

Planning Committee Meeting

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

Thursday, 31 October 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>.

Audio Recording, Mobile phones and other devices

The Council audio records public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

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

Facilities

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 31 October 2019 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Andrea Luxford Vaughan	Deputy Chairman
Councillor Lyn Barton	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
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
Andrew Ellis	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 Planning Committee Minutes 26 September 2019

7 - 18

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 26 September 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 190753 Rowhedge Wharf, Former Rowhedge Port, Rowhedge, Colchester

19 - 52

Erection of 20 residential properties with associated access, amenity space, car parking, servicing, landscaping and utilities. REVISED PLANS RECEIVED for 19 dwellings (including one affordable unit and one flat over garage).

7.2 183053 Colchester Holiday Park Ltd., Colchester Caravan Park, Cymbeline Way, Colchester

53 - 68

Use of part of approved caravan park for the siting of static caravans.

7.3 191646 Land adjacent to 62 Military Road, Colchester

69 - 96

Redevelopment of a vacant site to provide six flats, two mews houses and associated access road, parking, amenity space and landscaping.

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|-----|--|--------------|
| 7.4 | 192101 Colchester Mercury Theatre, Balkerne Passage, Colchester | 97 - 104 |
| | Mesh Heras fencing signs advertising the new temporary location of the Theatre and the shows will be put on whilst building works are on-going. | |
| 8 | Development at Rowhedge Wharf - Primary Education Contribution | 105 -
108 |
| | A report by the Assistant Director Policy and Corporate concerning a request from Essex County Council to amend the definition of Primary School Purposes in a Section 106 Agreement in respect of Rowhedge Wharf to allow the primary education contribution to be used at St Lawrence School, Rowhedge. | |
| | Planning Committee Information Pages v2 | 109 -
120 |
| 9 | Exclusion of the Public (not Scrutiny or Executive) | |
| | In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). | |

Part B
(not open to the public including the press)

Planning Committee

Thursday, 26 September 2019

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Martyn Warnes

Substitutes: Councillor Gerard Oxford (for Councillor Philip Oxford)

Also Present:

737 Site Visits

Councillors Barton, Hazell, Jarvis, Liddy, Loveland, Luxford Vaughan and J. Maclean attended the site visits.

738 Planning Committee Minutes 13 June 2019

The minutes of the meeting held on 13 June 2019 were confirmed as a correct record.

739 Planning Committee minutes 25 July 2019

The minutes of the meeting held on 25 July 2019 were confirmed as a correct record.

740 Planning Committee Minutes 15 August 2019

The minutes of the meeting held on 15 August 2019 were confirmed as a correct record.

741 Planning Committee Minutes 5 September 2019

The minutes of the meeting held on 5 September 2019 were confirmed as a correct record.

742 171529 Land off Halstead Road, Eight Ash Green, Colchester

Councillor Willetts (by reason of the assistance he had given to Eight Ash Green Parish Council in the formulation of its Neighbourhood Plan) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an outline planning application for the development of up to 150 dwellings (including 30% affordable housing) with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access points from Halstead Road and Fiddlers Hill, all matters reserved except for means of access at land off Halstead Road, Eight Ash Green, Colchester. The application had been referred to the Committee because it constituted a departure from the adopted Local Plan by virtue of the application site being outside the current settlement boundary of Eight Ash Green, the proposal also represented major development where objections had been received with a recommendation for approval and a Section 106 Agreement and Councillor Barber had also requested that the application be determined by the Planning Committee.

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 assisted the Committee in its deliberations.

Kevin Waters addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He commended the work of the Eight Ash Green Neighbourhood Plan Group and confirmed that work had been ongoing for two years with that group as well as consultees and planning officers to ensure the application delivered the aspirations and needs of the community. He confirmed that the application fully accorded with the Neighbourhood Plan and additional conditions had been agreed, included one to secure the HGV route which was deemed a key benefit by residents. He explained that the scheme would deliver 150 units, 45 of which would be affordable housing, there would be four hectares of public open space, which the Parish Council could opt to manage with funding provided. Financial contributions would also be forthcoming, providing enhancement of the village hall, additional primary school capacity, secondary school transport and additional capacity at the local GP surgery. He also referred to local economic benefits, an absence of outstanding objections on technical matters. He asked for the Committee members to approve the scheme.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Committee. He referred to public concern about the application potentially being determined prior to the holding of a referendum on the Eight Ash Green Neighbourhood Plan. However, the proposed method of dealing with this issue, as set out in the amendment sheet was fully supported. He referred to the current issues about access by heavy goods vehicles which frequently got stuck when travelling along Fiddler's Hill and the Neighbourhood Plan had identified a number of policies to address this issue, many of which would be more relevant for consideration at reserved matters stage. He

explained that the main benefit to the community was considered to be the delivery of a two-carriageway spine road across the site, connecting Fiddler's Hill to the A1124. He had been re-assured by the contents of the amendment sheet which confirmed that all but two of the Neighbourhood Plan policies were addressed by proposed conditions and that two further conditions and an informative were now also being proposed and would mean that the provision a suitable spine road would be accommodated. He, and the residents, strongly supported the allocation of the site and he fully supported the clarity around its future development which the outline application would deliver.

Members of the Committee generally agreed with the comments made by Councillor Willetts and welcomed the application on the grounds that it would bring benefit to the local community, in particular in relation to the spine road.

RESOLVED (UNANIMOUSLY) that: -

(i) The Assistant Director Policy and Corporate be authorised to approve the outline planning application subject to the conditions set out in the report and the two additional conditions and an informative in the amendment sheet and with authority 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: 30%
- Archaeological financial contribution toward the display, promotion, and management of archaeological discoveries from the site;
- Community Facilities financial contribution towards Eight Ash Green Village Hall and/ or Fordham Village Hall or toward the provision of a new community facility within the vicinity of the site;
- Ecological Mitigation contribution for off-site mitigation, as well as securing 1.84 hectares of open space prior to occupation of any dwelling as on-site mitigation, as part of the Conservation of Habitat and Species Regulations 2017 and the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS);
- Education financial contribution towards increased pupil capacity at Holy Trinity CE Primary School and/or Fordham All Saints CE Primary School and Secondary School Transport contribution;
- Healthcare financial contribution toward Ambrose Avenue Group Practice (including its main surgery);
- Secure provision of Public Open Space, amenity areas, and play areas on site.

(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.

743 183077 North Colchester Urban Extension, Mile End Road, Colchester

The Committee considered a planning application for the removal or variation of a condition following grant of planning permission (121272) at North Colchester Urban Extension, Mile End Road, Colchester. The application had been referred to the Committee because objections had been received, a Section 106 legal agreement was required and Councillor Goss had requested that the application be called in.

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.

Alistair Day, Planning Specialists Manager, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Amir Soormally addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was a resident of Mile End Road, opposite Bartholomew Court and explained that he had submitted detailed letters of objection to the application, the contents of which he hoped had been taken into account. He was concerned that the original concept of the development would be contradicted by this proposal. He considered the applicant to be responsible for the delivery of the housing in accordance with the planning application. He was also of the view that the resolution of the dispute between the applicant and the land owner was the applicant's responsibility. He also considered it to be the applicant's responsibility to facilitate their own build rates. He referred to the principle of sustainable development upon which the development had originally been based and this was now being overlooked.

Arwel Owen addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the officer's report and its recognition of the continued delivery of housing supporting the Council's five-year housing land supply weighed in favour of the application; that there would not be detrimental impacts in air quality, residential amenity or car parking and no severe impact on highway capacity or highway safety being expected. He referred to the context of the application in relation to the speedy delivery of homes by the Chesterwell development, whilst meeting design and quality standards. He explained that the proposal was necessary to maintain this momentum and to prevent the stalling of the housing delivery achieved to date. He explained that the original concepts of the scheme, in terms of densities, green space and infrastructure would be unaffected by the proposal and referred to the Supplementary Planning Document (SPD) which anticipated the need for flexibility in terms of access. He explained that the conditions proposed would provide a reasonable means to control the development in a way which

a time-based constraint could not and the imposition of time-based restrictions would be open to legal challenge. He supported the officer's recommendation and commended it to the Committee members.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He considered that Colchester had far exceeded its targets in terms of housing delivery in recent years and he referred to the recent slow-down in the housing market. He referred to the original masterplan for the development, included provision for one road into the development and one road out and he considered this design principle underpinned the infrastructure at Chesterwell. He was concerned that the proposal would be contrary to the original planning permission and he did not consider a potential period of 5.2 years to be temporary. He considered that the housing numbers per year as quoted in the report were contradictory. He also explained that new housing developments had been underpinned by the government's Help to Buy scheme but this was coming to a close and was likely to slow house sales further. He referred to the masterplan for the site in terms of its phasing and construction, whilst a commercial dispute over the land value was the reason for the submission of the application. He considered that independent arbitration would settle this dispute in a short period of time and it was therefore not necessary for the proposal to be considered. He was also concerned that the anticipated 15% modal shift in travel choices had not yet been achieved, as well as parking in the area due to its proximity to the station and the potential for the access to be used by commuters. He explained that the development was being delivered by a consortium comprising Mersea Homes and Countryside and he was aware that Countryside were due to commence development on land which was not in dispute, off Boxted Road, as such the housing supply would be continued. He asked for clarification regarding the bus lane and whether any enforcement was envisaged.

Councillor King attended and, with the consent of the Chairman, addressed the Committee. He considered the proposal for the access was not right, not intended and contrary to an explicit understanding to residents and he considered the Committee members should weigh this up in their consideration. He was of the view that it was an error of judgement by the applicant and an act of poor faith which shouldn't be rewarded. He acknowledged the impact on the Council's five-year housing supply and that there were no objections from the Highway Authority. He considered the application, which constituted a fundamental change to the planning conditions, to be for the convenience of the developer as a consequence of their commercial dispute. He observed the presence of both ward councillors as well as a county councillor in support of the residents and he considered it to be critical that the conditions which were agreed for the original planning permission are adhered to, if only to keep the faith of the public. He also commented that he saw no distinction between the application for temporary permission and that for permanent permission, considering the reasons for refusal of the permanent application were equally valid for the Committee's determination of the temporary application.

The Planning Specialists Manager confirmed that he had received and considered very carefully the objection letters in respect of both applications from Mr Soormally and he was aware of the concerns about the contradictions of the principle of the development, his view that the developer was responsible for having the land available and concerns about capacity of Mile End Road. He explained that the over-delivery of housing numbers in the past did not bear weight for Planning Inspectors who would be looking at delivery now. He cited the West Bergholt appeal decision and the Inspector's belief that Colchester did not have a five-year supply. He explained that the numbers quoted in the report referred to Mersea Homes' current land availability, illustrating that, as houses were delivered in the north of the site over the next three years, the available land would decrease. He explained that the land to the north of Boxted Road was also subject to the same land dispute and, as such, wasn't available for development. He explained that the impact of not giving permission for the application would mean that a further 160 dwellings would not be delivered which would potentially put more pressure on other unallocated sites. He confirmed that the Highway Authority had been concerned about the application and had considered recommending refusal on the grounds of the extended delivery timetable for the spine road. He acknowledged the desire for the temporary access to be in place for a short a time as possible but he explained that it would take time to construct the spine road from the north, with availability of funding aligned with build programmes. As a consequence a condition had been negotiated which provided for the delivery of the road to be tied to the build programme. He acknowledged the concerns expressed about the sequence of development and the nature of the background to the proposal. He explained that the Council's Supplementary Planning Guidance (SPG) did provide for the use of a temporary access to enable the continuation of a development, as such, the application accorded with the Council's SPG unlike the application proposed for the refusal. He referred to concerns about parking within the development site and explained that this was a matter which would need to be addressed at reserved matters stage. He explained that the reference to a 15% modal shift was contained in the North Colchester Transport Strategy, a document which had not been adopted by the Council and, as such the 15% was not a target which this development was required to adhere to.

Some members of the Committee expressed significant concern about the proposal for two-way traffic access onto Mile End Road, the adequacy of delivery routes for construction traffic and the impact on residents of a temporary permission if it extended for the whole of the 5.2 years referred to. Concern was also expressed in relation to the time taken to resolve the land dispute and the impact on the Council's housing supply as well as the five-year period of time envisaged for the duration of the temporary access. The point of view was expressed that the original concept for the scheme should be adhered to and clarification was sought regarding the possibility of reverting to that concept should the land dispute be resolved over a shorter timescale than currently envisaged.

The Planning Specialists Manager explained that, in accordance with the conditions

attached to the original scheme, the width of Bartholomew Court would be widened in any event and this would be more than adequate for construction traffic and other vehicles to use in a safe manner. There were also conditions in relation to construction traffic, which would likely be routed to the south then onto the Northern Approach Road to the A12 and it would also be feasible to provide for the exclusion of deliveries at sensitive times, if considered necessary. He explained that it was important for the five-year housing supply to be borne in mind because its maintenance was a requirement for the Council and, if not maintained would make the Borough vulnerable to speculative development, potentially on sites which were not preferred by the Council and its residents. He also acknowledged concerns about the potential for further houses to be able to use the south access but he confirmed that this would require the submission of a separate planning application. Equally he understood the view that the resolution of the land dispute was the responsibility of the developer but he confirmed that the developer had planned in an appropriate way. He also explained that it would take some time to construct the route from the north of the site to the south, without the support of funding from the housing development and, as such, it would not be possible to revert to the northern access in a shorter period of time than that currently envisaged.

Other members of the Committee expressed concern regarding the maintenance of the Council's five-year housing supply and further clarification was sought in relation to the anticipated timescale required for the temporary access, whether there was justified expectation that the dispute could be resolved satisfactorily and whether there were any grounds for appeal against a refusal of permission, given the concept of development associated with the original planning permission.

