced despite the loss in area. This does not appear to be part of the scheme. In addition housing will be located closer to the football pitches and there is an increased risk of ball damage/noise nuisance which needs to be addressed in term of physical design/ball fencing etc.

8.30 Whilst the transfer of the site to the Council is very welcome, as it secures access to the site for the club, the delivery of necessary site improvements will be left for the Council to fund/secure.

8.31 Whilst Sport England could support the principle of the scheme as it offers potential to secure the site for community sport and activities, it is not satisfied that there are sufficient measures proposed and secured through the application to address the loss of playing field to be compliant with NPPF Par 74 and our policy to protect playing field (specifically Exception E4). We therefore strongly recommend the following elements are either addressed prior to the application being determined or the proposed conditions/S106 clauses are included in any planning permission and associated S106 agreement:

- Compensation for the loss of the mini pitch – either through the direct provision of a mini pitch on site (as illustrated on the submitted plans) or through a contribution of £20,000 to the Council towards the upgrading of the site.
- A grounds assessment is undertaken to establish if and what measures need to be undertaken to ensure the two full size pitches can and will be re-positioned, will be fit for purpose and delivered prior to the commencement of development (with the aim of providing continuity of access – works would need to be undertaken out of season and temporary pitches provided for the club(s) whilst pitches were under construction/maturing.
- Provision of ball protection measures in the design and layout to ensure residential units are adequately protected and the use of the playing field for sport will not be constrained by potential nuisance to adjacent residential use.

In coming to this view Sport England has consulted the Football Association

**Officer comment:** *The scheme has been kept to the minimum number of units to enable the land transfer of the land to the Council only. The landowner will be responsible for funding the repositioning the two adult football pitches. If compensation is required for the mini-pitch additional housing will be required and this is likely to have implications for retaining the two adult pitches. Other comments raised by Sport England are set out in the report.*

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

## **9.0 Parish Council Response**

9.1 N/A

## **10.0 Representations**

10.1 The objections to this application can be summarised as follows:

- The site is outside the settlement boundary and the area is designated as open space and recreational use
- The applicant states that the housing would be sited on land that is underused and lies partly vacant; this area could be used for other recreational use. The proposed housing would mean that the land will be lost for its intended purpose. The playing fields should be protected by a Deed of Dedication should the application be approved. There will need to be significant investment for maintenance of the land

and the building; at some point in the future the Council may be under pressure to sell the land.

- The area is already built-up enough
- Access to the site is poor. There are problems with traffic congestion and parking at school opening and closing times; these problems will be exasperated by this development.
- The development will result in an increase in traffic
- The access road is a restricted byway which is a Public Right of Way. No mention of this PRow is made by the applicant. No opportunities to provide better facilities have been sought by the applicant. No links to Byway 243 or FP 232 have been sought by the applicant or CBC. This application conflicts with Para 75 of the NPPF.
- The development will devalue property prices.
- The properties have windows overlooking the rear of existing houses and their back garden. The design appears to put the rear elevations of these new properties within 5-7 metres of the boundary of 35 Bromley Road.
- There will also be a loss of natural habitat and stop the movement of wildlife.

## 10.2 General Comment

- The trees need urgent work and this should be undertaken as a part of any planning approval

## 10.3 Representations of Support can be summarised as follows:

- This application has a chance of ensuring the majority of this land will stay as usable space for the community. If this application fails, there is a good chance that this currently privately owned land will be locked up and left to go wild with the public having no access at all.
- This proposal will allow the opportunity to extend the current facility – i.e. a new club house, car park and training facility (subject grants etc.)
- The sport field and club has gone from a vibrant sports club to one that is far less used; in more recent times the land has been occupied by travellers who have left rubbish and waste; the proposal will safeguard against this.
- This looks like a nice small development which would allow the football club to remain using it on council owned land.
- 12 houses will not have much effect on the surrounding area

### Cllr B Cook

- 10.4 My only comment is to wonder if there will be level ground for the 2nd pitch to be played on as the ground slopes considerably in that area? The applicant has moved the pitches back on the plan a considerable distance to allow room for the 12 houses to be built.

