



Application No: 162302

Location: Land Adjacent, Axial Way, Colchester

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **16 February 2017**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Sue Jackson

MAJOR

Site: Axial Way, Colchester

Application No: 162302

Date Received: 14 September 2016

Applicant: Persimmon HE And RLMIS Limited

Development: Detailed planning application for residential development to provide 88 no. residential dwellings (Use Class C3), comprising 62 houses (2 - 2.5 storeys) and three buildings containing 26 apartments (3 to 4 storeys), associated car parking, cycle parking, public open space and pedestrian / cycle infrastructure, formation of pedestrian and cycle only link to public footpath / bridleway and other associated works and improvements at land north of Axial Way, Colchester

Ward: Mile End

Recommendation Approve Subject to Legal Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because following consideration at the meeting of the Planning Committee on 1st December 2016 the application was deferred to allow negotiations with the applicants to secure a mitigation fund to address possible costs attributable to changes to the Flakt Woods operation potentially arising from possible noise complaints from future residents. In addition, clarification was sought on the location of the proposed affordable housing units.

2.0 New Report

2.1 Summary

Following the committee meeting the applicant submitted clarification regarding the mitigation fund and affordable housing, together with details of a meeting they held with Flakt Woods. Flakt Woods then submitted further representations including a Technical Report from their acoustic consultants Sharps Redmore. Later Flakt Woods submitted further representations setting out their concern that complaints from residents of the proposed development could impact on their operations and also commenting on the response from Persimmon Homes and their acoustic consultant SRL. The response from Persimmon Homes and SRL to all these representations; together with a further explanation of the mitigation measures are also summarised. Environmental Protection has considered all these new comments plus additional clarification submitted following a meeting with Persimmon Homes their acoustic consultants and officers. The Environmental Protection response is set out below.

The further representations and responses (all summarised) are set out in chronological order below

2.2 Persimmon Homes: Clarification on Mitigation Fund and Affordable Housing

Persimmon Homes have submitted the following clarification “....*Members deferred to allow further consideration of a mechanism whereby, notwithstanding the mitigation that will be put in place on-site, if future residents lodge a complaint regarding noise from the operations of the factory and such a complaint was upheld, a sum of monies would be available to enable Flakt Woods to recover costs of undertaking mitigation.*

We have previously agreed that the following mechanism is agreeable; a capped sum of money for mitigation is secured within the s106. The money being payable to Colchester Borough Council and being available to Flakt Woods;

- 1. in the event of a noise complaint being lodged and upheld (within 10 years of the substantial completion of the development)*
- 2. Costed mitigation measures are required to address the complaint*
- 3. Release of money being conditional upon it being spend on the purposes agreed (as would happen with any s106 monies being released to a 3rd party)*

As you will be aware, we have liaised with Flakt Woods both prior to and during the application. Flakt Woods have afforded access to their site for noise monitoring and provided technical details of the noise outputs from their fans. The noise modelling has been undertaken having regard to this data and the nature of Flakt Woods operations.

You have been copied into various recent correspondences between ourselves and Flakt Woods. Flakt Woods principle concern have related to activities within the eastern yard that may cause short term noise spikes.

We met with Flakt Woods on site on Friday 9th December. We had the benefit of a discussion on-site looking at the various options that would be open in the event that measures to mitigate the impact of operations arise and their associated cost.

As you will be aware, to the east of the yard is a circa 4m high landscaped noise bund (between the yard and the attenuation pond). A further circa 1.5 > 2m high landscaped

bund runs along the yards southern boundary with the public footpath. What is evident on-site is the relative effectiveness of the eastern bund at screening noise from the factory and associated yard due to its height.

Whilst the above mechanism would not specify the type of mitigation, it is event that if the needs arises, a very effective measure to address the off-site impact of noises generated within the yard would be to increase the height of the acoustic screen along the southern boundary of the yard to a height akin to that on the eastern boundary.

Flakt Woods Yard has a c.65m long southern boundary with the footpath. There is physically scope to erect an acoustic barrier either between the yard and the bund or along the top of the existing bund without impacting upon the operational area of the yard. Furthermore, this would allow the landscaping along the boundary to be substantially retained as is evident in the above photograph.

As you are aware, our initial offer made prior to committee was based on the cost of our 2.5m x 80m acoustic fence. Based upon the discussions with Flakt Woods, we have agreed with Flakt Woods to a sum of £50,000. This comprises a substantial uplift and could finance a number of mitigation measures should the need arise.

In light of the above, detailed below is a further Heads of Terms for the s106 agreement; A sum not exceeding £50,000 shall be payable to CBC and being available to Flakt Woods;

- 1. in the event of a noise complaint being lodged and upheld (within 10 years of the substantial completion of the development)*
- 2. Costed mitigation measures are required to address the complaint*
- 3. Release of money being conditional upon it being spend on the purposes agreed (as would happen with any s106 monies being released to a 3rd party)”*

Members were concerned the affordable should not be located in a single block in the North East corner of the site. A plan showing the distribution of the affordable housing will form part of the presentation to Members.

2.3 Flakt Woods

i) Flakt Woods Representation

- Accessing the section 106 funds for mitigation will be extremely difficult and too late. Access to the funds will require agreement with Colchester Borough Council for action, and only after a noise abatement order has been upheld against Fläkt Woods.
- Despite the best efforts of the developers, the sound from our business may have actual or perceived impact on residents of the development, and actions that may need to be taken will impact on the flexibility and sustainability of our business. Those could be investments in sound reduction which make projects uneconomical, restrictions in times of operations, requirements to relocate parts of our operations (waste facility, duct work storage), etc.
- We have sought the assistance of our own noise consultants from Sharps Redmore to help us interpret the current report from SRL and consider potential mitigation options Sharps Redmore have prepared a short report with 11 sections which we believe should be used by your own Environmental team to assist in the validation of the SRL Report, specifically sections 3, 4, 5, 6, 7 and 8.

- The impact potential mitigation would have on our business (summarised)
 1. Today we enjoy complete flexibility in our operations; we operate one, two, or three shifts. We add early starts (0500) on weekdays, and indeed on Saturday and Sundays. To be successful in the global market we require this flexibility. Restrictions to times of operation would have significant impact on our business.
 2. Noise from our factory and external operations does occur at all times. When background noise falls at night from the A12 and Axial Way, any singularity in noise, for example from dumping steel, forklift operations, fan testing, may be perceived as louder than it would be perceived during times of higher background noise.
 3. It is these variances in times and nature of operations that risk a perceived noise nuisance and we believe that the thresholds should be flexed downwards, not upwards, as a consequence of this variability.
 4. We regularly and freely operate our forklifts, move materials, and tip waste at all times, and while not usually outside of daytime, it may occur today late at night, early in the morning, and on Saturdays and Sundays
 5. We regularly hire large diesel generators (recently as large as 2.2kVA), which need to be located at the main switchgear location which is consequently immediately adjacent to the proposed development. These have run 24/7, providing supplementary power requirement for customer acceptance and development testing.
- If permission is granted, we would have to continue to seek unequivocal written assurance from Colchester Borough Council that we would not be served with a noise abatement notice or subject to nuisance action by the Council if a complaint arose.
- We do not believe this application considers the impact of further traffic on the existing traffic on Axial Way which will result from residents of these properties. With existing traffic speed and volume on Axial Way, trying to leave our premises and turning towards the A12, is already very difficult and potentially hazardous. Further volume from this residential development will increase the risks of road traffic accidents on Axial Way and the A12.
- We do not believe it appropriate that this space should be developed for residential use, and believe it should be reverted back to commercial use in keeping with the development intention for Axial Way. I understand this property was changed to designated residential development upon appeal in the local plan in 2010.

ii) Sharps Redmore Technical Note (Flakt Woods acoustic consultant)

1. Refers to the SRL report layout in relation to Flakt Woods site and factory building and proposed plan of fencing
2. Acknowledges considerable effort to reduce residents exposure to noise but there are still concerns
3. Page 10 of SRL report refers to BS 82333 and the quote therein that “ ... internal target levels may be relaxed by up to 5 dB ...” Sharps Redmore does not consider a relaxation should apply.
4. SRL Table 3.3 shows the assessment of ‘External Endurance Testing’ sound. Sharps Redmore consider that whilst the proposed barrier would mitigate noise at ground floor that barrier would not shield the upper floors and this would affect Plots 56 to 66. Issues with Ductwork movement and fork lift trucks in the open yard the 2.5m barrier would not shield upper floors (plots 55-66). Sharps Redmore

acknowledge that if bedrooms on these plot elevations facing Flakt Woods were of a high acoustic performance as proposed by SRL then the internal MAXIMA (required by the BS) may be satisfied but the concern of Flakt Woods remains that future occupants would not be aware of yard activities and complain.