The Planning Specialists Manager explained his understanding that the legal dispute would be referred to arbitration and a conclusion would be sought which would be imposed on all parties. He further explained that, in order to maintain housing delivery, it was necessary to plan in advance for an alternative access route to be delivered and that the potential for an alternative access route was provided for in the Council's adopted SPD. He also confirmed that the alternative access route had been confirmed as an acceptable solution by the Highway Authority.

The Development Manager explained that the Committee members were required to determine the application in accordance with the Development Plan unless material considerations indicated otherwise. He confirmed that the adopted SPD for the site provided for vehicular accesses from alternative points and that considerable thought had been given to the mitigation and control of the impacts of the deviation from the original concept. As such, the number of dwellings was considered to be the key criterion and that the access had been restricted to the delivery of a certain number of units rather than a period of time. He further explained that the delivery of housing was a material public benefit and this needed to be weighed against the negative aspects of the scheme. He therefore reminded the Committee members that they would need to identify the harm from the variation to the conditions of the original scheme.

Other members of the Committee referred to the SPD providing for the use of alternative access routes, the maintenance of the five-year housing supply being in the public interest and the reassurance provided by the restriction of the access to numbers of dwellings rather than a specific period of time. Clarification, nevertheless, was sought regarding the potential to limit the temporary access to a three-year period, given the significant impact associated with increased traffic on Mile End Road and the lack of safe means of crossing for pedestrians. Comment was also made regarding the lack of Highway Authority objection, given the more recent reduction in traffic and the significant width of Mile End Road and, whilst the strength of feeling of local residents was acknowledged, the proposal for a temporary and time-limited access was considered acceptable.

The Planning Specialists Manager explained that the proposed widening of Bartholomew Court had been designed to accommodate two-way bus traffic and, as such, would be sufficient to accommodate traffic generated by 160 dwellings as well as construction traffic. He also confirmed that discussions had taken place with the Highway Authority regarding a safe means of crossing of Mile End Road for pedestrians pedestrian Mile End Road but the view had been taken that there was no requirement for any additional traffic calming measures. He again confirmed that a wide range of options had been investigated regarding the most appropriate mechanism for securing the closure of Bartholomew Close to general traffic and the conclusion had been reached that it would be more beneficial to restrict it to the phasing of the development as this would provide greater certainty about when it would be delivered. He also confirmed that the SPD provided for a temporary vehicular access to be made if required for the phasing of the development but it did not specify a location for such an access. Bartholomew Court had been identified as it was an existing adopted highway and the associated infrastructure would be built ultimately as part of this development. He also confirmed that Bartholomew Court, as a cul-de-sac, would not be used as a bus route, but once forming the link north to south, it was hoped that operators would wish to use it as a bus route.

Possible reasons for refusal of the applications were identified by one Councillor, including the design, visual appearance and layout, protection of residential amenity, outlook, noise and fumes, as well as government guidance, previous decisions and planning history.

The Planning Specialists Manager explained that, in relation to design, the improvements to Bartholomew Court had already been agreed under the outline planning application and would be implemented and he confirmed that Environmental Protection had not raised any concerns in relation to noise or fumes and an air quality assessment had confirmed that there would be no significant impact. He also confirmed, in terms of planning history, that the SPD provided for the use of a temporary access to allow for the continual phasing of the development. As such, he was of the view that these criteria did not constitute material harm.

The Chairman acknowledged the difficulty of weighing up the benefits and impacts of the proposal, he was mindful of the dis-satisfaction of the residents and he was of the view that the statements made by ward councillors and residents were compelling. He had been disappointed to learn of defective and poor workmanship by a developer. However, he was also mindful of the wider benefit for the Borough as a whole and the need for a five-year housing supply to be maintained.

As the discussion suggested that the Committee may be minded to refuse the application contrary to the officer's recommendation in the report the Chairman invited the Development Manager to indicate any implications for the Committee should the Officer's recommendation be overturned. The Development Manager explained there would be no specific risk to the Council but he reminded the Committee members of the need to weigh very carefully the planning benefits associated with the maintenance of the housing supply against the harm which needed to be fully identified.

A proposal, which was seconded, to refuse the application was lost (FOUR voted FOR and FIVE voted AGAINST).

RESOLVED (FIVE voted FOR and FOUR 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 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 mirror the completed agreement for application 121272 and include clauses to cover RAMS contribution, a TRO in relation to the bus gate (to be in place before the commencement of the development) and the potential for joint implementation of this application and application 121272.

(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.

744 191581 North Colchester Urban Extension, Mile End Road, Colchester

The Committee considered a planning application for the removal or variation of conditions 7, 8, 28 and 62 following grant of planning permission (121272) at North Colchester Urban Extension, Mile End Road Colchester. The application had been referred to the Committee because of its association with application 183077 (called in by Cllr Goss) which had been recommended for approval.

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.

Alistair Day, Planning Specialists Manager, presented the report and assisted the Committee in its deliberations.

Chris Partner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was a resident of Bartholomew Court and was speaking on behalf of three neighbours. He explained that he had been aware of the proposed development to the rear of his property when he had purchased but his intention had been to move prior to its implementation. This had not been possible due to construction defects to his and neighbour's properties which the NHBC had attributed to the use of incorrect materials. Whilst the work to rectify the defects had now been programmed, the problems had been detrimental in emotional and financial terms. He considered that the proposal for the access road would further affect his ability to move from his property and that its value would be reduced. He acknowledged that the developer had no legal responsibility towards him but he considered there ought to be a moral obligation to assist.

Arwel Owen addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the attributes of the proposal and explained that he disagreed with the officer's conclusions set out in the report that sustainable development would be undermined. He explained that only 10% of dwellings in the overall permitted development would be accessed from the south; local journeys and journeys to the station would most easily be made on foot, bike or bus; the overall development was not car dependent and it did not promote unsustainable travel behaviour. He explained that new direct walking and cycling routes would be provided and the public transport provision to and within the site would be unaffected. He also referred to the National Planning Policy Framework (NPPF) which he considered the proposals did not contravene as there was no unacceptable highway impact and that the impact on the highway network was not severe. He therefore considered that the proposal continued to represent sustainable development, as such, refusal was not warranted and he asked the Committee members to approve the application.

Members of the Committee generally considered the proposal to be contrary to the overall concept of development of the Chesterwell scheme and grave concern was expressed regarding the prospect of 160 dwellings using Bartholomew Court for access on a permanent basis.

RESOLVED (UNANIMOUSLY) that the application be refused on the grounds set out in

the report.

745 190274 International House, Moss Road, Colchester

The Committee considered a planning application for approval of reserved matter following outline approval 180886, residential use of former car park to International House following change of use from B1a (offices) to C3 (dwellings) of International House, Moss Road, Colchester. The application had been referred to the Committee because when the outline planning permission was approved, the Committee requested that the reserved matters be referred to the Planning Committee for determination.

The Committee had before it a report in which all information was set out.

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

746 191414 Former Wilkins and Sons Ltd, Factory Hill, Tiptree

The Committee considered a planning application for the erection of 49 dwellings and associated parking and landscaping (modifications and reduction in built footprint of last phase for 40 units of approved planning application 130245) at the former Wilkins and Sons Ltd, Factory Hill, Tiptree. The application had been referred to the Committee because it was a major application and material 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.

RESOLVED (UNANIMOUSLY) 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, 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 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:

- One affordable dwelling as an offsite contribution, this to be a three-bedroom unit by means of a commuted sum;

(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.

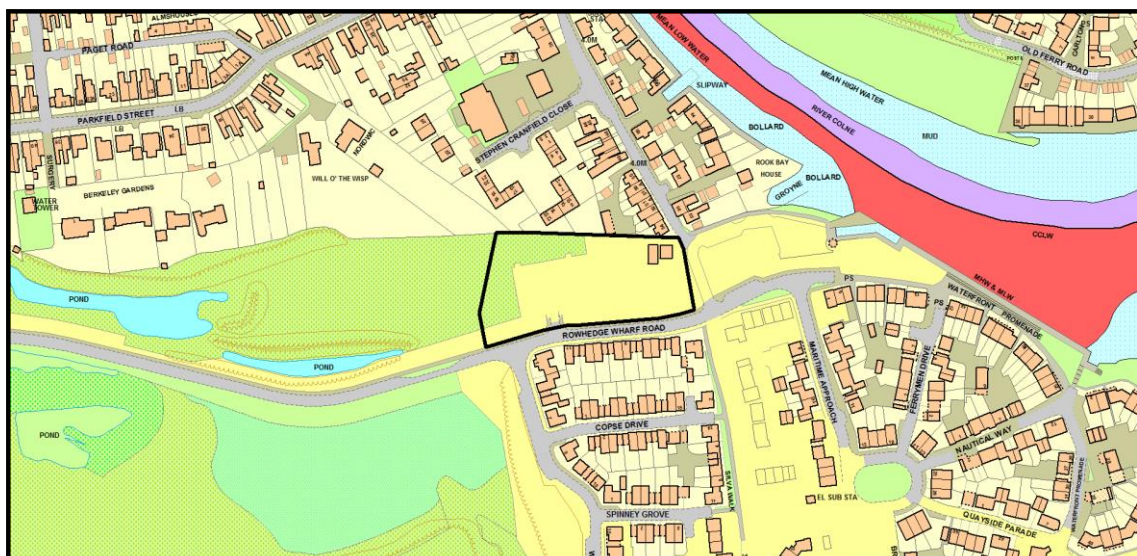
747 191525 Lane Farm, Lane Road, Wakes Colne, Colchester

The Committee considered a planning application for a barn conversion at Lane Farm, Lane Road, Wakes Colne, Colchester. The application had been referred to the Committee because the site was outside the adopted settlement boundaries in an area defined as countryside and related to the creation of a dwelling and, as such, was therefore a departure from the Local Plan.

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.

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



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Item No: 7.1

Application: 190753

Applicant: Mr S Williams

Agent: Kevin Coleman

Proposal: Erection of 20 residential properties with associated access, amenity space, car parking, servicing, landscaping and utilities. REVISED PLANS RECEIVED for 19 dwellings (including 1 affordable unit & 1 Flat over garage)

Location: Rowhedge Wharf, Former Rowhedge Port, Rowhedge, Colchester, Essex

Ward: Old Heath & The Hythe

Officer: Sue Jackson

Recommendation: Approval subject to section 106 agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application and representations raising material objections have been received. A legal agreement is also required.
- 1.2 Councillor Lilley has called in this application on behalf of all 3 Ward Councillors and the Public, “because its completely different to the previous plan. I believe it to be over development to the detriment of the surrounding area and to the Village.
The demolition of the Historic Pump House is a destruction of old Rowhedge and should be kept as part of the History of the Wharf and Village.
The original plan was for a communal building for the village and a footpath through the woods connecting to the Recreation Ground for schoolchildren to use instead of walking the paths or being driven there.
The Bloors site is already experiencing problems with too many vehicles. There is no Bus route there so everyone is using their cars.
This application is a step too far in the terms of over development by cramming in so many houses in that space. If the Pump house was kept and given to the Village then this would be a compromise for putting up with over development. It could be used for heritage and other village organisations especially as it will link the new with the old. Something that is lacking at the moment.”

2.0 Synopsis

- 2.1 The key issues explored below are the planning history and relevant policies, an assessment of the proposed development, the location of the site, matters raised in the representations will be discussed including those relating to the Pump House. Section 106 obligations will be explained. The report will include a summary of the consultation responses received.
- 2.2 The application is subsequently recommended for permission subject to a legal agreement.

3.0 Site Description and Context

- 3.1 The site is located to the south of Rowhedge village. It has an area of approximately 1.4 hectares and is of irregular shape. It has a frontage (south boundary) to Rowhedge Wharf Road (the improved former haul road), and faces new dwellings being constructed by the applicant on the opposite side of the road. The rear (north) boundary abuts the rear of dwellings in Parkfield Street and the curtilage of flats in Stephen Cranfield Close. The east side boundary fronts a public right of way (PROW) and an undeveloped area of land forming part of the former wharf. The west side boundary faces an area of protected woodland; the tree preservation order (TPO) includes trees within the site.

The site forms part of the former wharf more recently used for storage purposes and lies adjacent to a single storey brick Pump House. The site

has been cleared and is now used by the applicant as their site compound in connection with the adjacent development.

- 3.2 Residential development by Hills and Bloor Homes is taking place on substantial areas of the former wharf to the east and south of the site.

4.0 Description of the Proposal

- 4.1 This planning application has been amended since the original submission, with initially 20 units were proposed. The application now seeks full planning permission for the erection of 19 dwellings. The following unit mix is proposed: one detached affordable unit, 6 3-bed units in linked pairs 10 2-bed semidetached units a detached 2 bed unit and 1 2-bed flat over garage.
- 4.2 There have been amendments to the application since the submission of the application. The most significant is that the Pump House building has been omitted from the application. The applicant has also worked with officers to revise the layout to ensure that the built form satisfactorily addresses the street scene, retains important trees and protects residents' amenity. The ground level of the site will be raised to match the level of the adjacent development to satisfy the Environment Agency requirements in respect of flood risk.
- 4.3 The application includes the following documents:
- Planning Statement
 - Design & Access Statement
 - Remediation Method Statement
 - Flood Risk Assessment & Drainage Strategy
 - Archaeology Report
 - Tree Survey
 - Archaeology Assessment
 - Ecological Assessment

5.0 Land Use Allocation

- 5.1 The site is within an area allocated for predominantly residential purposes on the Adopted Local Plan Proposals Map. On the north and west boundaries small parts of the site are located within a Local Wildlife site with trees protected by a Tree Preservation Order

6.0 Relevant Planning History

- 6.1 160551 Demolition of existing vacant commercial units and comprehensive residential redevelopment comprising 86 no. new residential dwellings, together with associated hard and soft landscaping, access, car parking and servicing, amenity space, and associated utility infrastructure.
- 6.2 144693 - Redevelopment of part of former Rowhedge Port to provide 170 dwellings, a potential community facility building (use classes A1, A3, A4,

B1, C3, D1), public waterfront area incorporating dinghy park, car park, viewing platform, public facilities, new river wall and new subway, upgrade to access road from Rectory Road, new footpath from access road to existing recreation ground, internal roads, open spaces, drainage, landscaping and all ancillary works. Approved

- 6.3 142437 - Full Application for “Proposed modified junction and upgraded access road for the former Hall Road, Road off Rectory Road Rowhedge.” Approved 24 June 2014

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

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
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
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
DP4 Community Facilities
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
DP23 Coastal Areas

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

SA H1 Housing Allocations

- 7.5 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.