### Cllr Mike Hogg has made the following comments for and on behalf of Helen Chuah & Barrie Cook JP

- 10.5 The submission of this application is the culmination of what has been a long and tortuous journey over many years, over that time it has always been our remit to keep the big picture in mind to bring about maximum community benefit.

- 10.6 To this end we have consulted, listen to and met with all parties involved in the future of the Gas Rec. Consultation with St Anne's residents on the previous application for 50 dwellings resulted in 82 percent against allowing permission. The application was successfully dismissed.
- 10.7 We now find ourselves having to make a judgment on what will be to the long term benefit to the St Anne's residents. To this end we have concluded that the application should be allowed, even though there are objections personal to those individuals submitting them which we acknowledge and understand.
- 10.8 The securing of the land into the Council's ownership and protecting the open space against future development is paramount. With the planning permission comes security of tenure for the football club and its members bringing with it stability and investment not available at the present time. With CBC as landlord with a lease arrangement in place the club will be eligible for funding to provide a range of broadly based community activities across the age spectrum.
- 10.9 The continuing vandalism and occupation of the site by the traveling community has taken its toll over many years both in practical and financial terms, this will cease with access being permanently denied by a secure site.
- 10.10 The entrance on to the site from Bromley Road across an ancient highway, with numerous rights of way has made it a difficult access to both repair and maintain, the developer in carrying out the work to bring it up to an acceptable standard would be bringing about much needed improvements .
- 10.11 We believe that the application should be supported, provided that all necessary legal requirements on transfer of the land to CBC are met and the submitted application meets with the planning regulations and the application is to the satisfaction and requirements of Sport England to provide adequate pitch facilities so as to make it a viable facility for The club and wider community.

Cllr Gamble

- 10.12 Along with Cllr Paul Smith I represent the other adjacent ward of St John's. I have been involved in a number of meetings relating to this site and I concur with the St. Anne's Councillors that providing the ownership of the land is transferred to CBC by legal agreement, and subject to the agreement of Sport England, that approval of this application is the best opportunity of securing the future of the football club, and also protecting the long-term interests of surrounding residents.
- 10.13 It would be my view that approval of this application would not have any significant impact on those residents who have enjoyed rights on to the adjacent Ancient Highway, and would continue to enjoy such rights, and the pedestrians who traverse it. This is of course subject to confirmation from ECC as a statutory consultee that highway safety requirements are met.

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

## **11.0 Parking Provision**

11.1 The development comprises 12 new dwellings as follows

2x 2 bed  
4 x 3 bed  
6 x 4 bed

On this basis car parking provision necessary to meet the Council's Adopted Minimum Standard will be  $12 \times 2.25 = 27$ . The proposal includes 29 spaces (4 in laybys).

This satisfactorily meets the Council's residential standard

## **12.0 Open Space Provisions**

12.1 Within the scheme is an area of open space measuring approximately 425sq.m. drawn from an area of retained trees. Whilst this space does not represent usable/functional open space it will provide valuable 'greening' and a visual openness to the approach road all of which will enhance the character of the proposed development. The area satisfies the normal policy requirement of 10% open space/strategic landscaping. Every unit has its own garden and easy access to the adjacent large area of playing field. This borrowed amenity is acceptable in view of the fact that the development only comprises 12 units. A development of this size would not generate a need for a formal play area.

## **13.0 Air Quality**

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

## **14.0 Public Rights of Way (PRoW)**

14.1 It is noted that Mr Robert Johnstone has objected to the proposal on the basis that:-

Para 75 of the NPPF states:-

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

The access road is in fact a restricted byway which is a Public Right of Way.

No mention of this PRoW is made by the applicant, and opportunities have been sought by the applicant to improve the facility

No links to Byway 243 or FP 232 have been sought by the applicant.