5. Tipping of Metal Waste'. This is of particular concern to Sharps Redmore having been involved in cases of complaints arising from metal tipping/handling. Flakt-Woods tip metal waste during daytime production periods. There is not a restriction on working hours and accordingly, production and outdoor activity can take place at weekends and/or at night. In February 2016 a test of metal tipping was attended by SRL and Sharps Redmore difference in readings of approximately 8 dB. Sharps Redmore consider there is a high probability of the effect of metal tipping sound to be under-estimated.
6. Factory break-out area the 2.5m tall barrier would not provide this apparent benefit to upper storey living accommodation particularly as the factory door aperture is itself taller than the intended barrier. There is a difference in the Sharps Redmore outcome level from sound emanating via the open loading door and the SRL report.
7. The sound insulation of the roof and Velux windows particularly to Plots 63 to 66 would require review given their elevated exposure to the Flakt-Woods site, the absence of benefit from screening and the 'thin' roof element separating Bedroom 1 from the exterior.
8. Summary Sharps Redmore remain concerned on behalf of Flakt-Woods and potential future residential neighbours that the proximity of the housing scheme would result in adverse/reaction and complaint about sounds from the permitted business activities.
9. The sounds are not anonymous; they are irregular enough to attract attention, have a degree of tonality and are characterised by 'peak'/impulsive type activities. These factors would not be those the BS 8233:2014 guidance had in mind when suggesting a 5 dB relaxation of the criteria.
10. There are differences in the sound level of some activities between SRL and Sharps Redmore which create uncertainty as to the outcome.

2.4 Persimmon Homes response to 2.3.i and 2.3.ii

Prior to the 1st December Planning Committee Flakt Woods sought a mechanism whereby, notwithstanding the mitigation that will be put in place on-site, if future residents lodge a complaint regarding noise from the operations of the factory and such a complaint was upheld, Flakt Woods could recover costs of undertaking mitigation. Persimmon Homes position is that the measures proposed are sufficient to protect residential amenity and provide satisfactory living environment for future residents and this has been demonstrated through the technical studies. Notwithstanding this, given that Colchester Borough Council Members and Flakt Woods have raised the 'what if' scenario and sought some form of assurance that Flakt Woods operations will not be impacted, Persimmon advised that we are willing to enter into a s106 agreement, the details of which are set out above in section 2.2.

Further to Members resolution in December Persimmon met with Flakt Woods to discuss the sum of money that would be secured to fund mitigation should it be needed. Based upon the discussions with Flakt Woods, we agreed with Flakt Woods to a sum of £50,000. This comprises a substantial uplift from our initial offer and could finance a number of mitigation measures should the need arise.

On the 16th December we received Flakt Woods additional representation and the Sharps Redmore Technical Note. The suggestion for a mechanism to fund mitigation in the event of future complaints by residents was made by Flakt Woods. It is not considered that it would be extremely difficult for Flakt Woods to access the funding should it be needed. The recent discussions with Flakt Woods focused on potential mitigation, including the provision of a 4m high barrier along the southern boundary. Such a measure would not impact upon the operational extent of the yard or the continued operations and flexibility of the business. Persimmon Homes' appointed acousticians, SRL, have reviewed the Technical Note and respond as follows: It is important to appreciate there are two very different assessments involved

- a) comparing the actual noise levels against absolute levels given in BS8233 which are mainly internal but also external in amenity areas,
- b) the impact of the industrial noise sources using BS4142 ('Our specific comments on Sharps' letter dated 15 December 2016 (& using their numbering) are:
 3. 5dB Relaxation on the BS8233 internal values: We only proposed this "relaxation" when CBC requested that the BS8233 levels be met with windows open. With windows closed and trickle ventilation (which BS8233 is based on), the internal levels would typically drop by at least 10dB, resulting in internal levels which are actually 5dB BELOW the BS8233 levels.
 4. External fan endurance testing:
Using the original value of 51dBA results in a "Significant Effect" (+5dBA according to BS4142) in front of the closest properties. The more important areas, though, are the gardens, where residents will be relaxing, and here the noise will be at least 10 dB quieter and therefore Low impact. This remains true even with evening background noise levels (which does not drop below 45dBA except during the early hours of the morning). Regarding the upper (unscreened) floors, there are only a small number of bedroom windows facing Flakt Woods and these can all be kept shut as each bedroom has another window facing away from the factory. Our assessment shows that the total night time noise level at these upper floors of 63-66 is less than 60dBA. This includes all Flakt Woods activities, apart from 'typical loud fan testing' which is very unlikely to happen at night. We have recommended that the facades to these bedrooms (including the pitched roof section) need to give 35dBA protection which:
 - a) is readily achievable and
 - b) will result in noise levels inside these bedrooms <25dBA.
 5. Ductwork and Forklift Movements:
The previous assessments (using the 39 dB and 35 dB values) showed these activities give a low impact in front of the housing (and even lower in the gardens). Sharps Redmore is also concerned about the "peak" levels generated by the forklifts which are predicted as 60-75dBA Lmax at the houses without any screening. A minor point relates to what the "typical" peak is. For example, is it commonly reaching 75dBA or might this have been a 'one off', perhaps because a forklift driver was driving carelessly with no thought about the noise they were creating? Either way, the lower peaks (60dBA) would be barely noticeable outside the front of

these houses due to the 2.5m screen and would also be acceptable inside bedrooms with windows open (45dBA). The higher Lmax of 75dBA would also be acceptable in bedrooms with the windows closed (40dBA).

6. Metal tipping:

This seems to be the most contentious issue. We understand that this activity does not have to take place at night or into the evening so have assumed the LA90 will always be at least 50dBA. This has never been disputed. If you use Sharps Redmore's LAeq noise level, which is 8dBA higher than ours, the BS4142 assessment predicts a low impact in the gardens. In reality the true level will most likely be somewhere between ours and Sharps' predictions.

Their predicted Lmax's of 85-90dBA in front of the houses (without screening) will be around 60-65dBA in the rear gardens, which is actually quieter than someone talking normally (and no worse than when a motorbike or heavy lorry passes along Axial Way). As this activity only happens occasionally, typically 3 "short bursts" around 4 times a day, we still feel it is unlikely to cause complaint. If however this does become a cause for concern for residents, it could be reduced by using additional localised screening around the metal tipping area.

7. Noise break out from the factory space:

We agree that this source would be 45dBA at the proposed housing if you take no account of acoustic screening. Even using this level, the 4142 assessment shows a low impact. This noise is already screened at ground level due to the existing bund, which is why the general factory is currently inaudible on the proposed site. With a 35dB facade reduction the noise level inside the bedrooms will be below 10Dba'. We believe that we have addressed the points raised.

In terms of traffic impacts, the application is accompanied by a Transport Assessment. This assesses the impact of the development in 2023 with development traffic flows. The Transport Assessment concludes 'It is considered that the development will have a minimal impact on the surrounding transport network and the proposals can be accommodated within the existing highway network. The impact of the development can be further reduced with the production of a Travel Information Pack for all new residents to encourage sustainable travel habits'. The Highway Authority does not raise any objection.

2.5. i) Flakt Woods response

Flakt Woods certainly understand Persimmon's desire to progress the application, and we have tried to provide both objective and transparent with the input provided to support our concerns. At the conclusion of this there will be different opinions and technical advice on noise levels and mitigation, and both parties can continue to go back and forth with our perspectives and also with our different technical experts. We have further comments back from the latest report from SRL, at the end both experts will have different opinions and interpretations.

What is important to us is that the committee has the information it needs to completely understand the technical nature of this proposed development on what is fundamentally a very noisy site regardless of our operations. Consequently it will be the decision of the committee to decide.

Our issue remains the same as on day 1; this was commercial land when we moved here, in fact we paid significant contributions for building of the road known as Axial Way, ironically the depreciation of the same is even on our balance sheet. As a consequence of being in a commercial district, we have a high degree of flexibility in our operations. So the unknown risk is our cause for anxiety; e.g. it is correct we don't typically today dump metal waste at night, but what if we go to 7 days a week and need to tip waste on a beautiful, sunny, Sunday afternoon in the middle of everyone's summer barbeques? We are bidding now for several large metro projects now and believe we will be successful which will indeed see large fan testing required. Those are the things we are concerned about and would find it difficult to consider both the probability and cost of.

So we appreciate the offer that should this be passed, there will be £50,000 in funds set aside for rectification work. Despite those contributions or any others, I cannot see us retracting our objections.

There are a few points to specifically consider, and I ask you to specifically review the queries with Persimmon and/or SRL in respect to Sections 3, 4, 5, 6, 7 and 8 of the report attached and dated 15/12/2016. These points do call into question issues which the sound mitigation scheme may not have addressed, e.g. the variance in measurement technique/calculation which could impact the validity of the results, how height has or has not been taken into account, and the difference between background and single spike noises.