- 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
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
Rowhedge Wharf Development Brief adopted 2004

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 Urban Design Officer

The Urban Design Officer has been involved in negotiating improvements to the layout and house types. The UDO is generally supportive of the approach taken but has requested revisions to enhance the detailing of the scheme and these matters have been incorporated into the suggested conditions.

8.3 Historic Buildings and Areas Officer

The main interest of the application site from a heritage perspective involves the presence of the Pump House. The former pumping station is associated to the Water Tower which is located about 350m to the west. The Water Tower is listed at Grade II (NHLE List Number 1389625) and was built at 1902. This date, along with the evidence from historic maps, provides an indication of the Pump House's date of construction.

The proposed scheme includes the removal of the former pumping station. A Statement of Significance has been recently submitted to support this proposal. The document concludes that the Pump House is not of special interest or heritage significance. However, it is felt that the conclusions are informed by an assessment with the national listing criteria in mind and the local context and heritage significance has been overlooked.

The significant level of local objection and comments received which oppose the demolition of the Pump House demonstrates the interest, appreciation and significance of the Pump House to the local community.

The former pumping station, which is in a fairly good state of repair and its original form hasn't been altered by the modern timber frame addition, meets the criteria set by Historic England's guidance and Colchester Borough Council's List criteria for its inclusion in the emerging Boroughwide Local List. In the interim and by virtue of its heritage significance which derives from its historic and **functional** association to the listed Water Tower, its illustrative value as evidence of the technological development of Rowhedge's infrastructure and its communal value as a historic asset that is treasured by the local community as an integral part of Rowhedge's identity, history, character and collective memory, the Pump House is regarded as a non-designated heritage asset that merits consideration in planning decisions, according to the definition of NPPF.

More specifically, NPPF's Par. 192(a) states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Additionally, Par. 197 clarifies that the decision of applications should consider their effect on the significance of a non-designated heritage asset and when applications directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. (NPPF. 2019, p.55-56)

At the same time, the relevant policies from Colchester Local Plan 2001-2021 include Core Strategy ENV1, which states that "The Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline. The Council will safeguard the Borough's biodiversity, geology, history and archaeology through the protection and enhancement of sites of international, national, regional and local importance" (CBC, 2014, p.73) and Development Policy DP14 which clarifies that the Borough's Heritage Assets will be protected and enhanced. The proposed development will result in the loss of the Pump House and therefore, the proposals fail to comply with the national and local policies for the protection of heritage Assets and cannot be supported on heritage grounds. The optimum proposal for the Pump House would involve a communal use, possibly associated with interpretation of the industrial history and heritage of Rowhedge, although other uses that consistent with its conservation, as required by NPPF's Par. 192(a) can be explored as well in order to safeguard the historic asset. (officer comment: The scheme has been revised in the light of comments received to retain the Pump House and provide vehicular access and dedicated parking.)

8.4 Landscape Officer

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

In support and addition to this/these LIS/A clauses the following point(s) should be taken into consideration as part of any revised proposals:

- 1.the curtilage treatment proposed needs to be revised
- 2.Given it's potentially exposed nature at the entrance to the wider Rowhedge Wharf development the proposed side enclosure treatment to boundary to plots/areas adjacent to the woodland needs to be revised to a native hedge and hedgerow trees set in front of a dark stain hit-&-miss 1.8m high fence. This treatment softening the impact of the development edge with a treatment that complements its setting and merges with the adjacent woodland.

8.5 Arboricultural Officer

I am satisfied with the arboricultural content of the proposal subject to conditions to secure reduced dig construction where parking bays are proposed close to trees and the retention or reinstatement of vegetation to the north boundary.

8.6 Environmental Protection

No objection subject to conditions.

8.7 Archaeologist

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

8.8 Contaminated Land Officer

This application is for 19 residential units on a site where approval for 12 residential units have already been approved as part of a larger land parcel (ref. 160551), together with some additional land which was not included in the 2016 application.

Consequently, whilst the applicant has resubmitted a remedial strategy relevant to the previous approval, this will not be acceptable for the current application (although elements of it will, of course, be able to inform any revised reporting). A revised risk assessment will be required to be drawn up, taking into account the proposed new site layout, including assessment of potential risks to residential properties with private gardens (as distinct from the maisonettes in the previous scheme) and assessment of all relevant potential contamination linkages associated with the land in the eastern section of the application site, where there has been no risk assessment to date.

However, based on the information available to date, it is expected that the land can be made suitable for the proposed use, with these contamination matters dealt with by way of planning condition. Should this application be approved, Environmental Protection would therefore recommend inclusion of conditions:

We would also recommend that the Environment Agency are invited to make comments on this application.

8.9 Natural England

European designated sites

It has been 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); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations², it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. 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 effects arising from new residential development.

Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites; the latter are listed or proposed Wetlands of International Importance under the Ramsar Convention and are protected as a matter of Government policy.

Paragraph 176 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

Conservation of Habitats and Species Regulations 2017, as amended (commonly known as the 'Habitats Regulations'). Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of

steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI.

8.10 Anglian Water

Assets Affected

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

"Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence".

Wastewater Treatment

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

Used Water Network

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

Surface Water Disposal

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.

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

SUDS Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on conditions:

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application, you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

8.11 Environment Agency

We have no objection to this planning application, on flood risk grounds, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below.

Contaminated Land The site overlies secondary A aquifers (Alluvium and River Terrace Gravels) and is adjacent to a watercourse, which flows to a nearby main river (River Colne). It is known from work on the adjacent site that the underlying River Terrace Gravels is in direct hydraulic continuity with the watercourse. We therefore consider that the location of the site is sensitive with respect to controlled waters. We understand this application is a revision of application 160551 and is now incorporating additional land, which was not included in the first application. We have briefly reviewed the following document provided with the application:

Remedial method statement provided by Hills Group Limited (dated December 2015, reference 100944/RMS/R001). This document has not been updated to reflect additional land that is now included in this application.

The applicant should conduct a site investigation on the new part of the development and update the conceptual site model and risk assessments to reflect the new information to consider risks to controlled waters.

We recommend conditions are included in any planning permission granted.

9.0 Parish Council Response

9.1 The Parish Council have stated that East Donyland Parish Council objects to this planning application on the following grounds:

- i) Rowhedge does not have the infrastructure in place to support a further increase in housing within the village.
- ii) The application proposes only two affordable housing units on the site which is a reduction compared to the original planning consent.
- iii) Loss of the Pump House, a historic building, which was not part of the previous application and represents a significant loss to the village.
- iv) The strength of local feeling in opposition to this application - there has already been significant development of this brownfield site, and this proposal to increase the number of houses even further through demolition of a historic asset is not in the interests of the local community. (Officer comment: The scheme was subsequently revised in the light of representations to secure the retention and re-use of the Pump House with the provision of access and parking.)

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 The original application includes the land containing the Pump House and proposed the demolition of the building and inclusion of the land in the residential site. Over 100 representations were received in respect of the original application the majority objecting to the demolition of the Pump House.
- 10.3 These objections are summarized in the response from the Rowhedge Heritage Trust which is set out below

Rowhedge Heritage Trust

1. The building is one of a few historic buildings of quality in Rowhedge which could be put to community use. It was part of the water supply system for Rowhedge, housing the machinery used to pump water up to the water tower in Parkfield St, (which is still standing and is a listed structure).
2. The development is not in the Local Plan.
3. The Rowhedge Heritage Trust is ready to become a major user, partly as a permanent home for its growing collection of artefacts, and partly for cultural and social activities such as exhibitions, workshops, meetings, school visits etc. It has 10 years of experience of running the Heritage Hut on Lion Quay.
4. The development is not in the original Wharf Development Plan
5. It stands in an ideal location, between the old village and the new development, to form a link and common ground between the two parts of the community, which are otherwise quite separate.

Officer comment: Members will note a substantial number of representations have been received relating to the loss of the pump house which was to be demolished under the original application. Residents consider this building should be retained as it represents the last remaining example of industrial heritage. Residents also consider the building should be used for community purposes. There is also comment that the demolition of the pump house goes against the original proposals for the building.

- 10.4 The Council's Listed Buildings and Areas Officer and Archaeologist consider the building should be locally listed as an undesignated heritage asset.
- 10.5 Following public comment and officers view the Pump House should be locally listed the application was revised and this building is now excluded from the red line of the application site. However Members should be aware that the building does not satisfy the criteria to be designated as a community asset as its previous use as a pump house was not a community use. Members should also note that the previous application did not include the building and there have been no applications for its use for community or any other uses. The application by Bloor Homes does include a building with potential for community use but this is on a different part of the site. The 2004 Development Brief includes reference to community uses but makes no mention of the Pump House. As the building is in the flood zone this could restrict alternative uses acceptable to the Environment Agency.

10.6 Other objections raised to the original application are summarized below;

- Services and infrastructure are overwhelmed including the school, doctors surgery and the roads. To cite Wivenhoe surgery as being a second service is laughable Even a small increase to demands on the (Rowhedge medical practice) should be opposed unless resources are made available for extension of its facilities.
- The proposed development will add to the density of population in a compressed area with narrow roads
- Existing properties do not use the provided "carports" except for storage or refuse; thus, on street parking is already dense and sometimes provides obstacles for pedestrians on pavements.
- The definition used of "affordable" homes is nonsense in the context of average earnings of local people and particularly young people without family financial support, thus increasing local inequities and increasing travel to work pressures.
- The health impact assessment is partial. It does not factor in the increased number of car and commercial vehicle journeys up the access road to the development, at the junctions with Rowhedge Road and Fingringhoe Road.
- There has already been far greater loss of woodland and habitats than originally promised: we all know of displacement of local wildlife into gardens resulting in damage and risk. The erosion of further tree margins should be stopped now.
- Residents privacy would be invaded as the houses would be looking in to gardens.
- Contractors need to respect residents' privacy
- Three storey town houses will obstruct residents views of the woodland
- The current development has parking issues/disputes and the lack of space for work vans, this space should be utilised for extra parking.
- There is currently only one road in and out of the new development, the old Wharf rd. With these new plans to build further houses close to the high street would there be access from the high street?
- The development also needs separation from the original village to keep open space and views.
- Some clauses in the building agreements signed by both development companies have not been honoured such as keeping a public right of way path open during building works
- Residents were promised by Hills nothing will be built to obstruct views of the river
- There has been flooding in the High Street where none existed before near the pump house. The prolonged dry weather has masked the flooding risks
- Residents were promised a wide footpath and a public space here
- Bloor encountered several issues regarding water, spring, poor drainage whilst they were constructing the new Wharf Road. Those problems did not go away after the new road was built. Even after the new road was built, there were several problems along where Hills now want to build, some problems led to local flooding at the

bottom of the hill. There are natural springs in this area which cannot be easily 'dealt with'.

- The houses would enable people to look straight into bedroom windows and overlook secluded gardens and would also block out sunlight
- The ground level will be higher than our garden fence
- There is historical soil contamination
- Damage from future piling.
- The sales team confirmed that there would not be any further affordable housing on the site.
- The new houses will effect/ obstruct our view of the woodland
- If this new build is allowed to proceed without affordable housing included in the plan; then once again CBC will be letting down the people that are in great need of finding a home.
- Traffic must not come to the site from the High Street
- The additional dwellings, their occupants and the vehicles will materially affect the load on the villages resources. Every single extra building is extra people consuming resources and producing waste, extra patients at the surgery, extra school places, more cars, more light pollution, a few more trees cut down. etc etc.
- Statements show that the developer is not expecting to make anything but the smallest of contributions s106 wise by way of recompense for the destruction of the Pump House and the extra 8 dwellings he will profit by

10.7 Councillor Fox objected to this development for the following reasons:

This plan is contrary to the previously agreed Wharf Development which was in line with the Local Plan

The demolition of the Pump House would see the loss of a significant structure in the history of the development of Rowhedge. The building was used to pump water to the Rowhedge Watertower in Parkfield Street which is still standing and is a listed building. The two buildings share the same historical and social background and co-exist as complementary structures. The Pump House is a viable building and should be retained as part of the development, as agreed in previous planning decisions. The local community, residents and groups in the village want the Pump House to be retained as a community asset. There are a number of groups and individuals who wish to retain this viable building for community use.

- 10.8 Councillor Scordis I feel this proposal needs to be rejected for the following reasons;
- This is a change to the current wharf development plans;
 - There has been no consultation with the Parish Council;
 - It is not in the Local Plan;
 - There are contamination issues and drainage issues at the site already;
 - There has been no time for an impact assessment of the current houses in the wharf development;
 - This land was promised for the benefit of the community;
 - Parking is already a major issue and this will add to the problem.
- 10.9 There are two letters of support:
- the village is lovely and more people should be able to enjoy the village and community. It also creates more jobs in the building trade;
 - The pump house hasn't been used for years and would be a massive improvement to the land;
 - People need somewhere to live so why not build on a derelict site.
- 10.10 Seven letters have been received following neighbour notification on the revised plans re-iterating earlier objections.