This application is against the NPPF.

- 14.2 This report makes several references to restricted by-way 127\_243 and officers are aware of the Government advice contained in paragraph 75 of the NPPF.
- 14.3 It is not possible to make better connections to by-way 243 and footpath 232 through the application site because the primary school and residential properties in Roach vale effectively cut the application site off from access to FP 232. Connection to by-way 243 can be secured directly from the access to the playing field.
- 14.4 Members are advised that the application was advertised by Commercial Services as affecting PRow 127\_243 in the local paper as required and therefore it has satisfied its Statutory Duty in this regard
- 14.5 Improvement to by-way 243 may be possible as part of the works associated with accessing the site although as the image below shows the entire area between the Bromley Road.

## **15.0 Development Team and Planning Obligations**

- 15.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. The Development Team accepted that the proposal essential constituted “enabling development” and that the proposed residential development would secure the long term provision of sport provision at this site by the transfer of the club house, grass pitches and ancillary land to the Council.

## **16.0 Report**

### Principle of the Development

- 16.1 Core Strategy Policy SD1 seeks to promote sustainable development with growth directed to the most accessible and sustainable locations in accordance with the listed settlement hierarchy. Among other things, policy ENV1 seeks to protect, and where possible enhance, unallocated greenfield land outside settlement boundaries. Policy H1 directs most housing developments to the regeneration areas in Colchester Town, with other allocations made through the SADPD. The site lies outside the defined settlement development boundary for Colchester and is allocated on the Proposals Map as Private Open Space.
- 16.2 The NPPF is a significant material consideration in the determination of planning applications. Paragraph 14 states that, at the heart of the Framework, is a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay and, where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.

- 16.3 The NPPF seeks to boost significantly the supply of housing. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable sites. The Core Strategy has recently been reviewed in the light of changes to Government policy set out in the NPPF. This review was adopted in July 2014. The housing delivery policies of the development plan are up-to-date and accord with the NPPF. The Council is able to demonstrate a five year supply of housing.
- 16.4 Whilst the site is in a sustainable location the application site is located outside the development site boundary and there is no compelling reason (in terms of housing supply requirements) to justify this development. Given this, it is necessary to consider other material planning considerations that may justify this development.

#### Sport Pitches and Open Spaces

- 16.5 A football club has operated from this site for many years. It is understood that in recent years the owner of the site (Dishland) has operated from the site has allowed the football club to operate from the site without paying rent. The owner has advised that this situation is unsustainable.
- 16.6 In January 2014 a planning application was submitted by Dishland for the redevelopment of the southern part of the site for housing and the creation of a new 3G sports pitch and club house; the scheme was promoted as providing long-term security for the football club. The application was refused at appeal on the grounds that the scheme failed to satisfactorily mitigate the impact of the loss of the existing grass pitch and that there was no compelling reason for housing outside the defined settlement boundary.
- 16.7 The current application proposes a much smaller residential scheme which is located on the site of the existing training pitch and part of the southern grass pitch. The two grass football pitches will be retained (albeit repositioned). The club will be retained in its existing position. The scale of the residential development has been kept to the minimum to facilitate the retention and transfer of two full sized adult playing pitches, the changing rooms and surrounding land to the Council.
- 16.8 DPD Policy 15 states:

Policy DP15: Retention of Open Space and Indoor Sports Facilities (Revised July 2014)

Development, including change of use, of any existing or proposed public or private open space, outdoor sports ground, school playing field forming part of an educational establishment and allotments (as identified on the Proposals Map) will not be supported unless it can be demonstrated that:

- (i) Alternative and improved provision will be created in a location well related to the functional requirements of the relocated use and its existing and future users;

- (ii) The proposal would not result in the loss of an area important for its amenity or contribution to the green infrastructure network or to the character of the area in general; and
- (iii) It achieves the aims of the Colchester Parks and Green Spaces Strategy.