2.5. ii) Sharps Redmore comment on behalf of Flakt Woods

Overall, the Persimmon scheme relies on windows to the Flakt-Wood site being closed in order to reduce sound via that route to the interior of dwellings. Although the provision of a dual-aspect design would allow the 'noisy side' window to be closed while the 'quiet side' window is openable for ventilation, it does still pose a risk to Flakt Woods of future complaints from residents who choose not to adhere to that 'one shut and other open' principle. The SRL/Persimmon dual aspect scheme is a reasonable sound mitigation measure for dwellings exposed to more-or-less continuous and anonymous sound from traffic and similar, but not to the unpredictable and characterful sound from Flakt Woods. On specific points:

- Item 3. (the 5dB relaxation of the internal limit) this should not apply to sources of industrial sound featuring impulsive, tonal or otherwise attention grabbing elements. Plot 56 appears to have a west-facing window (as well as north) which would be exposed to daytime sound levels greater than 60dB(LAeq). Plot 56 is at the left end of the row facing Flakt Woods. The internal level with that side window open would be around 45dB(LAeq) using SRL's data, thus exceeding the criterion by more than 10dB according to the SRL table at Fig 3.5a. The 'typical loud fan' would be dominant. A 5dB relaxation would not be prudent for the fan source.
- Item 4. (External fan testing). Protection to indoor environments would be reliant on the window to FW being closed at night. The risk here is that future residents would be tolerant of anonymous traffic sound and open the windows for ventilation, thus removing the intended protection measure.
- Item 5. (Ductwork & FLT). The 75dB(LAmax) quoted in the Persimmon letter does not reflect the 78dB figure being SRL's own finding. The risk is that future occupants would not have windows closed at night, leading to levels from Flakt Woods irregular activity in excess of the guideline value for the avoidance of sleep disturbance.

- Item 6. (Metal Tipping).The SRL survey data for this activity indicated peak levels would likely be in the range 85 to 90dB(LAmax) in the vicinity of dwellings having windows above the eye-line of the barrier. There is a very high risk of adverse comment from potential neighbours of plots 63-66.

2.6 Persimmon Homes further clarification

Our acoustic consultants SRL's BS4142 assessment is that in all cases the noise impact of industrial activity from Flakt Woods is Low at the nearest ground floor façade of the proposed houses and Negligible in the rear gardens whether you use SRL's predictions or those from Flakt Woods consultant Sharps Redmore (which are slightly higher).

Sharps Redmore argue that the upper floors need to be assessed to BS4142, but as BS4142 is purely used for assessing external noise (and there are no externally accessible areas on these facades) any results would need to be viewed with caution. There are only a small number of habitable rooms with windows overlooking Flakt Woods and all these habitable rooms have windows on other quieter facades, so they can be fixed shut to avoid the risk of someone sleeping with one of these windows open and then being awoken in the middle of the night (as highlighted in SRL's email dated 16/1/17). Windows serving bathrooms, corridors or hallways can be fixed shut and fitted with acoustic trickle vents or mechanical venting.

A plan which details the first floor layout of various houses has been submitted this details in yellow the facades with openable windows. It also details in pink the windows that will be fixed shut and fitted with acoustic trickle vents or mechanical venting. This plan should be read with the various technical assessments.

Furthermore plot 55 has been handed and plot 42 bedroom 2 and the office have been handed and a high level openable flank window added; and plots 26 and 41 a high level flank window added to first floor flank to serve bed room 2.

Persimmon Homes position is that the measures proposed are sufficient to protect residential amenity and provide satisfactory living environment for future residents and this has been demonstrated through the technical studies. Notwithstanding this, given that CBC Members and Flakt Woods have raised the "what if" scenario and sought some form of assurance that Flakt Woods operations will not be impacted, Persimmon advised that we are willing to enter into a s106 agreement to address this scenario.

Persimmon Homes has previously agreed with CBC Environmental Protection that the very large fan testing is limited in both frequency and duration.

In terms of Sharps Redmore further comments Persimmon respond as follows:

- Item 3 - Plot 56 has a north and west facing window serving an office. Given this room's function, it can be served by acoustic or mechanical ventilation. The principal habitable rooms are dual aspect, with the southern facing windows away from the factory being openable.
- Item 4. (External fan testing) – Sharps Redmore advise that 'Protection to indoor environments would be reliant on the window to Flakt Woods being closed at night. The risk here is that future residents would be tolerant of anonymous traffic sound and open the windows for ventilation, thus removing the intended protection measure'. As detailed above, the houses facing the factory have been designed so that habitable rooms have openable windows facing away from the factory.

- Item 5. (Ductwork & FLT); The higher Lmax of 78dBA would also be acceptable in bedrooms with the windows facing the factory being closed (as proposed) with openable windows facing away from the factory (as proposed).
- Item 6. (Metal Tipping) – All bedroom windows directly facing Flakt Woods will have enhanced glazing. Plots 63 – 66 will also have an enhanced roof construction for noise mitigation to the northern pitch:

2.7 Environmental Protection response

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

Correspondence raising concerns and objections have been received from Flakt Woods of 16 December 2016, Sharps Redmore (on behalf of Flakt Woods) of 15th December 2016 and from both Flakt Woods and Sharps Redmore by email of the 9 January 2017.

The email from Flakt Woods of the 9th January 2017 summarise the key concerns after Persimmon responded by letter dated 3rd January 2017 to the points made in the December 15th/16th correspondence. The remaining concerns are quoted directly as follows;

*“Item 3 of Persimmon letter, 3rd Jan 17. (The 5dB relaxation of the internal limit).”
I consider this should not apply to sources of industrial sound featuring impulsive, tonal or otherwise attention grabbing elements”*

This refers to guidelines for internal noise levels in BS8233:2014 which allows a +5dB to the values for desirable developments. This however should only apply to Road traffic noise and any other steady external noise sources.

The BS8233:2014 BS4142:2014 Method for rating and assessing industrial and commercial sounds is the appropriate standard to be for considering the impacts of external fan testing, metal ductwork movement, Fork Lift Trucks and scrap metal disposal

*“Item 4. (External fan testing).
Protection to indoor environments would be reliant on the window to FW being closed at night. The risk here is that future residents would be tolerant of anonymous traffic sound and open the windows for ventilation, thus removing the intended protection measure.”*

This service agrees that openable windows would not protect residents from potential noise nuisance and thus pose a risk of noise complaints affecting Flakt woods business activities in the future. (however the mitigation proposals include the windows on the upper floors of the front elevation fixed shut)

“Item 5. (Ductwork & FLT).

The 75dB (LAmax) quoted in the Persimmon letter does not reflect the 78dB figure being SRL’s own finding. The risk is that future occupants would not have windows closed at night, leading to levels from FW irregular activity in excess of the guideline value for the avoidance of sleep disturbance.”

This service agrees with the concerns over open windows leading to disturbance to future residents and that an LAmax exceeding 45dBA will be experienced which is level considered likely to wake up people in residential dwellings. (however the mitigation proposals include the windows on the upper floors of the front elevation fixed shut)

“Item 6. (Metal Tipping).

The SR survey data for this activity indicated peak levels would likely be in the range 85 to 90dB(LAmax) in the vicinity of dwellings having windows above the eye-line of the barrier.

I believe there is a very high risk of adverse comment from potential neighbours on the basis of:

- Plots 63-66. Roof ridge might provide around 15dB barrier attenuation to Velux on the south-facing roof pitch. Subtract notionally 15dB for Velux open, giving an estimated ‘peak’ level range in a bedroom of 55 to 60dB(LAmax). That exceeds the 45dB guideline. Any Tipping that were to occur at night-time, would likely lead to adverse comment.*
- It is my experience that ‘peak’ noise events associated with metal waste handling, at levels of around 70dB(LAmax) and above, pose a real risk of adverse comment to neighbours during daytime hours. The range of levels observed by Sharps Redmore for the Tipping event indicate 70dB(LAmax) would be exceeded, even with the proposed 2.5m barrier.”*

This service agrees regarding the effective barrier height not providing any noise reduction to first floor and above and that the windows in the south facing pitch roof of plots 63-66 could be affected.

Additional information since the 9th January 2017

A meeting was held with Persimmon and SRL (Acoustic Consultants) on the 23rd January 2017.

Persimmon demonstrated how the site layout and internal design of proposed dwellings had been carried out to minimise habitable room exposure to noise from Flakt Woods.

Additionally it was proposed that the affected windows would be fixed shut to prevent them being opened leading to potential sleep disturbance and complaints of nuisance being made towards Flakt woods. The majority of rooms where fixed windows will be installed have a dual aspect allowing some natural ventilation on the quieter facades.

This measure will provide mitigation for the above concerns about windows being opened after occupation as highlighted by Sharps Redmore and raised by Environmental Protection on the 9th January.