11.0 Parking Provision

- 11.1 The parking provision satisfies the Councils Adopted parking standards which requires all the units to have 2 parking spaces and the 19 units require 5 visitor spaces. The units each have two parking spaces and 7 visitor spaces are proposed.

12.0 Accessibility

- 12.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

13.0 Open Space Provisions

- 13.1 The houses each have a private amenity area and 10% of the site is shown as communal open space. The wider development of the former Wharf has open space in excess of the 10% policy requirement.

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 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 Obligations that would be agreed as part of any planning permission would be:

- A contribution of £1,000 per dwelling towards the improvement of the Rowhedge Trail
- Affordable housing - 1 x three bed house
- Open Space Sport & Recreation- a contribution of £23,200.31 for off-site sport and recreation
- Sustainable Transport/Highways – a £20,000 contribution for bus shelter upgrades
- RAMS contribution in accordance with draft SPD to mitigate impacts on coastal designations.

16.0 Report

16.1 The main issues in this case are:

The Principle of Development

16.2 Core Strategy Policy SD1 seeks to promote sustainable development with growth directed to the most accessible and sustainable locations in accordance with the listed settlement hierarchy. The Adopted Site Allocations document Policy SA H1 Housing Allocations states, inter-alia, “Within Colchester Borough (outside of the Growth Areas and Regeneration Areas) the following sites are allocated as predominantly residential on the Proposals Map to deliver housing targets identified in the Council’s Core Strategy; the Former Rowhedge Wharf is one of the sites identified.

16.3 The site is within the Rowhedge settlement boundary within an area identified for predominantly residential purposes on the Adopted Proposals map. Planning permission has been granted for the erection of 12 apartments on part of the site.

16.4 The principle of residential development in this location is therefore established and acceptable.

Design and Layout

16.5 The 2016 permission proposed 12 apartments on part of the site in two buildings described as “Works Buildings” consisting of two shed-like structures reflecting the shape and volume of the two storage sheds being removed. The applicants are not proceeding with this part of the approved development. The submitted scheme proposes houses of traditional design which reflect the style of dwellings recently constructed by the applicants on the opposite side of the road and respect the local architectural character of Rowhedge

- 16.6 The layout originally included a number of dwellings set behind the road frontage which would have resulted in a loss of privacy to existing residents and overlooking of their gardens. These units would have also had views into the rear gardens of the new dwellings fronting the road. The revised layout has the majority of dwellings fronting the road directly. Whilst there are 4 dwellings and a flat over garage (FOG) sited behind the road frontage development of these 2 units are set side-on and located some 12 metres from the rear boundary, the FOG is approximately 10metres from this boundary, the other 2 units are set at an oblique angle to the boundary which satisfies the privacy criteria in the Essex Design Guide.

Scale, Height and Massing

- 16.7 All the buildings are of 2 storeys with no use of roof space and are of traditional domestic scale and massing. The character of the units would be generally consistent with the remainder of the Hills development on the wider site.

Impact on the Surrounding Area

- 16.8 The site previously contained commercial buildings and the wider wharf site included buildings used for concrete block making. When in use as a wharf and when used as warehouses access was via an unmade haul road. The commercial uses have now ceased, and the haul road improved to an adoptable standard. During the construction phase there will be some impact due to vehicular movements and noise from construction, but these impacts will be reduced as far as possible by a restriction on working hours and agreement to a code of construction practise.

Impacts on Neighbouring Properties

- 16.9 The revised layout has been negotiated by officers to overcome issues of overlooking and privacy. Members will be aware there is no right to a view and if residents views of the river are obstructed this is not a planning consideration.

Landscape and Ecology

- 16.10 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC) 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 Framework 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.

- 16.11 The application is supported by an ecological assessment, which indicates that the proposed development will not have any impact on local wildlife designations. The site is located in close proximity to internationally designated sites and the applicant has agreed to make the appropriate financial contribution towards recreational management in accordance with Natural England's RAMS strategy.
- 16.12 To the rear and west of the site are several mature trees that will require removal to accommodate the proposed development. These trees contain potential roost features that could be used by bat species foraging/dispersing in and through the wider surrounding habitats. Suitable bat roost assessments are required for all the relevant buildings and trees to be removed. There are numerous ponds within the adjacent woodland with one pond close to the site; a further survey regarding Great Crested Newts is therefore required.
- 16.13 There are a total of 6 individual trees, 2 tree groups and 1 woodland edge within the site. Trees are protected by a TPO whilst some trees are retained others are to be removed as part of the development. The Arboricultural Officer has considered the submitted tree reports and has raised no objection to their removal but advises a scheme of new planting should be secured by condition. These trees are a small part of a significant area of woodland of some 27 hectares which is secured as a public amenity.

Highway Safety and Parking Provisions (including Cycling)

- 16.14 Vehicular access is via the Rowhedge Wharf Road, pedestrian access to the site can be gained either via this road or a pedestrian link at the end of Rowhedge High Street. The parking provision satisfies the Councils adopted parking standard including provision for visitor parking. The houses all have private amenity areas where cycles can be stored. The Highway Authority has raised no objection to the application.

Drainage

- 16.15 The west part of the site lies within Flood Zone 1 and is at low risk of flooding from a fluvial/tidal source. The east part, however, lies in Flood Zones 2 and 3. It is proposed to raise site levels to a minimum of 5.40 mAOD in order to raise all of the site into Flood Zone 1. The Flood Risk Assessment indicates there is no loss of flood storage and that flood levels will not be affected; in addition, there is no increase in flood risk elsewhere. The site is considered to be at low risk from all sources of flooding provided that a suitable flood exceedance route is provided within the development.
- 16.16 The surface water drainage strategy shows how surface water run-off from the development could be controlled via the use of attenuation basins and a restricted discharge to the adjacent surface water sewer. The surface water discharge rate is designed to meet the 100% greenfield run-off rate in line with Essex SuDS Guidance. Surface water run-off will be treated to improve the quality of surface water run-off discharged from the site. Foul

water will be discharged to the existing foul water sewer located in Rowhedge Wharf Road.

- 16.17 Anglian Water and ECC as Lead Local Flood Authority have raised no objection subject to conditions.

Other Matters

- 16.18 A remediation strategy has been submitted the principle of which has been agreed by the Councils Contamination Officer and the Environment Agency.

17.0 Conclusion

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

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 legal agreement under Section 106 of the Town and Country Planning Act 1990 plus any amendments required to the existing section 106 agreement, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed and the existing agreement is not amended 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 legal agreement to secure;

- a contribution of £1,000 per dwelling towards the Rowhedge Trail
- Affordable housing - 1 x three bed house
- Open Space Sport & Recreation- a contribution of £23,200.31 for off-site sport and recreation
- Sustainable Transport/Highways – a £20,000 contribution for bus shelter upgrades.
- A RAMS contribution of £122.30 per dwelling.

19.0 Conditions

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. Non Standard Condition - Street Name Signs

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.

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 Drawing Numbers 18.7831, 18.7831.126 -129,101rev B, 120 rev A, 121 Rev A, 122 Rev A.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

4. Non Standard Condition - Site Levels Plan

No works, other than remediation works, shall take place, until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

5. ZBB - Materials As Stated in Application

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

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

6. 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.

7. ZGX - Contaminated 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.

8. ZGY - 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.

9. ZGZ - 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.

10. ZGO - 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 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, 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 9.

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. 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 8.

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. Non Standard Condition - Surface Water Drainage

No works, other than remediation and enabling works, shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and 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:

- Limiting discharge rates to 11.8l/s for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus -40% climate change event.
- Provide evidence that demonstrates all storage features should half empty with 24 hours for critical storm event 1:100 plus 40% climate change, in order to meet LLFA half drain time requirement.
- Final modelling and calculations for all areas of the drainage system.
- 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.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

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

runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

13. Non Standard Condition - Minimise Risk of Offsite Flooding During Construction Works

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 paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to 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 top soils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

14. Non Standard Condition - Maintenance Plan for Surface Water Drainage

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

Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

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

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

15. Non Standard Condition - Remediation Strategy

Prior to each phase of development approved by this planning permission no development/No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

16. Non Standard Condition - Verification Report

Prior to any part of the permitted development/each phase of development being occupied/brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

17. Non Standard Condition - Monitoring and maintenance plan in respect of contamination

The development hereby permitted shall not commence until a monitoring and maintenance plan in respect of contamination, including a timetable of monitoring and submission of reports to the local planning authority, has been submitted to, and approved in writing by, the local planning authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to, and approved in writing by, the local planning authority.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 170 of the National Planning Policy Framework.

18. Non Standard Condition - Unexpected Contamination

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

Reason: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework.

19. Non Standard Condition - Drainage Systems

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

20. Non Standard Condition - Agreement to any Piling methods

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

Reason: Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater. The National Planning Policy Framework paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

21. ZFB - *Full Landscape Proposals TBA*

No works above ground floor slab level shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details are not acceptable in all respects; the curtilage treatment proposed needs to be revised, the proposed side enclosure treatment to boundary to plots/areas adjacent to the woodland needs to be revised to a native hedge and hedgerow trees set in front of a dark stain hit-&-miss 1.8m high fence and the retention or reinstatement of vegetation to the north boundary is required.

The landscape scheme shall include the above matters together with:

- 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.

22. 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.

23. 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.

24. 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.

25. 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

26. Non Standard Condition - Light Pollution

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity).

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

27. 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.

28. Non Standard Condition - Travel Information and Marketing Scheme

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

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

29. Non Standard Condition - Wildlife Survey

No works including demolition or removal of trees shall take place until a survey to confirm or disprove the presence of bats and great crested newts on the application site has been submitted to and approved, in writing, by the Local Planning Authority. If bats and/or great crested newts are present the survey shall be accompanied by a scheme of appropriate mitigation measures including precise details of the timing and method of protection. No development shall be undertaken thereafter, except in accordance with the approved scheme of mitigation. No works shall take place until a scheme of habitat and biodiversity enhancement and mitigation, has been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To improve biodiversity in accordance with Paragraph 118 of the NPPF and Section 40 and 40(3) of the Natural Environment and Rural Communities Act (2006) and in order to safeguard protected wildlife species and their habitats where it is possible that they could be present.

30. Non Standard Condition - Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

the parking of vehicles of site operatives and visitors;
hours of deliveries and hours of work;
loading and unloading of plant and materials;
storage of plant and materials used in constructing the development;
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
wheel washing facilities;
measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from construction works.
Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

31. ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

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

32. ZPE - Limits to Hours of Construction Deliveries/Worker Traffic

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No deliveries

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.

33. Non Standard Condition - Communal storage areas

In the case of communal storage areas, a management company shall be made responsible for the maintenance of such areas. Such detail as shall have been installed shall be retained and maintained in good working order. The developer shall notify the local planning authority of the management company contact details as soon as these are known.

Reason: To ensure satisfactory provision is made for the management of communal storage areas.

34. Non Standard Condition - EV Charging points

No works shall take place above ground floor slab level of any dwelling on the development until a scheme for the provision of external electric points suitable for electric vehicle charging has been submitted to the Local Planning Authority for approval and approved in writing. The scheme shall include details of the type of charging point to be provided, their location, a timeframe for their implementation, the arrangements by which residents of the development can access and use the charging points and details of their on-going management and maintenance. The development shall be implemented in accordance with the approved details. The approved scheme shall be implemented prior to occupation of the dwellings

Reason To promote sustainable development and transport.

35. Non Standard Condition - Flood Evacuation Plan

Prior to any above ground development a Flood Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented prior to occupation of the dwellings.

Reason: To mitigate any risk during times of flood.

36. Non Standard Condition - Design

Notwithstanding details shown upon the approved drawings and prior to installation of the following elements of each dwelling: detailed drawings of all windows and external doors (including reveals, sill and lintel details), eaves, verges, gables, ridges, extract and flue terminals, rainwater goods, chimneys, including the chimneys to plots 89 and 90 and car ports, large scaled drawings of each element at a scale of 1:20 and 1:5 with full size sections of any mouldings together with details of proposed materials and finishes shall be submitted to and agreed in writing by the Local Planning Authority. The features shall thereafter be installed strictly in conformity with the approved details and so maintained thereafter.

Reason: The submitted application contains insufficient detail to ensure that these details are appropriate to the site context and would create a high-quality environment for future residents in accordance with adopted policies ENV1 and DP1.

37. ZDB - Removal of Permitted Development Rights extensions

Notwithstanding the provisions of Classes A, B, C and D 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 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.

38. ZDE - Removal of Permitted Development Rights fences

Notwithstanding the provisions of Class A of Part 2 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 fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

39. Non Standard Condition - Amendments to fenestration

Notwithstanding details shown upon the approved drawings and prior to the erection of the side elevations of units 90,92,94,99 and 105 revised drawings showing amendments to the elevations to introduce additional fenestration shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved drawings.

Reason: To ensure that the detailed design of the units maximises opportunities for passive surveillance and visual interest in order to achieve a high standard of design in accordance with policies DP1, UR2 and ENV1 of the Adopted Colchester Development Plan.