Development proposals resulting in a loss of indoor recreation or sporting facilities must additionally demonstrate that:

- (iv) There is an identified excess provision within the catchment of the facility and no likely shortfall is expected within the plan period; or
- (iv) Alternative and improved recreational provision will be supplied in a location well-related to the functional requirements of the relocated use and its existing and future users.

In all cases, development will not be permitted that would result in any deficiencies in public open space requirements or increase existing deficiencies in the area either at the time of the proposal or be likely to result in a shortfall within the plan period. Additionally, development that would result in the loss of any small incidental areas of open space, not specifically identified on the Proposals Map but which contribute to the character of existing residential neighbourhoods, and any registered common, heathland or village green or which contribute to green infrastructure will not be permitted.

#### 16.9 Paragraph 74 of NPPF reflects the above when it states:-

Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

#### 16.10 The applicant has been advised that it would not be acceptable to lose any part of the playing field that would result in the inability of the site to provide the minimum of two full size fit for purpose adult football pitches. The applicant explains that as a part of the current application, it is proposed to realign the two adult grass pitches some 20m further south to enable the continued provision of two football pitches at this site. The submitted information demonstrates that, in broad terms of land area, it is feasible accommodate the two pitches. A feasibility study has been submitted in support of this application which discusses further ground and level conditions.

Sport England, in consultation with the FA, has advised that in terms of the slight gradient on the each of the pitches, this does not present any issue and can help with a drainage aspects as it will provide a slight run off. The FA has however advised that the Feasibility Report does not contain much specific detail in regard to soil condition, grass coverage across the site or weed coverage. Nor does the report provide detail on the existing size of the pitches and whether they meet FA recommended pitch sizes, nor is there detail on the existing maintenance programme. The FA state that

the key factor is that both adult 11v11 pitches are retained on the site. The issues raised by the Sport England and FA have been discussed with the applicant and further feasibility works has been requested so that it is clearly demonstrated that the two adult pitches can continue to be provided at this site should the residential development proceed.

- 16.11 With regard to the smaller training pitch, the agent states that this is not used. This is a small area of playing field constrained by trees, buildings but it is big enough to provide a mini football pitch to FA sizing's. Whilst it is stated that it is out of use/overgrown, Google Earth clearly shows it has been in use within the past 5 years. Its loss would therefore lead to the loss of playing field protected by Policy DP15, NPPF Par. 74, and Sport England guidance. The case here however centres on whether this loss would be compensated by the security of tenure provided by passing the remainder of the site to the Council for ownership/management. Sports England has advised that this would essentially constitute enabling development but would not strictly accord to their policy to protect playing fields. The FA acknowledge in their comments that there is potentially the scope for the provision of additional facilities and that the provision of these is likely to fall outside the scope of this application.
- 16.12 Whilst Sport England and the FA have requested additional assurances regarding the feasibility of repositioning the two pitches, both organisations recognise that this proposal would provide long-term security in terms of the provision of sports facilities at this site and, as such, are supportive of this proposal in principle.
- 16.13 Two relevant aims of the Colchester Parks and Green Spaces Strategy are to improve the quality of existing parks and green spaces and engage with the local community and Parish Councils on proposals which change the use of or significantly alter the appearance of parks and open spaces. The area allocated for the pavilion extension is welcomed as it is recognised that the existing facilities are spartan and limit the opportunity for increased community participation. It is considered that there is a need for additional community sports facilities in the area as demonstrated by the demands on existing facilities. This application has been promoted as a means of securing the use of the playing fields and open space and has the support of local Ward Councillors (subject to appropriate safeguards). It should also be noted that the Council's Sport Strategy identifies a shortage of play pitches in this part of the Borough. If this scheme does not succeed there is the very real risk that the site will be closed and in doing so further deplete available recreational facilities in the north of the Borough.
- 16.14 With regard to the Policy requirement to maintain Green Infrastructure, the application retains the majority of the site as open space and its connections to adjacent areas (which are defined as important in the Townscape Character Assessment). Given this, it is considered that the proposal will not have a significantly adverse impact on the green infrastructure of this part of the Borough.
- 16.15 In considering the merits of this proposal, it is considered that the benefit of securing sports facilities that will be available to the public through public ownership and management will adequately offset the disadvantage of losing some of the overall area to residential development. This benefit is given further weight due to the fact that, as the land is currently private ownership, the land owner has the ability to restrict/close access to the site.