With regards to assessing the industrial noise using BS4142, SRL agreed that this method is appropriate for some of the industrial noise but stated that the closed windows dealt with this by way of mitigation. It was requested by Environmental Protection that the assessment to BS4142 standards be carried out at facades where windows remain openable to confirm that mitigation would be effective. This would include the roof windows on the southern pitch of Plots 63, 64, 65 and 66 which are proposed to remain openable for natural ventilation.

SRL have provided a further technical addendum dated the 27th January 2017 which considers the impact existing dwellings, further considers the benefits of fixed windows with particular regard to the peak noise levels expressed as L_{Amax} caused by metal disposal activities.

The addendum does show that there will be a 6-7dB higher noise level by the new proposed properties when compared to De Grey Square, however it is noted that De Grey Square is significantly closer to the A12 and received higher road traffic noise levels. Closed windows in combination with placing habitable rooms away from the noise source and providing dual aspect is therefore appropriate.

Additionally the addendum confirms that with windows open L_{Amax} levels will reach up to 51dB with open windows. The sound of metal crashing at those levels would cause most people to wake from sleep. The World Health Organisation considers L_{Amax} levels above 45 to be sufficient to wake the average person and recognises that noise with a particular character may have an effect at lower levels.

The table identified as **Tipping of Metal Waste Noise Level at no 56** (Plot number considered to be the most exposed and therefore worst case) shows that with windows closed the L_{Amax} will not exceed 40dB from metal tipping. In my opinion this is a reasonable level to minimise the potential for a sleeping person to be woken.

This confirms that the fixed window solution would be required to provide mitigation.

The additional assessment to BS4142:2014 to all relevant facades with openable windows has not been carried out in full, this is of particular concern to the southern facing roof windows to plots 63-66 as stated above.

Additionally the addendum demonstrates an example construction to provide enhanced sound insulation achieved by the roof although

Conclusions

Ensuring the windows on the most exposed facades of residential dwellings are fixed closed provides further guaranteed protection of future resident's amenity and minimises the risk of complaint of nuisance made against Flakt Woods providing the sound insulation is sufficient to deal with all aspects of the normal operational noise on the basis of 24-hour working. The Noise Rating Level of external Fan testing, Ductwork movement and scrap metal disposal is not greater than +5dB above background at facades with openable windows and that internal L_{Amax} is not at levels likely to wake sleeping residents or prevent sleep. Given the nature of metal tipping noise a level not exceeding 40dB L_{Amax} would be appropriate.

This would include the second storey of plots 63-66 which may require all roof windows to be fixed and mechanical ventilation/air conditioning if this cannot be achieved.

If permission is granted conditions should be applied in relation to the details of the proposed acoustic barrier(s), detailed assessment of noise using BS4142 at facades ventilation.

Flakt Woods have sought written assurances from Colchester Borough Council that they would not be served with noise abatement notices or subject to nuisance action if a complaint arose. Regardless of any agreement on mitigation measures, Environmental Protection have a legal duty to investigate complaints of statutory nuisance and serve an abatement notice where statutory nuisance is identified and not resolved. It should be noted that Section 82 of the Environmental Protection Act 1990 provides the residents with the ability to take their own statutory nuisance directly in the magistrate's court.

2.8 Summary

As Members will note detailed and lengthy representations have been submitted by both Persimmon Homes and Flakt Woods including technical reports from their respective acoustic consultants.

Two main issues have been raised:

Firstly whether Persimmon Homes are using the appropriate British Standard. Environmental Protection have discussed this with Persimmon Homes and SRL further information in respect of both British Standards has been provided.

The second issue is the consideration of the impact of the Flakt Woods operation on the amenity of future residents occupying the dwellings along the north boundary which face towards Flakt Woods in particular those in the NE corner of the site plots 56-66. It has always been agreed that without mitigation measures the residents of these units would experience a loss of amenity due to noise including from external fan testing and metal tipping. However a comprehensive scheme of mitigation is proposed. The windows on the front elevation of these units above ground floor level will be fixed shut. This will effect bathroom, office and bedroom windows, where bedrooms are proposed on these front elevations they will have a window fixed shut and a second openable window on the side elevation. Plots 57-62 comprise 3 storey apartments with lobby, corridors, bathroom and kitchen/ dining room windows facing Flakt Woods the latter forms part of an open plan living/kitchen/dining area and includes a balcony on rear elevation and further window in the side elevation. Plots 63-66 comprise a 2 storey terrace of 4 houses, a bedroom is proposed in the roof space lit by a roof light on the front elevation and 2 roof lights on the rear, the first floor has an office and storage area each area lit by a window. The applicant has confirmed these units will have enhanced roof construction to the northern pitch and units will also have brick/block wall construction. Other mitigation measures include enhanced glazing and fencing. The application includes a comprehensive scheme of mitigation which will ensure residents have an acceptable living environment within both the buildings and their gardens.

Environmental Protection are satisfied with the proposed mitigation for the whole site with the exception of 4 plots 63-66 A detailed scheme of noise mitigation in respect of

the roof to these units is required and it is proposed to address this through the use of a pre-commencement condition.

A Mitigation Fund of £50,000 is proposed and this would be triggered should a valid noise complaint be received from residents of this site. Members will note there are other residential properties nearby at Cuckoo Point and on the opposite side of Axial Way at The Myle. It is estimated the fund could pay for the erection of a high acoustic fence within Flakt Woods site plus other works. The trigger for the drawdown of this fund is being discussed with the applicant, Environmental Protection and legal advisors. The legal agreement will secure this Mitigation Fund.

A drawing showing the location of the affordable housing units will form part of the Committee presentation. Members were concerned that the affordable units were grouped in the north east corner of the site. The drawing indicates only two of the eleven units in the north east corner are proposed as affordable and that the affordable units are distributed throughout the development. The relevant clause of the legal agreement has been amended to secure these units as affordable.

The recommendation to approve subject to conditions and the signing of a legal agreement remains.

The previous report is produced below (the report has been amended to include corrections together with the consultations responses and conditions previously reported on the amendment sheet). An additional condition is proposed to address the precautionary need to mitigate noise at roof level for units 63-66 inclusive.

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issues explored below concern adopted policy and land use designation. The revisions made to the proposal following the refusal of a similar application by the Planning Committee earlier this year will be explained. The response from consultees including that from Environmental Protection will be set out. Representations from Flakt Woods and others including ward councillors and Myland Community Council will be set out and responded to where necessary. Finally section 106 requirements will be explained. The conclusion is that planning permission should be granted subject to conditions and signing of a legal agreement.

3.0 Site Description and Context

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

4.0 Description of the Proposal

- 4.1 This full application proposes the erection of 88 dwellings comprising 62 houses and 26 flats. The flats comprise one and two bed units and are located within three buildings one at either end of the Axial Way frontage which are 3 and 4 storeys high and a third building close to the NW corner of the site and is 3 storeys high. The houses are a mix of two, three, and four bed and comprise predominantly detached and semi-detached units with three small terraces of three and four units. The houses are either two or two and a half storey high.
- 4.2 The development comprises the following mix:-
6 x one bed flats
20 x two bed flats
10 x two bed houses
39 x three bed houses
13 x four bed houses

- 4.3 This equates to 41 dwellings per hectare, 20% of the units are proposed as affordable units and will comprise 6 one bed flats, 3 two bed flats, 3 two bed houses and 6 three bed houses.
- 4.4 The layout of the buildings has sought to address Axial Way with buildings fronting the road but generally set back behind an internal access road which runs parallel to Axial Way. The houses fronting Axial Way are a mix of two and two and a half storeys with the flatted buildings at either end of this frontage. An area of public open space (POS) is proposed along the rear NW boundary, it includes the trees subject to a TPO on this boundary and extends adjacent to the edge of the bridleway and PROW. Dwellings will front the open space. A pedestrian link is proposed from the site to the PROW. A small cul-de-sac from the west side of the access road will serve a group of houses and one of the flatted buildings. Dwellings on the NE boundary back onto Cuckoo Point, and these gardens include preserved trees.
- 4.5 Parking spaces are generally provided as part of the residential curtilage with the flats and some dwellings having parking spaces within small parking courts. Provision is also made for visitor parking.
- 4.6 The application includes the following supporting documents
- Design and Access Statement
 - Geo-environmental and geotechnical Desk study and site investigation Report
 - Archaeological Desk-Based Assessment
 - Extended Phase 1 Habitat Survey
 - Reptile Survey
 - Bat Survey
 - Noise Impact Assessment
 - Flood Risk Assessment And Drainage Strategy
 - Arboricultural Impact Assessment
 - Transport Assessment
 - Health Impact Assessment

5.0 Land Use Allocation

- 5.1 The site is allocated for residential purposes in the Local Development Framework Site Allocation Document and identified in Policy SANGA1 as a residential site.