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. Non Standard Informative

Anglian Water Informative

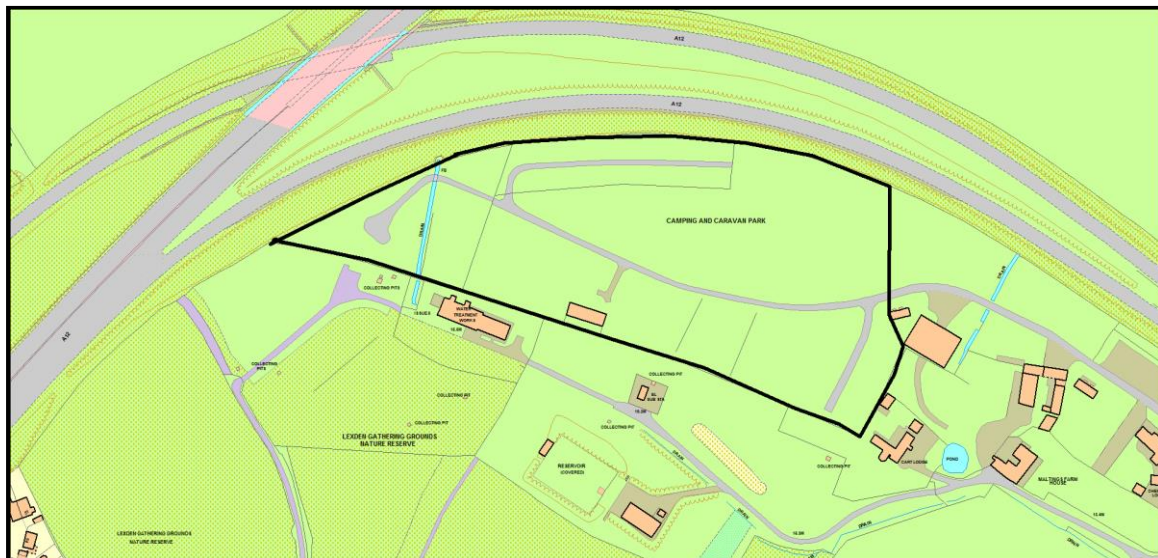
"Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of

the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence”.

5. Non Standard Informative

LEAD LOCAL FLOOD AUTHORITY INFORMATIVES:

1. Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
2. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
3. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
4. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
5. The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.



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Item No: 7.2

Application: 183053

Applicant: Mr S Sellers

Agent: Mr Mark Southerton

Proposal: Use of part of approved caravan park for the siting of static caravans

Location: Colchester Holiday Park Ltd, Colchester Caravan Park, Cymbeline Way, Colchester, Essex, CO3 4AG

Ward: Lexden & Braiswick

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 Willetts on the following basis:

The proposed development is outside the approved settlement area of the urban centre of Colchester. The site of the proposed development is in an environmentally sensitive area containing extensive nature reserves, bounded by the A12 slip road, Cymberline Way, and the developed area of Lexden area.

While part of this area is designated in the local plan for a Caravan site, this is in the context of Policy DM5 of the submitted local plan in regard to holiday lodges, static and touring caravans.

The proposed change of use would appear to migrate use towards a permanent residential site, rather than a use in regard to Tourism, Leisure, Culture and Heritage.

I request that the Planning Committee consider whether residential use would be appropriate at this location.

2.0 Synopsis

- 2.1 The key issue for consideration is the impact that the change in type of unit and the reduction in unit numbers, may have on the surrounding area.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site comprises of part of an existing holiday park that currently accommodates a variety of caravans and tents. The site sits to the west of the town centre, beyond the settlement boundary. The site is bound by the A12 slip road to the north and a local wildlife site to the south. There are two residential properties within proximity to the east.

4.0 Description of the Proposal

- 4.1 This application seeks permission to station a maximum of 85 static caravans within the existing caravan park, in lieu of touring caravan and camping pitches.

5.0 Land Use Allocation

- 5.1 The application site is allocated as a caravan site within the adopted Local Plan.

6.0 Relevant Planning History

- 6.1 Planning permission COL/78/0706 granted permission for the use of the site as a caravan park. This allowed for 251 touring caravans at the site with a variety of restrictions on the duration that different units could stay. Subsequent applications sought to vary and relax these restrictions.
- 6.2 Planning permissions 136183 & 180949 gave approval for 30 static caravans on part of the site, in lieu of 30 touring pitches. Whilst planning permission 160672 gave approval for 12 static caravans on another part of the site formerly used for storage of tourer caravans. Subsequent applications have been approved varying restrictive conditions on these historic permissions.
- 6.3 It is therefore considered the site as it stands is permitted to facilitate up to 42 static caravans and 221 tourers.
- 6.4 Conditions restricting the use of the site have been varied and removed historically on the basis that within the current policy context it is not appropriate or reasonable to restrict the duration or time of year of stays at the site, but rather only to restrict them to a non-permanent residential use.

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
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
DP10 Tourism, Leisure and Culture

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;
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.

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 Archaeological Officer made the following comments:

The proposed development is located within an area of archaeological interest recorded in the Colchester HER. Trial-trenched evaluation was undertaken across part of the red-line area by Colchester Archaeological Trust in September 2016 (CAT report 1024, HER event no. ECC3880). Archaeological features were defined in all but two (T5 and T7) of the trenches. Roman ditches, pits and post-holes were excavated, interpreted as being associated with agriculture or settlement. Large quantities of Roman ceramic building material were recorded and may suggest the presence of a structure with tiled roof and hypocaust somewhere nearby.

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.

An appropriate archaeological condition is therefore recommended.

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

The landscape content/aspect of the strategic proposals lodged on 19/12/18 would appear satisfactory. In conclusion, there are no objections to this application on landscape grounds.

- 8.4 The Council's Environmental Protection Team made the following comments:

Should planning permission be granted Environmental Protection wish to make the following comments:-

ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

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

Boundary

We recommend a 2m high close-boarded fence is erected along any boundary with existing residential property.

- 8.5 The Lead Local Flood Authority made the following comments:

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following conditions:

Condition 1

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on ground water level investigations to ensure that there is a sufficient distance between the highest ground water level and the base of the infiltration basins.

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- 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.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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.

Condition 2

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 paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to 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. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

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

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 4

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.

8.6 Highways England made the following comments:

Thank you for your consultation dated 20 December 2018. The following application is unlikely to have a severe impact on the strategic road network. We therefore offer no comments in this instance.

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 following mitigation and conditions:

The development shall not be occupied until such time as a car parking and turning area has been provided for each caravan and for additional visitors. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning 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 and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

9.0 Parish Council Response

9.1 Non-parished.

10.0 Representations from Notified Parties

10.1 The application resulted in four letters of objection from members of the public and three letters of support. 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:

- The visual impact of the proposal
- Impact on tourism and the economy
- Potential future use of the site
- Impact on wildlife
- Lack of appropriate infrastructure

11.0 Parking Provision

11.1 The proposal includes one parking space per unit, in accordance with adopted parking standards.

12.0 Accessibility

12.1 The proposal allows for flexibility in the design of individual units and as such units could be designed to meet the varying needs of individual users.

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

- 16.1 The application site forms part of an existing and approved camping and caravan site, which is allocated as such in the adopted Local Plan. Additionally, the use subject of this application has already been approved within adopted policy and via previous permissions, as such its acceptability is established. The continued use of the site for this purpose, as proposed, is therefore considered acceptable in principle.
- 16.2 The application seeks permission for a maximum of 85 static caravans within the application site and sees a reduction in the area available for touring caravans and tents within the wider site. The remainder of the wider site would be limited to 50 pitches for touring caravans and tents. As a result, the capacity of the site would be varied from 42 static units and 221 other pitches, to 85 static units and 50 other pitches. Said levels of use could be conditioned and would see a marked reduction in the level of use that would be permitted at the site. This would also see a reduction in the number of structures that would be permitted to be present at the site at any one time.
- 16.3 The reduced level of use at the site, would reduce levels of activity within and surrounding the site. This would reduce the number of vehicle movements to and from the site and reduce the impact the existing site and use have on the adjacent local Wildlife site.
- 16.4 The application seeks to allow flexibility in the position and design of the proposed units. This is considered acceptable on the basis that all units remain within the application site and fall within the definition of a caravan, both of which can be ensured by condition. These details are also largely controlled by the caravan act and licencing legislation. It is therefore not considered that relaxing these elements of the permission would cause significant detrimental impact to the surrounding area and as such it is considered acceptable.
- 16.5 An indicative landscaping scheme is outlined within this application, the finer details of which would be agreed by condition. This focuses on the boundary of the site and seeks to mitigate the visual impact of the site on the wider landscape. Additionally, the site is already enclosed by existing natural and man-made features surrounding the site. On this basis, it is considered that the proposal would reduce the visual impacts of the site on the surrounding area.
- 16.6 In light of the above it is considered that the proposed increase in the number of static caravans at the site would have a positive impact on the level of use of the site, thus reducing its impact on the surrounding area, and the proposed landscaping is sufficient in ensuring it would not cause detriment to the site setting from the public realm.
- 16.7 Concerns have been raised regarding the use of units as permanent residences. However, it should be noted that this is not what has been applied for within this application and use of the site will be guarded against by appropriate conditions in accordance with adopted policy.

17.0 Conclusion

- 17.1 To summarise, the use of the site has been established as acceptable for in excess of 50 years and the shift to static units proposed within this application would likely reduce the sites impact on the surrounding area, by virtue of reducing the level of use permitted at the site. The proposal is therefore considered acceptable on balance, subject to appropriate restrictions on the use of the units.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1) ZAA - Time Limit for Full Permissions

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

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

2) ZAM - Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted 'Location Plan'.

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

3) Non Standard Condition - Archaeology

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

4) 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.

5) Non Standard Condition - Landscaping

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.
- 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.).
- 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.

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.

6) Non Standard Condition - SUDS

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by suitably qualified person(s) or the Lead Local Flood Authority (ECC) the statutory consultee in relation to SuDS. 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 lpa. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on ground water level investigations to ensure that there is a sufficient distance between the highest ground water level and the base of the infiltration basins.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- 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.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

7) Non Standard Condition - Drainage During Construction

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works 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 paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

8) Non Standard Condition - Drainage Maintenance

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

9) Non Standard Condition - Drainage Maintenance Log

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.

10) Non Standard Condition - Tourers and Camping

No more than 50 pitches for touring caravans and tents shall be provided within the area outlined in blue on the Location Plan submitted as part of this application.

Reason: For the avoidance of doubt as to the scope of this permission as this is the basis upon which the application has been submitted and subsequently determined and extension to the site would need to be considered on its own merits at such a time as it were to be proposed.

11) Non Standard Condition - Static Units

No more than 85 static caravans shall be sited within the area outlined in red on the Location Plan submitted as part of this application.

Reason: For the avoidance of doubt as to the scope of this permission as this is the basis upon which the application has been submitted and subsequently determined and extension to the site would need to be considered on its own merits at such a time as it were to be proposed.

12) Non Standard Condition - Size of units

All static caravans on the site hereby approved shall fall within the definition of a caravan as set out within The Caravan Sites Act 1968 (as amended), unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and as this is the basis upon which the application has been submitted and subsequently determined and any larger units would need to be considered on their own merits at such a time as they were to be proposed.

13) Non Standard Condition - Holiday use only

The development hereby approved shall be used solely for the purposes of holiday accommodation and shall not be occupied as a sole or main place of residence. The owners of the application site shall maintain a log of the occupation of all caravans at the site, including dates of occupation, occupiers names and home addresses. Said Log shall be made available for inspection by the LPA upon request.

Reason: To ensure the use of the caravans hereby approved as holiday accommodation as this is the basis upon which the application has been submitted and subsequently determined and any permanent residential use of the site would need to be considered at such a time as it were to be proposed, as this application was considered as being for holiday purposes in the interests of contributing to tourism and the economy of the area.

14) 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.

15) Non Standard Condition - Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

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

16) Non Standard Condition - Ecology

The development hereby approved shall be conducted in accordance with the submitted Preliminary Ecological Appraisal

Reason: To ensure that any harm to ecological assets at the site is minimised.

17) Parking

Prior to the occupation of each unit hereby approved, one parking space with minimum dimensions 2.9m x 5.5m shall be made available for the occupants of the unit and shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use that unit.

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

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 Archaeology:

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

<http://www.colchester.gov.uk>



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Item No: 7.3

Application: 191646

Applicant: Kevin Whyte, Barefoot & Gilles

Proposal: Redevelopment of a vacant site to provide 6 flats, 2 mews houses and associated access road, parking, amenity space and landscaping.

Location: Land Adjacent to 62 Military Road, Colchester, CO1 2AN

Ward: New Town & Christ Church

Officer: Annabel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Homes.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposal, the design, scale and form, as well as its impact on neighbouring amenity in terms of outlook, light and privacy. These matters have been considered alongside planning policy requirements and other material matters, leading to the application being subsequently recommended for approval.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning considerations are then reviewed together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and consequently a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The site is 'land adjacent to 62 Military Road' which is Colchester Borough Council owned land.
- 3.2 The site is located within the defined settlement boundary and is on previously developed land, the previous building has been demolished.
- 3.3 The area is predominantly residential in character. The site is adjacent to but outside a conservation area and is adjacent to but outside a regeneration area.
- 3.4 The site is considered to be in a sustainable location and highly accessible. The site is 0.4 miles from the inner core of the town centre and there is a bus stop directly outside of the site. There is a local convenience store approximately 100m from the site.

4.0 Description of the Proposal

- 4.1 The proposal is to create 100% affordable homes. Each of the dwellings is to be affordable housing owned and managed by Colchester Borough Homes.
- 4.2 The proposal comprises two 2-bedroom mews houses, three 1- bed flats, three 2-bed flats, a total of eight dwellings.

5.0 Land Use Allocation

- 5.1 Previously developed land

6.0 Relevant Planning History

- 6.1 190373 – Preliminary Enquiry. The response to this PE helped to inform the current proposal.
- 6.2 121821 – Demolition of 58 – 60 Military Road

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 set out 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
- 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
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - DP17 Accessibility and Access
 - DP19 Parking Standards
- 7.4 There are no relevant policies within the adopted Borough Site Allocations Policies (adopted 2010, amended 2014).
- 7.5 There are no relevant Neighborhood Plans.