## Design

- 16.16 Core Strategy Policy UR2 and Development Plan Policy DP1 seek to promote and secure high quality design. Section 7 of the NPPF establishes the importance the Government attaches to the design of the built environment, with paragraph 58 setting out relevant criteria.
- 16.17 The application proposes courtyard style of development of 12 two storey houses that creates a potentially charming and intimate sense of place. The sense of unity is reinforced by the use of:-
- a limited palette of materials and colours (chosen from buff brick, cream render);
  - cream boarding at first floor over vehicle parking spaces between linked buildings;
  - plain tiles and slate;
  - white joinery;
  - the introduction of uniform low buff brick wall with piers and metal railings with hedging behind to frontages;
  - simple porches;
  - the introduction of string course brickwork, chimneys brick corbelled brackets at eaves; braced timber supports beneath first floor flying links; and
  - marginal sash and sash style windows.
- 16.18 It is considered prudent to control materials and architectural detailing by condition to ensure that these are delivered as expected and therefore complement the proposed composition.
- 6.19 For the reasons given above, it is considered that the design and layout of the proposed development conforms to the aforementioned development plan policies and the guidance set out in the NPPF.

## Residential Amenity

- 16.20 Development Plan Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. Part III of this policy seeks to protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity.
- 16.21 Concerns have been expressed by some local residents that the development will result in the overlooking of existing residential properties.
- 16.22 The Essex Design Guide considers that where properties are set parallel facing one another then a back-to-back distance of 25m is sufficient to protect private amenity. The Design Guide goes on to state that where the backs of houses are at more than 30 degrees to one another this separation may be reduced to 15 metres from the nearest corner. With regard to the impact on light, the Essex Design Guide notes that the Building Research Establishment's Report Site Layout Planning for Daylight and Sunlight 1991 suggests that acceptable daylight in interiors is achieved if a 25° vertical angle from a point two metres above the floor is not obstructed.

- 16.23 The existing houses in closest proximity to the proposed development are No's 27, 29 and 35 Bromley Road (properties in Salary Close are at least 40 metres from the application site so are not considered to be affected). The rear elevations of No's 27 and 29 face a side elevation of Unit 12, which does not have any first-floor windows, so privacy is preserved. The rear elevation of No. 35 Bromley Road is at a near right angle to the proposed houses, with a distance of 25 metres from the nearest corner and with intervening trees and boundary fencing, so overlooking is restricted. The rear elevations of the units that back onto the boundary with No. 35 (Units 10-12) are at least 9-15 metres from the boundary. Unit 10 is closest to the boundary, but is almost 80 metres from the rear elevation of No. 35. The design of the proposed development, in omitting first-floor windows where overlooking may occur, as well as the distances to existing properties leads to the conclusion that the proposal would not have an adverse impact on the privacy of existing residents.
- 16.24 In terms of levels of daylight, the two-storey element of Unit 12 is approximately 17 metres from the rear elevation of No. 27 Bromley Road and 14 metres from the rear elevation of No. 29. This distance enables a clear 25 degree angle between the properties to enable acceptable levels of daylight to the interior of the properties in accordance with the Essex Design Guide.
- 16.25 Concern has been raised by some local residents that the proposed development would have a detrimental impact on their local amenity, in terms of construction noise and disturbance. During construction there would be some adverse impacts. However, a planning condition requiring a Construction Management Plan (CMP), which would contain good practice measures, is proposed. It is considered that this condition would adequately protect the living condition of nearby occupiers
- 16.26 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the living conditions of the neighbouring residential properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 or Paragraph 17 of the Framework insofar as they seek to secure a good standard of amenity for all occupants of land and buildings