6.0 Relevant Planning History

- 6.1 98/1462 Land To The North Of Mill Road, Colchester Outline application for erection of dwellings, B1, B2 and B8 industrial units and the provision of land for part of a spine road Approved 18/07/2001. (This outline application proposed industrial uses on the application site but was never implemented).
- 6.2 F/COL/03/1042 Industrial warehouse and office with associated car parking, access road (section of East West Link Road) together with landscaping, public footpath, holding ponds and temporary foul drainage works.(Revised site area).Applicant Churchmanor Estates and Flakt Woods. This application included the relocation of the Flakt Woods factory from Bergholt Road (Tufnell Way) to Axial Way together with the construction of part of Axial Way from the Severalls Lane junction.

- 6.3 151885 application for Detailed planning application for residential development to provide 87 (No.) residential dwellings (Use Class C3), associated car parking, cycle parking, public open space and pedestrian / cycle infrastructure, formation of pedestrian and cycle only links to adjacent Public Footpath / Bridleway and other associated works and improvements at land north of Axial Way, Colchester.
- 6.4 This application whilst recommended for approval by Officers was refused planning permission at the Planning Committee meeting in July. The application is now subject to an appeal to be considered at a Public Inquiry next year. The reasons for refusal are set out below:-

The application site is in close proximity to the Flakt Woods industrial premises which generates significant levels of noise. Noise generated from the daily operation of the industrial premises would seriously affect the amenity enjoyed by residents. The proposals fail to include an appropriate scheme of noise attenuation to advice and standards in BS 8233:2014 and BS 4142:2014 that would adequately mitigate noise, including noise arising from periodic external testing of industrially-scaled fans, from the adjacent industrial use and residents would therefore suffer an unacceptable loss of amenity. Furthermore, the proposed mitigation which includes thermal double or enhanced glazing and standard or acoustic trickle vents would result in an unsatisfactory living environment for residents who would be unable to open windows for ventilation as this would negate the noise attenuation provided. This is contrary to Development Policy DP1 Design and Amenity, Adopted October 2010 and revised July 2014, and Core Strategy policy CE1 – Centres and Employment Classification and Hierarchy which seeks to protect and enhance employment uses as the magnitude of the noise nuisance could impose unacceptable restrictions on the Flakt Woods business operation thereby rendering their occupation of the site unviable. The development would fail to improve the conditions in which people live and secure a good standard of amenity contrary to paragraphs 8, 17, 56, 58, 123 of the NPPF.

The development fails to provide sufficient parking spaces to satisfy the Councils Adopted Parking Standard in respect of visitor parking resulting in ad hoc parking on the highway to the detriment of highway safety and the visual amenity of the area, contrary to Development Policy DP12: Dwelling Standards and DP19: Parking Standards”.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government’s planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

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

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

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

NOTE TO OFFICERS: This list is not exhaustive, please check the list on our website, particularly with regard to Village Design Statements, Development Briefs, Masterplans etc see Adopted Guidance - Colchester Borough Council

8.0 Consultations

8.1 Environmental Protection

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

This proposal seeks to address the potential impact to the residential properties of noise emanating from the Flakt Woods factory.

Amendments to the original proposal include:-

- changes to the layout of the development so that the building fabric affords acoustic screening to rear gardens
- on the northern part of the site design of habitable rooms to either be facing away from the factory or to have dual aspect so that there will be an openable window orientated away from the noise source
- a terrace of apartments has been introduced with a car port linking them with the adjacent terrace of houses. This affords a continuous form of development and maximises the acoustic screening provided by the building envelope
- amendments to the houses along the Axial Way frontage have sought to design habitable rooms with single aspects located towards Axial Way.
- improved acoustic screen fence along the frontage to afford greater screening from noise emanating from traffic from Axial Way.

Environmental Protection considers that these proposals will largely address the concerns about noise affecting the residential development. However Flakt Woods will occasionally conduct continuous (day & night) testing on very large industrial fans over a period of several days and this noise cannot be mitigated by the proposals so will still affect the residential properties.

During the course of the application a second Noise Assessment including further mitigation was submitted to which Environmental Protection made the following response ;

“The further revised layout is an improvement from the point of view of noise as it creates a relatively quiet central zone which helps to protect people from noise when they are in their gardens.

BS 8233:2014 Noise Criteria: - This document provides guidance for the acoustic design of residential developments.

The modelling demonstrates that external noise levels in the majority of the gardens will meet the upper limit of the British Standard criterion of 55 dB(A). A small number of units exceed the maximum limit by 1 dB(A).

The British Standard states that it is desirable that the external noise level does not exceed 50 dB (A) with an upper guideline value of 55 dB(A) which would be acceptable in noisier environments. (However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable")

The revised internal layout of the housing has sought to maximise the number of habitable rooms which have windows which overlook gardens. Non-habitable rooms such as bathrooms typically face either Flakt Woods or Axial Way. Other features include dual aspect rooms (which have at least one window opening on a quiet façade) or the use of Oriel windows which have the opening casement on the quiet side.

The modelling shows the predicted internal noise level with windows open. Every unit has at least one principle façade which ensures a noise level which meets the British Standard for indoor noise levels with open windows “.

- 8.2 Arboricultural Officer generally no objection to the proposals but ideally the visitor spaces within the tree root protection areas should be removed.
- 8.3 Highway Authority raise no objection subject to conditions. They have agreed the proposed improvements to the PROW/bridleway and other transport works together with the highway contributions.
- 8.4 Landscape Officer has made specific comments regarding the type of boundary treatment and preferred species of trees. These matters can be secured by a condition requiring a detailed scheme of both hard and soft landscaping to be submitted and agreed.

The Landscape Officer also comments that clarification is required how the proposed hedge and tree planting outside the site ownership is to be secured and maintained in the long term, or these elements bought back into the site area and layout amended accordingly. This in order to ensure the treatment to the site frontage, negotiated as part of the pre-application discussions, is achievable, as this landscape treatment forms an important part of the emerging character of the street scene.

Officer comment : A revised drawing has been submitted showing the trees and hedge within the site boundary

The Landscape Officer has also raised concerns regarding the proposed fencing plan would appear to run contrary to the anticipated landscape design, hampering the opportunity for passive surveillance of the footpath bridleway to the north, which should be seen as a key landscape feature, and compromising the simple hedge enclosure to Axial Way, which is seen as a complementary feature the existing local hedgerow framework.

8.5 NHS England

The proposed development is likely to have an impact on the services of 3 main GP practices operating within the vicinity of the application site. The GP practice does not have capacity for the additional growth resulting from this development. The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NHS England would therefore expect these impacts to be fully assessed and mitigated.

A developer contribution will be required to mitigate the impacts of this proposal. NHS England calculates the level of contribution required, in this instance to be £31,832 to be used at Bluebell Surgery and Mill Road Surgery Colchester. Payment should be made before the development commences.

NHS England therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

Assuming the above is considered in conjunction with the current application process, NHS England would not wish to raise an objection to the proposed development. Otherwise the Local Planning Authority may wish to review the development's sustainability if such impacts are not satisfactorily mitigated.

Officer comment : This contribution was requested outside the Development Team process and was not requested by the NHS for the earlier application. However the applicant has confirmed their agreement to pay this financial contribution.

8.6 Natural England

The Wildlife and Countryside Act 1981 (as amended)

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

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Green Infrastructure

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

Biodiversity enhancements

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

Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

- 8.7 Urban Design Officer has raised similar concerns to those raised in respect of the earlier application relating to lack of information on materials and detailing to the buildings; the location and suitability of the small areas of open space; and generally the lack of townscape interest.

Officer comment: it is considered the layout and design are acceptable and the detailed matters including materials can be dealt with by condition.

The Urban Design Officer also comments that the high screen fencing is unfortunate from a design perspective, in particular the fencing fronting Axial Way, which it is considered will restrict self –policing of Axial Way and discourage walking and cycling.

Officer comment: the fencing is required to mitigate noise from Flakt Woods and traffic noise. Hedge planting and trees are proposed between the fencing and the road which will in time soften their appearance.

- 8.8 ECC SuDS Team has raised no objection subject to conditions.

- 8.9 Anglian Water

Section 1 – Assets Affected

"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."

Section 2 – Wastewater Treatment

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

Section 3 – Foul Sewerage Network

- 3.1 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.

Section 4 – Surface Water Disposal

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

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

Section 5 – Trade Effluent

- 5.1 Not applicable

- 8.10 Environment Agency was consulted on the earlier application and confirmed the proposed development was outside their remit.