- 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;
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.

- 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

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 Archaeology

No further archaeological work is required for the 62 Military Road site (“an evaluation has been completed and not further work is required”).

8.3 Highways

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

1. Prior to the occupation of the proposed development, the proposed vehicular access shall be provided in complete accord with the details shown in Drawing Numbered 2030/DE10-402/REV E.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. The existing access shown on the submitted plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new access is brought into use.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 12m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Any new or proposed boundary hedge or vegetation shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5. 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 2030/DE10-402/REV E. 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 and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

6. 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.

7. 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.

8. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies February 2011.

Informative1: 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

Informative2: The applicant should be reminded that the relocation of the street furniture (lamp column) or alterations to the carriageway bus stop markings is

not guaranteed and they should engage in discussions with the owners of the street furniture without delay.

8.4 Contaminated Land

I note that this application is supported by REC, Phase I and II Geo-Environmental Assessment, Ref. 1CO105048/P2/R0, Final, dated May 2018. This is an acceptable initial report for Environmental Protection's purposes. It has identified some potential sources of contamination, requiring additional investigation and risk assessment. However, based on the information provided, it would appear that this would not preclude redevelopment for a residential end-use, with the remaining matters dealt with by way of planning condition to any approval. Consequently, should this application be approved, we would recommend inclusion of the following Conditions:

ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

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

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

ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

ZG3 - *Validation Certificate*

8.5 Trees

Survey and Analysis - Regarding the proposed development and the tree report provided: I am in agreement with the conclusions of the report provided.

In conclusion, I am satisfied with the arboricultural content of the proposal subject to the above.

Recommendation - agreement to the landscape aspect of the application subject to condition: Make the tree report an approved document.

8.6 Urban Design

Proposals are moving in the right direction, though some further refinement is advised as follows before I could support the scheme:

1. The communal garden appears too small and detached. The cycle store should be relocated (e.g. along the NW site edge or to the northern corner) to enlarge the garden. Ground floor units should have direct spill-out access to the communal garden where possible to encourage usage more generally. Plot 2 should either have direct spill-out access to the space or overlooking windows omitted;
2. Inaccessible front gardens would be a maintenance liability and intuitively appear wrong – omit fencing if maintained by a management company or make visibly accessible from associated doorway if maintained by associated ground floor unit;

3. The Military Road façade around the drive-through appears unresolved:



Its recommended: (i) a concrete or slightly projecting brickwork surround is added to the drive-through opening to lend a sense of structural support especially considering the heavy looking rusticated brickwork above – ditto to the rear, (ii) the blank ground floor façade to the side of the drive-through is animated with signage for the development such as through engraved stone or concrete, or lettering onto flat brickwork, and (iii) considering a clearly differentiated 1st floor fenestration above the driveway (e.g. box oriel?) befitting differences with the rest of the facades use context and fenestration rhythm;

4. Possibly implied (as same as below) concrete window (immediate) surrounds at 2nd storey level would appear too heavy and its recommended these are clarified as zinc to match the wider (lightweight) surround at 'roof'-level;
5. Are parapets sufficiently raised having regard to roof maintenance and safety?;
6. Lintels only appear directly above openings and therefore appear



uncomfortably unsupported visually: . They need to be extended into side brickwork;

7. The rear parking court facing elevation relating to Flat 1 appears too blank:



High level ground floor fenestration is recommended, with recessed brickwork used to extend the sense of opening down;

8. Shadow analysis needed at different times of year and day to assess impact on neighbours;
9. It's unclear why floor-to-ceiling heights are so high (3.1m), resulting in a taller building than might be desirable and some noticeably disproportionate gaps between windows on different floors, e.g.:



10. Key materials, details and boundary treatments need conditioning.

Planning Officer Comment:

The majority of the suggestions by the Urban Designer has steered further amendments to the design which is now considered to be acceptable in detail and principle.

8.7 Built Heritage and Conservation

Heritage Asset: Summary of Significance

The application site is situated adjacent to boundary of the Newtown Conservation Area, a designated heritage asset. The Newtown Conservation Area is characterised by traditional Victorian residential properties (terraced housing, semi-detached and detached villas) interspersed by (formerly) commercial buildings.

Scope of Works: Summary

The application seek planning permission for the erection of residential units on a vacant site that is adjacent to the Newtown Conservation Area boundary.

Relevant Statutory Duties

The Planning (Listed Buildings and Conservation Areas) Act places a statutory duty to pay special attention to the desirability of preserving the character or appearance of a conservation area

The National Planning Policy Framework (NPPF) is also a material consideration. Section 16, Par. 193 of the NPPF determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Par. 194 determines that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Whereas paragraph 195 deals with substantial harm to a designated heritage asset, Par. 196 states that where a development proposal will lead to less than substantial harm to the asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Analysis of Impact Upon Heritage

The application site is bounded by the rear gardens of residential properties that are located within the Newtown Conservation Area. There will no significant views of the proposed development from the public domain within the conservation area and, as such, the development will not have an impact on the conservation area when taken as a whole.

Compliance with Relevant Policy

Local Plan: Core Strategy ENV 1 and Development Plan Policies DP 14

NPPF: Par. 193 requiring the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Par. 194 determines that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

For the reasons given above, the proposed development is not considered to conflict with the adopted policies and/or national planning guidance.

Conclusions & Recommended Actions

The proposed development is considered to have a neutral impact on the character and appearance of the Newtown Conservation Area when taken as a whole. For this reason, there is no objection this application from a heritage perspective (impact on conservation areas and/or listed buildings).

Should comments be required in respect of the design merits of the proposed development, you should seek advice from the Council's Urban Design Officer.

8.8 Environmental Protection

Should planning permission be granted Environmental Protection wish to make the following comments:-

General

The developer is referred to the 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.

Fires

No fires to be lit on site at any time.

ZCG - 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.

ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

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

EV Charging points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated)

9.0 Parish Council Response

9.1 N/A Non – parished

10.0 Representations from Notified Parties

10.1 The application resulted in notifications to interested third parties including neighbouring properties. The full text of the representations received is available to view on the Council's website.

10.2 Objections

There have been 4 objectors, of which some have submitted multiple separate objections. A summary of the matters raised:

- Adverse impact on Residential amenity – loss of privacy/overlooking/light
 - Planning Officer comments: This has been assessed and is addressed in the report.
- Adverse Impact on Neighbouring trees
 - Planning Officer comments: The relevant tree assessment has been submitted and reviewed by the Councils Tree Officer and considered to be acceptable subject to conditions.
- Adverse Impact on Highway safety
 - Planning Officer comments: The Highways Authority has been consulted and no objection has been raised see highways comments 8.3 therefore the proposed is considered to be acceptable with regards to highways safety.
- Adverse impact on Wildlife – birds on site
 - Planning Officer comments: the site is a derelict vacant site. An ecological survey was deemed not appropriated as part of the application process. The disturbance of nesting birds is controlled under the Wildlife and Countryside Act. Therefore, an informative will remind the applicant of their duties to comply with the relevant legislation.
- Pressure on local services
 - Planning Officer comments: The Local Plan supports the redevelopment of previously development sites within the settlement boundary. The planning application is not a major planning application therefore no contributions have been sought.

- Pressure on parking
 - Planning Officer Comments: It is considered that sufficient parking has been provided, a parking assessment to support this conclusion has been submitted.
- There were also matters raised that are not material planning considerations.

11.0 Parking Provision

11.1 Development Policy DP19: Parking standards states that a minimum of 1 parking space should be provide for each 1-bedroom dwelling and 2 parking spaces for dwellings with 2-bedrooms or more, additional 0.25 spaces to be provided per dwelling for visitors. DP19 also states that a lower standard of parking provision may be acceptable where is can be demonstrated that there is a high level of access to services. It is considered that the proposed is within a highly accessible area with ease of access to services. The proposed scheme provides 8 parking spaces this equates to 1 parking space per dwelling.

11.2 In support of the application a car parking survey was carried out. The parking surveys where focus on Bob Russell House as a similar development and Goodey Close. The car parking survey concluded that at Bob Russell House's parking stress was low and there were adequate spaces for additional vehicles. At Goodey Close although the stress on the Sunday was relatively high there was still car parking availability.

11.3 The site is in a sustainable location. The car parking survey has provided sufficient information to evaluate the parking stress for allocated parking in the area. On balance the parking provision proposed is considered to be acceptable and in conformity with policy DP14.

12.0 Accessibility

12.1 With regards to the Equalities Act and compliance with polices DP12 and DP17 that detail requirements with regards to accessibility standards the proposed provides two ground floor flats that could be adapted if required. Parking space P1 could also be adapted to become a disabled parking bay should the need arise. As the development will be owned and managed by Colchester Borough Homes there is the scope and budget to manage the units in accordance with the needs of the occupants.

13.0 Open Space Provisions

13.1 Amenity space is provided on site for residents but no public space can be delivered as the site/development is modest.

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. Each vehicle parking space will also be conditioned to provided electric vehicle charging points to promote low emission vehicles in the interests of sustainability.

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, scale, form and layout
- Impacts on Neighbouring Properties
- Private Amenity Space Provision
- Trees
- Highway Safety and Parking Provisions (including Cycling)
- Conservation area
- Refuse storage facilities
- Wildlife Mitigate Payment

Principle of development

- 16.1 The application site is within the settlement boundary of Colchester. In terms of the principle of development Core Strategy Policy SD1 seeks to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy.
- 16.2 The site is also previously developed land with the former buildings having been demolished. Paragraph 84 of the National Planning Policy Framework (NPPF) states use of previously developed land, should be encouraged where suitable opportunities exist. The Local Development Plan states that Colchester will seek to provide over 80% of housing on previously development land this is to stimulated regeneration, improve accessibility and protect the countryside.
- 16.3 The site is owned by Colchester Borough Council and held in the Housing Revenue Account. The Housing Revenue Account (HRA) is a ring-fenced account where the affordable housing income goes, that can then only be reinvested in affordable housing stock. The HRA is then spent on maintaining and repairing homes, and also for increasing the stock (which then increases the resultant income through rent). Therefore, it is a self-filling account ring-fenced and separate to the Council's General Fund budget.

- 16.4 The site will remain owned by the Council, and these homes are being built for the Council as council-owned affordable homes, held by the HRA. The Council currently owns over 6,000 homes. It is in the process of developing sites that will create approximately 350 new affordable homes, of which this site is one project.
- 16.5 The project is being managed by Colchester Amphora Homes Ltd (CAHL) who have been commissioned to deliver the development. CAHL have been commissioned by the Client Team in CBC. The wider Council Housebuilding Programme was approved by Cabinet in January 2019, and the development of this site as entirely affordable housing, by CBC in partnership with Colchester Amphora Homes Ltd, was agreed at the June 2019 Cabinet meeting.
- 16.6 Colchester Borough Homes is the Council's arms-length management organisation (ALMO). They manage the Council's housing stock, and when these homes are complete, they will be handed over to CBH to find occupiers from the housing needs register.
- 16.7 There are over 3,000 people on the housing needs register, waiting for affordable homes. Providing more affordable homes is a key corporate strategic priority of the Council, because of the demand that exists.
- 16.8 The proposed will create an additional 8 Council owned affordable homes within the settlement boundary, on previously development land in a sustainable location. Therefore, the principle of the scheme is acceptable and welcomed.

Design, scale, form and layout

- 16.9 The NPPF states that new development should make a positive contribution to local character and distinctiveness. Core Strategy Policy UR2 states that infill developments such as that proposed for Military Road should enhance the character, quality and function of an area and should make a positive contribution to the character of the existing locality. Development Plan policy DP1 requires all development to be designed to a high standard.
- 16.10 The Council's Supplementary Planning Document on Backland and Infill Sites applies to this site and therefore the local character of the area has been taken into consideration to inform the massing and elevational treatment of the buildings.
- 16.11 The proposals are for a continuous frontage to Military Road including vehicle access to the rear of the site and with two freestanding dwellings to the rear of the property.
- 16.12 The massing of buildings along Military Road are predominantly 2-storey with occasional 3-storey structures. Therefore, the three-story unit the fronting the road is considered to be acceptable.
- 16.13 The architecture of Military road is eclectic, yet the applicant has demonstrated how the proposed design has been informed by the character of the area.

- 16.14 The elevational treatment fronting Military Road utilizes articulated window surrounds, appropriate brick detailing, quality materials and prominent dormer windows adding interest to the roof line. It is considered that the elevation which is prominent in the public realm is good design and is considered to be acceptable.
- 16.15 The rear elevation of the flats is not considered to be as successful as the front elevation. However, as the rear elevation is not visible from the public realm therefore is considered to be acceptable.
- 16.16 The mews houses have been designed in a way to ensure that the amenity of the neighbouring dwellings is compromised. As a result, the roof forms are not traditional with a stepped roof line. It is considered that the forms of the buildings although unusual, are thought to be acceptable. The houses are located at the rear the plot and not publicly visible from Military Road with limited visibility from the footpath link to Goodey Close. The character of the area is eclectic and therefore the proposed does not adversely impact the character of the surrounding area.
- 16.17 It is considered that the design, scale, form and layout of the proposed is acceptable. It is considered that the front elevation is particularly successful and represents positive contribution to the area.