#### Trees, Landscape and Ecology

- 16.27 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline. Policy DP1 requires new developments to respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area. Development Plan Policy DP16 sets out requirements in respect of garden sizes and the provision of public open space. Central Government guidance on conserving the natural environment is set out in section 11 of the NPPF.
- 16.28 Detailed consideration of the landscape implications has already been provided in this report in the section on consultations. The comments from the Tree Officer are noted and an update Tree Survey and Arboricultural Assessment has been requested from the applicant.
- 16.29 Objections have been received from local residents in relation to the loss of trees and adverse impact that this will have on the movement of wildlife.

- 16.30 The submitted ecology report notes that there are no statutorily protected sites within 1km of the site and that there are two non-statutorily sites within 1km of the site: Welsh Wood and Salary Brook Local Nature Reserve. The current proposal is not considered to have an impact on the two non-statutorily sites. The submitted ecology report states the woodland features on the site boundary provides good quality habitat for bats. The report notes that Common pipistrelle, Soprano pipistrelle and Noctule bats were recorded in low numbers foraging and commuting along the woodland boundaries but that no evidence was found of bats roosting in the trees or buildings on site. The conclusions of the report are that no further survey work is required in relation to bats. The inclusion of bat boxes in the new development and consideration to bats when designing the external lighting and landscaping plans will provide improved roosting and foraging opportunities for bats locally. It is also recommended that bird boxes are provided.
- 16.31 Development Plan Policy DP16 states that new residential development should provide both private amenity space and public open space. DPP DP16 sets out a range of garden sizes which are as follows for houses:
- One or two bedroom houses – a minimum of 50m<sup>2</sup>
  - 3 bedroom houses – a minimum of 60m<sup>2</sup>
  - 4 bedroom houses – a minimum of 100m<sup>2</sup>
- 16.32 The garden sizes to all of the dwellings meet or exceed the provision of DP16. With regard to public open space, Policy DP 16 states that open space provision will depend on the location of the proposal but as a guideline, at least 10% of the gross site area should be provided as useable open space. The application, if approved, will secure the transfer of the majority of the land to the Council for recreational use.
- 16.33 Based on the submitted evidence it is considered that the design and layout of the proposed development would respect and enhance natural feature that contribute to the character of the site. The application is therefore considered to accord with the requirement of Policy DP1, DP14, ENV1 and the NPPF.

#### Transport and Accessibility

- 16.34 Core Strategy Policy TA1-TA4 seeks to improve accessibility and change travel behaviour. Development Plan Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access. Paragraphs 29 to 41 of the NPPF provide guidance on transportation matters
- 16.35 Vehicular access is currently taken from Bromley Road and this will remain the point of access. The access will be upgraded to include a 5.8m wide shared access road. The access road will reduce to 5.5m in width within the site. The Transport Statement confirms that current arrangement can accommodate refuse and fire vehicles.
- 16.36 The concerns expressed by local residents regarding the access and traffic congestion particularly at school opening and closing times are appreciated. The local Highway Authority has not raised an objection to the proposal subject to conditions requiring improvements to the site access from Bromley Road (as well as a construction management plan) and are content that the proposal will not create an unacceptable impact in terms of highway safety or capacity.

- 16.37 The NPPF and local planning policies make clear that travel plans are an important tool in the delivery of sustainable transport objectives. To help encourage modes of transport other than the private car, it is proposed that Residential Travel Information Packs are issued to all new residents. This is to be secured by condition.
- 16.38 For the reasons given above, the application is considered to accord with the aforementioned local plan policies and government guidance.