- 8.11 CBC Contaminated Land Officer

An acceptable report has been submitted for Environmental Protection purposes. It is noted that it is concluded that there are no unacceptable concentrations of potential contaminants within the underlying soils that would pose a potential risk to human health of future site occupants, and no further site investigation or remediation has been recommended. Based on the information provided, these comments would appear reasonable. However, given the low number of sampling locations, should planning permission be granted for this application, Environmental Protection would recommend inclusion of a condition

- 8.12 Archaeologist

This proposal is located in an area of archaeological interest, defined in the Colchester Historic Environment Record. The proposed development is located to the east of early occupation recorded by trial-trenched evaluation (CHER no. MCC3099) and to the north of archaeological features defined by geophysical survey (CHER no. ECC3649). However, no previous systematic archaeological investigation has taken place on this site. There is high potential for encountering buried archaeological remains at this location, given the proximity to known remains. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance

of any heritage asset before it is damaged or destroyed. This is consistent with the advice relating to the pre-application enquiry in 2015 (151556).

I will, on request of the applicant, provide a brief for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

Pre-determination archaeological evaluation is not required for this proposal. However, I would recommend that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

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

9.0 Parish Council Response

- 9.1 The Parish Council have stated that MCC would object to this application on the same grounds as the previous application 151885. These grounds were and are: over-development, insufficient parking, lack of open space for size of development. We were and are also concerned about the level of noise from the Flakt Woods factory.

We would also like to draw your attention to the conflict between this application and CBC's own designation of this area as a Strategic Employment Zone.

10.0 Representations

- 10.1 Cllr Martin Goss:

The application failed at committee for the following reasons:

1. Noise attenuation issues with the original plan. The new plans needs to mitigate these concerns adequately so that properties cannot open windows directly onto the noise areas.
2. Can extra landscaping be added to help buffer the direct noise zone?
3. Can triple glazing be added to the most affected properties?
4. Can terms be added to the deeds that legal action against Flakt Woods cannot be taken for any noise breaches.
5. Parking needs to meet the current standards. The last application fell short so the new application must offer adequate and compliant parking
6. A full resident only or yellow line parking scheme must be in place from day 1 of occupation due to parking from the football stadium.

- 10.2 Cllr John Stewart:

As this application falls within Myland East Ward for which I am the elected Councillor I wish to add an additional comment to those already expressed by MCC. No account appears to have been taken on traffic flows on this road. It is the main by pass road to take HGV traffic off Mill Road and there are regular tailbacks at peak times. The advent of the Northern Gateway will add considerable traffic flows as will the proposed house building on the Rugby Club land which is mandated to exit onto Axial Way. This land was designated for industrial use and provide jobs for local community not housing. The strain on local schools, which has been highlighted in the ECC comments will only get worse as will the strain on health services. The site is too close to Flaktwoods and will be exposed to the factory noise. The current developments of Cuckoo Point and The Male are at least 140 meters away and less affected. I very much object to this application.

10.3 Flakt Woods

“Thank you for providing a notice of the application reference 162302 which draws our attention to a further application for a residential development adjacent to our boundaries. This application is further to that reference 151885 which we made previous evidence and objections. Having thoroughly reviewed the prior application and this newer application, we continue to have reason to be highly concerned about such a development on this plot and raise our formal objection.

Our concerns remain consistent with those articulated in our letter dated 30/9/2015 and raised in representation at meetings that followed. The basis of this concern is primarily relating to the sound impact our business may have on the potential residents of the development, and actions that may need to be taken that impact on the flexibility and sustainability of our business.

As a reminder of key points raised previously:

- The sound insulation scheme prepared in 2005 for the planning consent of our factory was based on existing housing and potential residential use locations contained in the Local Plan.
- When Flakt Woods moved to Axial Way, the area was intended for commercial development
- The nearest residential location was approximately 140 meters to the south.
- The previous submission and current proposal for housing in the application concerned by Persimmon Homes is so close we remain concerned that sound emanating from our premises may be deemed not to be compliant with standards required and approved by Colchester Borough Council.

Having met with David Moseley of Persimmon homes during September 2016 we were given an opportunity to review their updated plans. David took the opportunity to outline the modifications in the updated proposal including changes in the internal spaces so that living quarters are reoriented, restrictions to window openings, and changes to boundaries and layout of the homes on the border. Whilst we do appreciate they have made improvements to the plan with the goal to address concerns we have made, we are still concerned that this development is inconsistent with the commercial and industrial nature of the Axial Way development and brings a risk of nuisance complaints onto Flakt Woods in the future.

In summary, our concerns are that the sound insulation scheme report and the subsequent building specification for our factory was relevant to neighbours at around 140m or more distance. If houses were to be permitted closer, our building is no longer able to contain sound to achieve the same standard at the closer location. When located at Tufnell Way, there were regular instances of noise complaints against Flakts Woods from the nearby residences. The Axial Way building cannot be upgraded and the consequence is that our sound emissions could be judged unacceptable for new housing in much closer proximity.

If permission for the housing is permitted, as articulated previously we seek unequivocal written assurance from Colchester Borough Council that we would not be served with a noise abatement notice or subject to nuisance action by the Council if a complaint arose. If we cannot obtain this assurance then we would look to lodge an objection to the proposed housing scheme planning application.

Since the last application, we also seek to draw your attention to concern about increased traffic flows on Axial Way, and are concerned that the consequences of the increase in traffic due to residents of this new estate may not have been adequately considered. At morning and evening rush hours it is frequent that the new roundabout at Axial Way and United Way fails to flow effectively, creating a standstill of traffic on Axial Way from United Way through to Severalls Lane, and also over the A12 junction and down onto the Southbound A12 itself. At other times, due to the speed and volume on Axial Way, leaving our premises and turning towards the A12 is very difficult, and further volume for this residential development will aggravate both situations and increase the risks of road traffic accidents on Axial Way and the A12 as traffic backs onto the A12 from the roundabouts that can not handle the existing traffic flows.

As a Colchester based business with over 100 years of history locally, we appreciate the need for further development and housing for the community. We do not believe it appropriate that this space should be developed for residential, and believe it should be reverted back to commercial in keeping with the development intention for Axial Way”.

Officer comment: It is not possible to provide Flakt Woods with the reassurance they request regarding action relating to noise nuisance. The Council has a statutory duty to investigate complaints and if a statutory nuisance is confirmed prosecution could follow if the cause of the noise nuisance cannot be rectified.

- 10.4 Essex Bridleways Association wish to make the following comments on the above proposal:

We note the requirement for the developer to make enhancements to the surfacing of the adjacent bridleway and note that the developer has been in discussions with ECC Public Rights of Way department with regard to these enhancements. We do not object to these, however, we request that the adjacent trees and hedgerows on both sides of the bridleway in question are retained in their entirety, save for necessary maintenance to enable healthy growth. We would object to any reduction in height or thinning out of the hedgerow, and we would hope that since the previous application was refused because of possible noise intrusion from the adjacent factory site, retention of the hedgerows will help with noise mitigation from this site.

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

11.0 Parking Provision

11.1 The adopted parking standards require one parking space for one bed units and two spaces for two beds and above. The development proposal is for 6 one bed and 82 two bed (and above) units requiring 170 spaces and this standard is met. The parking standard also requires one space for every four dwellings (0.25 of a space per dwelling) 88 units require 22 visitor spaces and this requirement is also met.

11.2 A total of 88 cycle parking spaces are provided which equates to a dedicated space for each flat and house. Cycle parking stores will be provided within each block and in a secure timber storage shed in the rear gardens of each house.

12.0 Open Space Provisions

12.1 The layout includes three areas of open space the most significant area is that on the north-west boundary extending parallel to and linking to the PROW/bridleway. Smaller amenity areas are indicated at either end of tAxial Way. In addition all the dwellings have private gardens and the flats each have a balcony.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Development Team agreed the following Obligations:

- Affordable Housing – 20% which equals 18 units six 1 bedroom Apartment, three 2 bedroom Apartments, three 2 bedroom Houses and six 3 bedroom Houses
- Open Space Sport and Recreation – contribution of £283,448 to fund provision of play space locally, provision of Recreational Facilities on land at Mill Road, provision of Sport and Recreational facilities on land north of the A12 and provision of Sport and Recreational facilities at the Northern Gateway Project
- Community Facilities – Contribution of £107,479.68 to go towards improved/extended building/facilities for the Community Centre that will come forward as part of Severalls Hospital development
- Transport Improvements –
 - (a) contribution of £26,200 towards upgrades to two bus stops to include real time information boards and provision of new shelters (if a bus route is created along Axial Way).
 - (b) Improvements to Public Rights of Way
 - A. creation of a sealed surface approx 3 metres wide for pedestrians/cyclists
 - B. type 1 hoggin surface approx 2 metres wide for horses
 - C. type 1 hoggin surface
 - D. cycle way to be resurfaced and separate signage provided for the bridleway and cycleway
 - E. safety barrier to be provided along bridleway
 - (c) Highway Works
 - 1. Traffic island upgraded to a pedestrian refuge on Axial Way

2. A dropped kerb to be relocated along Severalls Lane
3. Continuation of cycleway markings for approx 5 metres along part of Severalls Lane to the top of the bridleway entrance

15.0 Report

Policy Considerations

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

“Land at Axial Way

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

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

Design and Layout

- 15.2 The report to Members in respect of the earlier application explained that “the layout has been amended following meetings with officers including the Urban Design Officer. The amendments included a linear public open space parallel to the PROW/bridleway incorporating the preserved trees along this boundary with houses fronting the open space, providing natural surveillance, instead of backing onto this public area. Buildings now face Axial Way providing an active frontage to the street but with sufficient set back to allow hedge and tree planting along the road frontage. Parking spaces were revised so they are no longer in front of houses but are mainly provided on plot at the side of houses with some small parking courts; this amendment makes a considerable improvement to the street scene and public realm areas. These amendments resulted in a reduction in the number of units from 92 to 87.
- 15.3 The buildings fronting the open space will provide a degree of natural surveillance to the PROW/bridleway and the layout includes a link to these paths. The layout includes defined perimeter blocks with houses fronting the principle roads and open space with gardens to the rear and creates well defined public and private realm.