Impacts on Neighbouring Properties

- 16.18 Policy UR2 of the Core Strategy and Development Policies DP1 and DP13 state that any development must respect existing and proposed residential amenity with regards to privacy, overlooking, security, noise, disturbance, pollution, daylight and sunlight.
- 16.19 There have been objections received from neighbours expressing concerns with regards to neighbouring amenity.
- 16.20 The proposed has been carefully considered with regards to retaining the privacy of the existing residents. The Mews Houses have no windows on the NE and SE elevations with the expectation of one window that is to be obscured glazed and non-opening, therefore fully preserving the privacy of the dwellings on Winncock Road and Goodey Close.
- 16.21 Concerns have been expressed with regards to the protection of private sitting out area of 62 Military road. There are no side windows on the flat that offer views of the private amenity area therefore the proposed complies with the Councils tests for assessing this issue.
- 16.22 With regards to rear window on the flats and the existing dwellings to the rear of the site the back to back distances are acceptable and comply with policies set out in the Essex Design Guide..
- 16.23 The proposed has also been carefully considered with regards to overbearing impact on the neighbours. A section has been provided through the site to fully assess the topography of the site with regards to the dwellings at Winncock

Road. The results of the section lead to the amendment of the layout of the Mews Houses and the roof forms. The Mews Houses are pulled away from the boundary and the floors are stepped so that the two storey elements of the buildings are at sufficient distances from the adjoining boundaries. It is therefore considered that the proposed will not be unduly overbearing on existing dwellings and is acceptable.

- 16.24 With regards to daylight and sunlight a Shading and Daylight Study has been submitted in support of the application. The report shows that in the afternoon and evening in winter months there is some shadowing of the rear of the properties on Winnock Road. However, on balance the significance of the harm is considered to be minor and could not justify refusal.
- 16.25 The first floor of 56 Military Road is an existing dwelling. There is one side window on the adjoining party wall. It is not clear when the window was installed or whether the window is lawful. Nonetheless, the window is the only window serving the living room of the dwelling. An objection has been received with regards to concerns about loss of light to the living room.
- 16.26 The daylight impact on the existing party wall window to no. 56 Military Road has been shown as part of the application. The Vertical Sky Component (VSC) has been assessed to check daylight impact. VSC is a measure of the amount of sky visible from a centre point of a window. The Building Research Establishment (BRE) guidance for daylight VSC to existing habitable rooms after development is a minimum of 27%. The VSC section submitted shows the relationship of the existing window to the proposed flats and draws a 25 degree line from the centre point of the existing window. All obstructions are beneath this 25 degree line therefore the VSC is over 27%. The shading impact on the existing party wall window to no. 56 Military Road is moderate only, this is due to the set-back plan arrangement of the proposed building and swept back roof line.
- 16.27 56 Military Road has an unimplementable planning approval for the conversion of the ground floor former bike store to a residential dwelling.
- 16.28 With regards to other matters the proposed is considered to improve the security of the site which at present is vacant and therefore at risk of trespass. The location of the parking and the bin stores has been considered to reduce impact in terms of noise, disturbance and pollution with the parking located away from existing residential properties.
- 16.29 It is considered that the proposed is therefore acceptable with regards to impact on neighbouring amenity.

Private Amenity Provision

- 16.30 Development policy DP16 states that for two bedroom houses a minimum of 50m² private amenity space is required. For flats a minimum space requirement of 25m² per flat should be provided communally. The Essex Design Guide states that a balcony or terrace over 5m² will also count towards this requirement.

- 16.31 Mews House Plot One has private amenity space of 49m² which is a small amount under the policy requirement. Mews House Plot Two has private amenity space of 48.5m² which again is below the policy requirement however this is offset by the provision of a front garden measuring 12m² although not private this does provide further usable space. On balance the proposed private amenity for the Mews Houses is considered to be acceptable in this context.
- 16.32 The rear garden of Plot Two is overlooked by an existing dwelling. However, the orientation of the buildings and the existing tall brick boundary wall means that some privacy is achieved. On balance the private amenity provision for the house is acceptable.
- 16.33 There are 6 flats proposed therefore 150m² of amenity space should be provided. The scheme provides 55m² communal space with an additional 19m² provided as private terraces for flats 1 and 2 therefore, a total of 74m² has been provided. Whilst it is significantly below the policy requirement the proposed amenity space has been the subject of much negotiation with the Planning Officer and the Urban Designer. It is considered that the private amenity space provided is highly useable. Also, the site is in close proximity to a Recreation Ground providing offsite amenity facilities. On balance the proposed is considered to be acceptable having regard to the merits of the scheme.

Trees

- 16.34 Development Plan Policy DP1 requires development proposals demonstrate that it will respect and enhance the character of the site, context and surroundings including its landscape setting.
- 16.35 There are no trees on the site however there are within the neighbouring properties. Consequently, an Arboricultural Impact Assessment (AIA) was carried out in support of the application. The report found that there are some trees of low to modest amenity value off site, most of which are B category standard trees. The dominant individual tree species adjacent to the site is Apple, Silver Birch and Plum. All of these trees are protected by means of their location within a Conservation Area.
- 16.36 Retained offsite trees will be fully protected by means of the high brick sturdy boundary wall around the site. Where encroachment into theoretical root protection areas is unavoidable the AIA states that the work should be supervised by a competent and experienced arboricultural consultant. As such there will be condition requiring the Tree Protection Specification, Tree Constraints and Protection Methods, Site Inspection and Monitoring Schedule, Tree Working Schedule, Tree Protection Plan submitted should be fully adhered with.
- 16.37 It is concluded that, subject to appropriate controls, the development can be implemented without undue impact on retained trees. The proposal is considered to be acceptable in terms of its impact on trees in accordance with the relevant adopted plan policy DP1.

Highways and Parking (cycle storage)

- 16.38 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development 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.
- 16.39 CS Policy TA5 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. DPD 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. Emerging Policy DM22 states that parking should be provided in accordance with the most up to date parking guidance taking into account the following factors:
- A) Levels of local accessibility;
 - B) Historic and forecast car ownership levels;
 - C) The size, type, tenure and location of the dwellings; and
 - D) The appropriate mix of parking types including opportunities for car-sharing (e.g. unallocated, on-street, visitor).
- 16.40 Development Policy DP19: Parking standards states that a minimum of 1 parking space should be provide for each 1-bedroom dwelling and 2 parking spaces for dwellings with 2-bedrooms or more, additional 0.25 spaces to be provided per dwelling for visitors. DP19 also states that a lower standard of parking provision may be acceptable where is can be demonstrated that there is a high level of access to services. It is considered that the proposed is within a highly sustainable area with a high level of access to services. The proposed scheme provides 8 parking spaces this equates to 1 parking space per dwelling.
- 16.41 In support of the application a car parking survey was carried out. The parking surveys where focus on Bob Russell House as a similar development and Goodey Close. The car parking survey concluded that at Bob Russell House's parking stress was low and there were adequate spaces for additional vehicles. At Goodey Close although the stress on the Sunday was relatively high there was still car parking availability.
- 16.42 A secure bike storage area has also been provided adhering to the requirements of DP19.
- 16.43 The car parking survey has provided sufficient information to evaluate the parking stress for allocated parking in the area. The site is in a sustainable location with the bus stop directly opposite the site, nearby local amenities and the town centre being located 0.4 miles from the site. On balance the parking provision proposed is considered to be acceptable and should not give rise to unmet parking need.

- 16.44 The Highway Authority does not raise any concerns in relation to the proposal, and as such is considered to be acceptable in terms of highways safety.

Conservation area

- 16.45 The application site is situated adjacent to boundary of the Newtown Conservation Area, a designated heritage asset. The Newtown Conservation Area is characterised by traditional Victorian residential properties (terraced housing, semi-detached and detached villas) interspersed by (formerly) commercial buildings.
- 16.46 The application site is bounded by the rear gardens of residential properties that are located within the Newtown Conservation Area. There will no significant views of the proposed development from the public domain within the conservation area and, as such, the development will not have an impact on the conservation area.
- 16.47 Therefore, the proposed development is not considered to conflict with the adopted policies and/or national planning guidance. The proposed complies with the Planning (Listed Buildings and Conservation Areas) Act, Section 16, Paragraphs 193, 194, 195 & 196 of the National Planning Policy Framework (NPPF) as well as Core Strategy Policy ENV 1 and Development Plan Policy DP14.

Refuse storage facilities

- 16.48 Adequate secure refuse and recycling store has been provided in a visually acceptable manner.

Wildlife

- 16.49 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site.
- 16.50 Habitat Sites are protected at the highest level and are of international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives are transposed into UK law. In Colchester we have the Colne Estuary Special Protection Area (SPA), the Blackwater Estuary Special Protection Area (SPA), Abberton Reservoir Estuary Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The three SPAs are also Ramsar sites, which are wetlands of international importance. The Essex Estuaries SAC includes the Colne and Blackwater estuaries. Due to the close proximity of the River Stour, the southern shore of the Stour and Orwell Estuaries Special Protection Area (SPA) is also likely to be affected by development in Colchester.

16.51 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the Government's advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £122.30, which applies to all residential development within the Zone of Influence (Zol). The whole of Colchester Borough is within the Zol. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.

16.52 Therefore, should the application be granted approval a payment of £122.30 per dwelling will be required.

17.0 Conclusion

17.1 To summarise, the revised application will deliver 8 affordable residential units in a sustainable and accessible location. The development will contribute positively towards the Borough's supply of affordable housing. There would be economic benefits as a result of construction activity and the regeneration of a vacant part of Military Road. There is sufficient evidence to conclude that overall the development would not cause significant harm to the amenity of local residents.

17.2 Although, the proposal does not fully comply with local development framework policies with regards to private amenity space and parking on balance the proposal is acceptable.

17.3 In conclusion, it is considered that the benefits of the scheme significantly outweigh any adverse impacts and, as such, Members are asked to endorse the officer recommendation that planning approval should be granted subject to the suggested conditions provided below.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM - Development to Accord With Approved Plans

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

2030 DE 20-402 F indexed 18 October 2019,
2030 DE 10 402 E indexed 18 October 2019,
2030 DE 20 401 E indexed 18 October 2019,
2030 DE 20 403 C - Roof Plan indexed 18 October 2019,
2030 DE 30 402 C indexed 218 October 2019,
2030 DE 30 403 C - Mew houses - Sheet 2 indexed 18 October 2019,
2030 DE 30 404 C indexed 18 October 2019,
2030 DE 30 405 C indexed 18 October 2019,
ARBORICULTURAL IMPACT ASSESSMENT indexed 31 July 2019,
2030 DE 10-401 B indexed 18 October 2019.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3. ZBC - 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 - Highways

Prior to the occupation of the proposed development, the proposed vehicular access shall be provided in complete accord with the details shown in Drawing Numbered 2030/DE10-402/REV E.

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

5. Non Standard Condition - Highways

The existing access shown on the submitted plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new access is brought into use.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

6. Non Standard Condition - Highways

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 12m of the highway boundary.

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

7. Non Standard Condition - Highways

Any new or proposed boundary hedge or vegetation shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

8. Non Standard Condition - Highways

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 2030/DE10-402/REV E. 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.

9. Non Standard Condition Constuction 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.

10.ZGX - Contaminated Land Part 1 of 4

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.

11. ZGY - Contaminated Land Part 2 of 4

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.

12. ZGZ - Contaminated Land Part 3 of 4

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.

13. ZGO - Contaminated Land Part 4 of 4

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 10, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 11, 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 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. ZG3 - Validation Certificate

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

15. ZFT*Tree Protection

The development shall be carried out strictly in accordance with Tree Protection Specification, Tree Constraints and Protection Methods, Site Inspection and Monitoring Schedule, Tree Works Schedule and Tree Protection Plan approved in the Arboicultural Impact Assessment carried out by EnviroArb-Solution Ltd. An Arboricultural Consultant shall monitor and periodically report to the LPA in accordance with the Site Inspection and Monitoring Schedule.

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

16. ZCG - Communal Storage areas

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

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

17. Non Standard Condition - Demolition and construction

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 - EV charging

The development hereby approved shall not be occupied until the one electric charging point for all eight parking spaces provided as per drawing 2030 DE 10 402 E has been installed and is operational. All of the electric charging points shall be retained and shall be fully functional at all times.

Reason: In the interest in the promotion of low emission vehicles in the interested of sustainability and to mitigate impact of the development on the air quality.

19. ZDC - Removal of permitted development rights

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 to ensure the development avoids an overdeveloped or cluttered appearance.

20. ZDF - Removal of permitted development rights – Obscure Glazed and Non-Opening

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 window in bedroom 2 of plot 2 shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity up to 1.7m from floor level before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form. Above 1.7m from floor level the window shall be opening and clear glass prior to first occupation and shall thereafter be retained as such.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties and to achieve acceptable living conditions for the occupants of the bedroom.

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. Non Standard Informative - Nesting birds

PLEASE NOTE: It is likely that there will be nesting birds between February and August, vegetation clearance work should be undertaken outside of the nesting season. Should works need to be carried out a pre works survey needs to be carried out by a suitably competent person. Nesting birds are fully protected by the Wildlife and Countryside Act (1981). Further advice on surveys and compliance with the legislation can be obtained from Natural England, Eastbrook, Shaftesbury Road, Cambridge CB2 8DR, Tel. 0300 060 3787.

3 Highways informative 1:

The applicant should be reminded that the relocation of the street furniture (lamp column) or alterations to the carriageway bus stop markings is not guaranteed and they should engage in discussions with the owners of the street furniture without delay.