#### Parking

- 16.39 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Development plan policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009.
- 16.40 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided. In addition to this provision visitor parking at a ratio of 0.25 spaces per unit is required. In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling to be provided.
- 16.41 The proposed development will exceed the minimum requirement for car parking. Each dwelling will have at least two spaces and where garages are provided as parking, the internal width will meet the minimum internal dimensions of 7.0m X 3.0m. Furthermore, visitor parking will also exceed the minimum requirement of 0.25 spaces per dwelling and provide 4 spaces.
- 16.42 The proposed parking provision is considered to accord with the requirements of Policy DP19 and the adopted parking standards.

#### Drainage & Floodrisk

- 16.43 Core Strategy policy ENV1 sets out the strategic policy approach to safeguard people and property from the risk of flooding. ENV1 seeks to direct new development towards sites with the lowest risk from flooding and promotes the use of flood mitigation measures (SUDS) to help manage risk.
- 16.44 The site is located in flood zone 1 and therefore is not considered to be a significant risk of flooding. The sequential and exception test are not relevant to this development proposal as the site lies outside the 1 in 1000 year flood zone.
- 16.45 The Drainage Strategy states that surface water runoff from external private hard areas and roofs will be disposed by permeable paving. This will give the required one treatment before infiltration for water quality. The proposed access ways will be similarly treated. The Drainage Strategy states that the depth of the permeable paving and the groundwater level will need to be considered at detail design stage. A condition is recommended in respect of this matter.

## Contamination

- 16.46 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land. The support text to this policy notes that Colchester's approach to dealing with the development of land that could be contaminated is set out in 'Land Affected by Contamination: Technical Guidance for Applicants and Developers, 2nd Edition'
- 16.47 Environmental Control has not raised an objection, subject to the attachment of the standard conditions.

## **17.0 Conclusion**

- 17.1 The application site lies outside the defined settlement boundary is allocated as private open space. Exceptional circumstances therefore need to be demonstrated to justify over-riding established planning policies. In this case, the principal public benefit concerns securing existing private sports facilities for public ownership and use in perpetuity. In addition, this application will deliver 12 residential units to boost the housing supply. The development will have minimal impact on the character and appearance of the area with the majority of the green space being retained. It is intended to transfer freehold ownership of the land (including two adult sport pitches, the club house, parking area and ancillary land) to the Council which will ensure their future use for the community. On balance, taking into account development plan policies and the NPPF as whole, it is considered that the public benefit of securing the retention of the majority of the land for recreation and community use outweigh the fact that the site is located outside the settlement boundary. It is considered that the exceptional circumstances required to allow development of open space have been met in conformity with adopted local plan policy DP15.

## **18.0 Recommendation**

- 18.1 It is recommended that this application is approved subject to:
- (i) the Council's Arboricultural Officer not raising an objection to this application and Sport England removing their 'holding' objection;
  - (ii) the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 and that the Head of Commercial Services is authorised to complete the agreement to provide the following:
    - to allow the football club to continue to operate under their existing arrangements until such time that the land is transferred to the Council;
    - not to commence the residential development until the two adult pitches have been repositioned on site to a specification that shall have previously been agreed with the Council;
    - the new pitches shall be constructed at the owners expense; and
    - the two fit for purpose adult playing pitches, club house and ancillary land shall be transferred (freehold) to the Council without undue restrictions.

18.2 In the event that the legal agreement is not signed within 6 months of the date of the committee the Head of Commercial Services has delegated authority to refuse the application at his discretion.

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

- Time (Standard)
- Approved plans (Standard)
- Materials (Standard)
- Architectural details
- Landscaping (Standard)
- Monitoring (Standard)
- Tree protection and Monitoring
- Ecology
- Construction Method Statement
- Contamination (Standard)
- Asbestos (Standard)
- Drainage and flooding
- Sport Pitch conditions
- Highway conditions
- Cycle parking

## **19.0 Informatives**

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

The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works.

### **(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. Please pay particular attention to these requirements.

## **20.0 Positivity Statement**

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