- 15.4 The houses types are of traditional designs but some features having a contemporary feel. A traditional palette of materials is indicated. The flatted buildings have a more contemporary appearance. The adjacent residential developments have a mixed character; Cuckoo Point buildings have a contemporary design with curved metal roofs and a flat roofed central link whereas the dwellings opposite are of a more traditional style. The detailed designs are considered satisfactory in this context but conditions requiring precise materials to be agreed and large scale drawings of architectural features are necessary to ensure they are of appropriate quality for this site on a main distributor road and fronting a PROW”.
- 15.5 Following the refusal of permission this revised application has been submitted. The amendments which have been made to the layout and design relate mainly to the units on the north east boundary of the site and are detailed below
- Amendments to the terrace of houses proposed within the north-eastern part of the site comprising plot 63-66, the principle bedrooms have both a northern and southern aspect. This allows these rooms to have opening windows orientated away from the Flakt Woods and screened from the potential noise source by the building envelope. The second bedroom is located to the rear and as such has a southern aspect. A small first floor room described as an office faces Flakt Woods
 - A terrace of flats, plots 57-62, has been introduced. A car port links the flats with the adjacent terrace of houses and this provides a continuous form of development and maximising the acoustic screening provided by the building envelope. The flats have been designed so that all bedrooms and living rooms are on the south side of the building and therefore have opening windows orientated away from the factory and afforded screening by the building envelope.
 - Plot 56 has been amended and now incorporates a first floor link that adjoins the flats, affording a continuous form of development and maximising the acoustic screening provided by the building envelope. The house does not have any single aspect habitable rooms towards the factory to the north. The opening windows are orientated away from the factory and afforded screening by the building envelope
 - The houses on plots 25, 11 and 16 do not have single aspect habitable rooms towards Flakt Woods although they do include a small room described as an office facing Flakt Woods.
 - Amendments have been made to the terrace of houses proposed fronting the open space. Within the terrace comprising plot 19-21, the principle bedrooms have both a northern and southern aspect. This would allow those rooms to have opening windows away from the factory and screened from the potential noise source by the building envelope. The Second bedroom is located to the rear and as such has a southern aspect away from the factory. These units include a small room described as an office facing Flakt Woods.
 - Oriel windows have been introduced to five houses fronting the northern boundary (plots 17-18, 22-24). The oriel windows will allow the first floor bedrooms to have a dual aspect. This will ensure that they continue to address the street scene and afford surveillance of the open space whilst having an openable window which is orientated to the south, away from the factory building. Flank windows have also been introduced.

15.6 The amended proposal has also sought to avoid habitable rooms with a single aspect towards Axial Way by the following amendments

- The design of the western Apartment Building (plots 1-9) has been altered from the 2015 application so that all bedrooms are orientated away from Axial Way
- The design of the eastern Apartment Building (plots 78-88) has also been altered since the 2015 application so that the bedrooms are orientated away from Axial Way.
- Oriel windows have been introduced to seventeen houses fronting Axial Way (plots 48-53, 40, 30-39). The oriel windows allow the first floor bedroom to have a dual aspect. This will ensure that they continue to address the street scene and afford surveillance whilst having an openable window which is orientated away from Axial Way.

15.7 In addition to the above amendments a revised scheme of boundary screen fencing is proposed. The scheme includes a 1.7 metre fence along the majority of the Axial Way frontage with a hedge and tree planting on the public side. The small open space areas to this frontage will be screened from the road by a 1.5m barrier on a 0.5m bund at one end and a 2m high barrier at the other; this barrier will extend around part of the boundary with the PROW. A 2.5m barrier is proposed along approximately half of the NW boundary with a hedge on the development side of the boundary. A 2.2 m fence is proposed along the NE boundary. There are also small sections of 2.2m and 2.5 m screen fencing within the site.

15.8 A ventilation and glazing scheme has also been submitted to demonstrate that all the dwellings have rooms which can meet internal criteria. The scheme proposes a combination of Standard double glazing with non-acoustic trickle vents to all habitable rooms, Standard double glazing with non-acoustic trickle vents to living rooms and acoustic trickle vents to some bedrooms, Standard double glazing with acoustic trickle vents to all bedrooms facing Axial Way or the Flakt Woods factory (but not those overlooking their own garden or have an oriel window which faces the garden) and Enhanced double glazing with acoustic trickle vents to all bedrooms facing Flakt Woods the factory.

Scale, Height and Massing

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

Impact on the Surrounding Area

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

Impact on Neighbouring Properties

- 15.11 The development includes dwellings on the NE boundary generally this comprises houses with rear gardens to the boundary; these gardens include mature trees and will be well screened from existing buildings. There are the commercial units at Cuckoo Point and a treed amenity area on this boundary and the development will have no adverse impact on the adjacent development. Houses and flats will front Axial Way facing existing residential development. The existing development has a high wall onto the road and dwellings face into the site. The proposed development would not have an adverse impact on existing residents.
- 15.12 The NW boundary of the site is separated from Flakt Woods by a PROW/bridleway. Members will note this company has objected to the application. Flakt Woods was granted planning permission in 2004 to relocate from Bergholt Road to Axial Way. Their planning permission does not restrict working times or days. A condition requiring a scheme of sound insulation to be submitted and approved was discharged on the basis that the nearest residential development was that on the opposite side of Axial Way. At the time the planning application for Flakt Woods was submitted and conditions discharged the application site was allocated for employment use but this allocation was changed to residential when the local plan was reviewed in 2008.
- 15.13 Following their original objection to the earlier application the case officer arranged a meeting at Flakt Woods attended by Flakt Woods MD England and colleagues and their noise consultant; the applicant and noise consultant, an officer from Environmental Protection and the case officer. The meeting included a tour of the building and the outside areas.
- 15.14 Flakt Woods explained the Colchester site currently operates three shifts, including a night shift. The three shift pattern can reduce to two depending on the orders the Company has to fulfil. The Colchester site is used for testing fans and this can mean testing more than one fan at a time. Performance testing is conducted in the Research & Development (R&D) lab located in the NE corner of the factory (closest to the residential site) and the flank wall of the building has a roller shutter door leading into the R&D lab. Whilst most testing is undertaken indoors within the R&D lab, some balance and vibration testing can be undertaken outdoors in the eastern yard; certain tests have to be conducted outdoors due to the constraints of the R&D lab. Flakt Woods has confirmed it is not possible to change the internal layout of the factory. In addition to the testing there is an external waste facility in the NE corner of the site.
- 15.15 The acoustic modelling agreed with Environmental Protection takes account of fan testing and site activity and operations on a typical 24 hour day including fan testing of a typical loud fan during the day time. The mitigation measures proposed are acceptable for these working scenarios. Modelling has not been carried out for the occasional torque testing of very large industrial fans; these tests are obviously dependent on orders, but such tests have been carried out by the factory five times in the past 10 years. The last time Environmental Protection received complaints was in 2013.

- 15.16 Environmental Protection was satisfied that the proposed glazing and ventilation scheme together with the screen fencing proposed under the earlier application was acceptable and the officer recommendation was that planning permission should be granted.
- 15.17 The current application includes further improvements the introduction of a small group of flats in the NE corner enables bedrooms to be located on the rear elevation away from Flakt Woods with these windows being screened by the bulk of the built form itself. Other units along this boundary have secondary windows to the side or rear elevations which allows these properties to have an openable window not facing the main noise source and meet noise criteria. The revisions to the layout and screen fencing also result in the majority of the gardens meeting the upper limit of the British Standard criterion of 55 dB(A). Although a small number of units exceed the maximum limit by 1 dB(A) this is considered acceptable.
- 15.18 Acoustic fencing is also proposed which whilst in visual terms is not ideal is required in this instance to mitigate noise in particular traffic noise.