4. Highways informative 2:

Informative1: 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

5. Environmental Protection Informative:

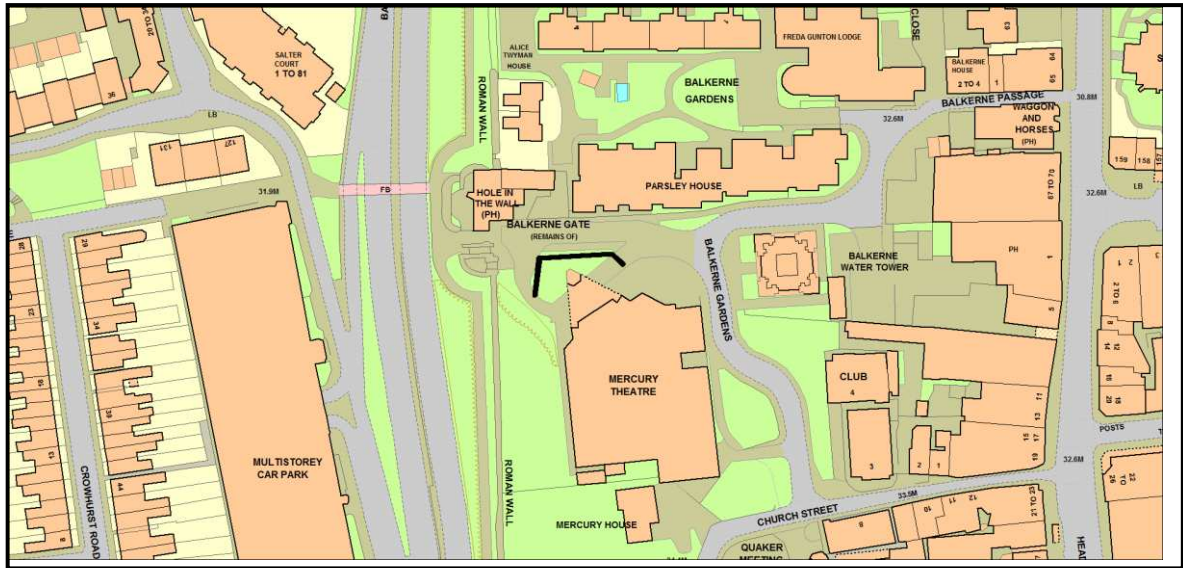
No fires to be lit on site at any time.

6. 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.

7. Informative on Any Application With a Site Notice

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



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Item No: 7.4

Application: 192101

Applicant: Mr Nicholas Frampton, Mercury Theatre

Agent: N/A

Proposal: Mesh Heras Fencing signs advertising the new temporary location of the Theatre, and the shows we will be putting on whilst building works are on going.

Location: Colchester Mercury Theatre Ltd, Mercury Theatre, Balcerne Passage, Colchester, CO1 1PT

Ward: Castle

Officer: Mr Daniel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee for transparency as the Mercury Theatre site is land is owned by Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact on the Conservation Area and nearby Heritage Assets.
- 2.2 The application is subsequently recommended for Approval subject to recommended conditions.

3.0 Site Description and Context

- 3.1 The application site is the existing Mercury Theatre where there are works currently ongoing that were granted consent under planning reference 171964. The site is located on Balcerne Gardens/Balcerne Passage with additional access to North Hill.
- 3.2 The site is within Colchester's Conservation Area 1 with Listed Buildings to the North, East and South. In addition, the Roman Wall runs along North Hill close by to the West.

4.0 Description of the Proposal

- 4.1 The proposal is for mesh heras fencing signs advertising the new temporary location of the Theatre and the shows they will be putting on whilst building works are ongoing.

5.0 Land Use Allocation

- 5.1 Located within the Town Centre and Colchester's Conservation Area 1 the site is a Sui Generis use as a Theatre.

6.0 Relevant Planning History

- 6.1 Planning Reference 171964 granted consent for the current ongoing works which involve major alterations, extensions and demolition of the existing building.
- 6.2 Planning Reference 183000 granted consent for temporary information boards on the hoarding to provide information on the project and the Theatre's history.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
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
DP14 Historic Environment Assets

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):

Shop Front 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 Historic Buildings and Areas Officer

The proposals do not cause particular concerns for their effect on heritage since they involve a temporary feature whose presence is associated to the construction phase of the Theatre's redevelopment and will be removed when the works are over.

Conclusion

The planning application seeks permission for temporary advertisement on the hoarding of Mercury Theatre's construction site to provide information on the temporary location of the Theatre and the incoming shows. Since the application involves a temporary feature which will not have a permanent impact on the building itself, the nearby heritage assets and the Conservation Area, the proposals do not cause concerns for their impact on heritage and there are no objections to their approval.

8.3 Highways (Recommended 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.

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations from Notified Parties

- 10.1 No representations were received.

11.0 Parking Provision

- 11.1 N/A

12.0 Accessibility

- 12.1 N/A

13.0 Open Space Provisions

- 13.1 N/A

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

Design and Impact upon Heritage

- 16.1 The proposal seeks consent for mesh heras fencing signs advertising the new temporary location of the Theatre and the upcoming shows while building works are going on.
- 16.2 The NPPF states poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The NPPF goes on to state that "the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 16.3 As stated by the Historic Buildings and Areas Officer, the signs/advertisements will be temporary and erected on existing heras fencing and would not create a significant detrimental impact on the surrounding Conservation Area and other Heritage Assets and signs will be removed once the current works are complete.

Amenity

- 16.4 In assessing an advertisement's impact on "amenity", regard should be had to the effect on the appearance of the building or on visual amenity in the immediate neighbourhood where it is to be displayed. It is therefore necessary to consider what impact the adverts will have on their surroundings. The relevant considerations for this purpose are the local characteristics of the area, including scenic, historic, architectural or cultural features, which contribute to the distinctive character of the locality

- 16.5 The site is located within Colchester's Conservation Area 1 and a close distance from a number of significant heritage assets including two scheduled monuments (Roman Wall and Balcerne Gate). A strict control over the display of outdoor advertisements should therefore be maintained. However, well-sited signs of suitable size and design should normally be acceptable, provided that they do not spoil the area's character or appearance.
- 16.6 The proposed signage will be of mesh material and erected on existing heras fencing. In addition, it will be temporary (applicant states the heras fencing will be removed around July 2020) and removed when works are completed.
- 16.7 Given the above, the proposed advertisements are not considered to have an adverse impact on the amenity of the area given the on-going works and their temporary nature.
- 16.8 It is noted that the heras fencing is already present as a result of the ongoing building works and has not been erected for the purpose of these adverts. In addition, it is recognised that the previous advertisement application under reference 183000 (for temporary information boards) was granted consent.

Public and Highway Safety

- 16.9 In assessing an advertisement's impact on "public safety", regard should be had to the effect upon the safe use and operation of any form of traffic or transport. In assessing the public safety implications of an advertisement display, one can assume that the primary purpose of an advertisement is to attract people's attention, therefore it should not automatically be presumed that an advertisement will distract the attention of passers-by. The vital consideration, in assessing an advertisement's impact, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety. The proposed advertised is not considered to have an adverse impact on the highway safety; this has been confirmed by the Highway Authority who have not objected and recommended a standard informative.

17.0 Conclusion

- 17.1 To summarise, the proposed temporary mesh advertisements will result in minimal impact to the Conservation Area and surrounding Heritage Assets. There will be no adverse impact on public and highway safety and the signs will be removed once the current approved works to the Theatre are complete thus limiting their long term impact.
- 17.2 For the reasons given above, the temporary advertisements are 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 following conditions:

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings labelled Panel 1, Panel 2, Panel 3 and Heras Fencing Full Design received 16th August 2019.

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

2. ZQA - Standard Advert Condition

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

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

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

19.0 Informatives

19.1 The following informatives are also recommended:

Non Standard 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.

Planning Committee

Item

8

Date 31st October 2019

Report of	Assistant Director of Policy & Corporate	Author	Sue Jackson 01206 282450
Title	Development at Rowhedge Wharf - Primary Education Contribution.		
Wards affected	East Donyland		

This report concerns an amendment to the definition of “Primary Education Purposes”

1. Decision(s) Required

- 1.1 The Planning Committee is required to agree to amend the definition of “Primary Education Purposes” in a section 106 Agreement, in respect of Rowhedge Wharf, to allow the “Primary Education Contribution” to be used at St Lawrence School Rowhedge.

2. Reasons for Decision(s)

- 2.1 The Infrastructure Planning Officer at Essex County Council (ECC) has indicated they would like to secure a Deed of Variation for the agreement in order to change the project spend in favour of St. Lawrence.

3. Alternative Options

- 3.1 Members could decide to not amend the wording in which case the contribution would not be used where there is most need.

4. Supporting Information

- 4.1 Application 160550 submitted on behalf of Hills Residential Construction Ltd proposed the demolition of existing vacant commercial units and comprehensive residential redevelopment comprising 86 no. new residential dwellings, together with associated works. Planning permission was granted on 16 November 2016 and includes a section 106 agreement. The agreement secures amongst other matters, a “Primary Education Contribution” of £315,224.00.
- 4.2 The agreement defines “Primary Education Purposes” which means the education and/or care of children between the ages of 4 to 11 (both inclusive) including those with special educational needs in at Langenhoe Community Primary School

5. Strategic Plan References

- 5.1 The Strategic Plan sets out four themes under the acronym of ‘Grow’.
Growth, Responsibility, Opportunity, Wellbeing

Growth Ensure residents benefit from Colchester’s economic growth with skills, jobs and improving infrastructure

6. Consultation

- 6.1 ECC has confirmed Langenhoe School has no issue with the amendment.

7. Publicity Considerations

- 7.1 None required.

8. Financial Implications

- 8.1 There are no financial implications; ECC has confirmed they will take on the necessary legal costs

9. Equality, Diversity and Human Rights Implications

- 9.1 There are no equality, diversity and human rights implications

10. Community Safety Implications

- 10.1 There are no community safety implications

11. Health and Safety Implications

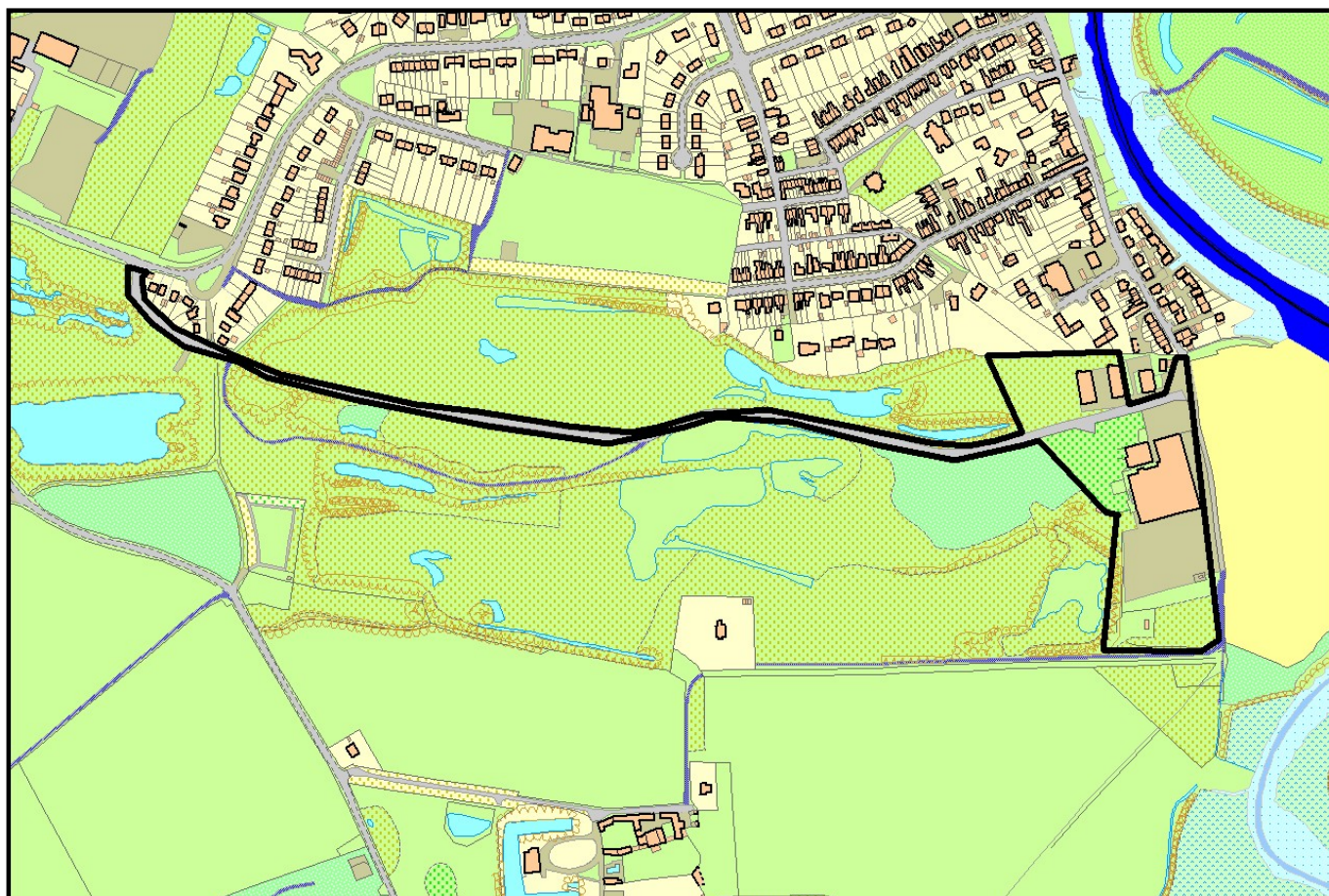
- 11.1 There are no health and safety implications

12. Risk Management Implications

- 12.1 There are no risk management implications

Background Papers

Planning permission 160551 dated 16 November 2016
Section 106 agreement dated 16 November 2016



Application No: 160551

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

Scale (approx): 1:3500

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Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- | | |
|--|-------------------------|
| 1. Necessary | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable |
| 5. Precise | 6. Enforceable |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to 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.