Amenity Provisions

- 15.19 The proposed development will not have an adverse impact on the amenity of adjacent properties and raises no issues relating to loss of light or overlooking.
- 15.20 In terms of general amenity, the recommended legal agreement would secure improvements to the PROW/bridleway. These paths exit onto Severalls Lane close to the bridge over the A12 and if the Northern Gateway development on the north side of the A12 goes ahead these paths will form an important link for pedestrians, cyclists and horse riders to cross the A12.

Highway Issues

- 15.21 The Transport Assessment indicates there are footways and cycle paths along Axial Way and a PROW to Mill Road, a cycle path along Via Urbis Romanae which also has a priority bus lane. The Park and Ride facility is on the opposite side of the A12. The Assessment concludes the development would have a minimal impact on surrounding transport network and that the proposal can be accommodated within the existing infrastructure. Cycle parking will be provided within each flat block. The Highway Authority requires improvements to the surface and signage of the PROW/Bridleway, Travel packs to encourage use of public transport, walking and cycling, and a pedestrian refuge to the existing crossing of Axial Way.

Drainage

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

- 15.23 Anglian Water raises no objection on drainage grounds. It is anticipated the response from ECC SUDS will be available at the committee meeting, no objection was raised to the earlier application subject to conditions.

Ecology, Trees and Habitats

- 15.24 The site includes mature oaks subject to a preservation order together with other trees on the NW and NE boundaries. The preserved trees are retained as are the majority of other trees; the two trees to be removed are in poor condition. Work to the retained trees includes removing deadwood, crown lifting and crown reduction. The hedgerows where encroaching onto the site are to be cut back to the boundary this mainly involves removing overgrown blackthorn; a section of hedgerow will have to be removed to create the link to the bridleway. Some hedgerows within the site are to be removed. The trees and hedgerows form green corridors along these boundaries. The application includes an Arboricultural Impact Assessment which considers the impact of the development on trees and hedgerows and the quality of these features. The Arboricultural Officer has requested some visitor parking spaces under Root Protection Areas (RPA) is removed if possible. The applicant's arboriculturalist has indicated no dig or reduced construction will be used and the proportion of space within the RPA is within recommended limits. An Arboricultural Clerk of Works (ACoW) will be required to oversee the protection of trees during the development.
- 15.25 An extended Phase 1 habitat survey and reptile and bat surveys have been submitted. The survey confirms the site is not close to designated sites and has no ecological designations. The site comprises largely unmanaged semi-improved grassland with areas of tall ruderal vegetation and hedgerows and trees on boundaries with a dry ditch along the front boundary.
- 15.26 The survey concludes the trees do not support bat roosts but could in the future, it recommends that if development commences after March 2017 further bat survey work and mitigation is required. The development will have minimal impact on foraging and commuting bats as trees are to be retained. Mitigation measures include lighting to be directed away from mature oak trees and the provision of bat boxes. No reptiles were recorded on the site. Whilst the surveys found no evidence of badgers pre-ground clearance is recommended to ensure the absence of badger setts.
- 15.27 The hedgerow along the NW boundary is classed as important under the Hedgerow Regulations and will be cut back to site boundary. Trees and hedgerows will be enhanced and managed with dead wood removed, gaps planted and the crown lifting of some trees, black thorn will be cut back. Pedestrian/cycle links are proposed from the development to the PROW/bridleway they will be sited outside root protection areas.
- 15.28 The site does not include any protected species and conditions will be imposed to protect trees and hedgerows during the construction period.

16.0 Conclusion

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

17.0 Recommendation

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

- Affordable Housing – 20% which equals 18 units six 1 bedroom Apartment, three 2 bedroom Apartments, three 2 bedroom Houses and six 3 bedroom Houses the location of the affordable units to be in accordance with drawing dated 12.12.16 – LOCATION OF AFFORDABLE
- Open Space Sport and Recreation – contribution of £283,448 to fund provision of play space locally, provision of Recreational Facilities on land at Mill Road, provision of Sport and Recreational facilities on land north of the A12 and provision of Sport and Recreational facilities at the Northern Gateway Project
- Community Facilities – Contribution of £107,479.68 to go towards improved/extended building/facilities for the Community Centre that will come forward as part of Severalls Hospital development
- Transport Improvements –
 - (a) contribution of £26,200 towards upgrades to two bus stops to include real time information boards and provision of new shelters (if a bus route is created along Axial Way).
 - (b) Improvements to Public Rights of Way
 - A. creation of a sealed surface approx 3 metres wide for pedestrians/cyclists
 - B. type 1 hoggin surface approx 2 metres wide for horses
 - C. type 1 hoggin surface
 - D. cycle way to be resurfaced and separate signage provided for the bridleway and cycleway
 - E. safety barrier to be provided along bridleway
 - (c) Highway Works
 - 1. Traffic island upgraded to a pedestrian refuge on Axial Way
 - 2. A dropped kerb to be relocated along Severalls Lane
 - 3. Continuation of cycleway markings for approx 5 metres along part of Severalls Lane to the top of the bridleway entrance
- NHS contribution of £31,832 to be used at Bluebell Surgery and Mill Road Surgery Colchester. Payment should be made before the development commences.

- Details of a Management Company and submission of a Management Plan to be agreed by the Local Planning Authority for all the areas which are not either adopted or form part of a private curtilage, including any non-adopted roads and open space. The Management Company to be responsible for the retention, maintenance, repair and replacement of the screen fencing.
- A Parking Management Plan to be submitted and agreed.
- Mitigation Fund to include a sum not exceeding £50,000 shall be paid by the Applicant to Colchester Borough Council (at a time to be agreed and specified in the legal agreement) and shall be available to Flakt Woods;
 1. in the event of a noise complaint being lodged and upheld by CBC (within 10 years of the substantial completion of the development) the wording of the precise trigger point to be agreed
 2. Costed mitigation measures have been submitted to and agreed by CBC to address the complaint
 3. The release of money being conditional upon it being spend on the purposes agreed

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 0PH-124-003 A, PH-124-004 A , PH-124-019 A, PH-124-022A , PH-124-031A , PH-124-034 A, PH-124-041 A , PH-124-045, PH-124-46, PH-124-001, PH-124-002A, PH-124-005, PH-124-007 PH-124-008, PH-124-009, PH-124-010A, PH-124-011, PH-124-012A, PH-124-013, PH-124-014, PH- 124-015, PH-124-016, PH-124-017, PH-124-017A, PH-124-018, PH-124-018A,APH-124-019, PH-124- 020, PH-124-023, PH-124-024, PH-124-025, PH-124-026, PH-124-027, PH-124-028, PH-124-029, PH-124-030, PH-124-033, PH-124-035, PH-124-036, PH-124-037, PH-124-039, PH-124-040, PH-124-042 PH-124-043, PH-124-044 & 124-047B

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

3 - Non-Standard Condition/Reason - Excludes Submitted Materials

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the external materials. No works shall take place until details of alternative materials have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out using these approved materials. Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

4 - Non-Standard Condition/Reason - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously

submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times. Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

5 - Non-Standard Condition/Reason - Removes Permitted Development Rights to Erect Walls & Fences

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

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

6 - Non-Standard Condition/Reason - Excludes Permitted Development Right to Install New Windows

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

7 -Non-Standard Condition/Reason - Submission of Hard & Soft Landscape Proposal Required

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details are not acceptable in all respects and require amendment in accordance with the consultation response from the Landscape Officer dated 16.09.2015. The landscape details shall include:

- proposed finished levels or contours;
- means of enclosure;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units (including litter bins and dog waste bins), signs, lighting etc.);
- proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);
- retained historic landscape features;
- proposals for restoration;
- planting plans;
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- implementation timetables and monitoring programs.

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

8 - Non-Standard Condition/Reason - Landscape Management Plan

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

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

9 - Non-Standard Condition/Reason – Earthworks

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

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

10 - Non-Standard Condition/Reason - Tree and Natural Feature Protection: Protected Areas

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

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

11 - Non-Standard Condition/Reason - Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan required

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

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

12 - Non-Standard Condition/Reason - Drawings of Architectural Features required

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

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

13 - Non-Standard Condition/Reason - Habitat and Biodiversity Enhancement Details required

No works, including ground clearance, shall take place until a scheme of habitat and biodiversity enhancement, mitigation and implementation timetable has been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details. The scheme shall include an inspection of the site to ensure badgers have not colonised.

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

14 - Non-Standard Condition/Reason - Development to be Carried out in Accordance with submitted documents

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

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

15 - Non-Standard Condition/Reason - Acoustic Fencing & Mitigation Measures to be implemented

Prior to the occupation of any dwelling the acoustic fencing/bunds indicated on the fence plan drawing number PH-124-008 revision A and the ventilation/glazing specification as detailed in the SRL document dated 28 October 2016 and figure 3.4 shall be implemented in full and these features shall thereafter be retained.

Reason: These features are required to mitigate noise from adjacent premises and road noise. The dwellings need to be appropriately ventilated and glazed so that the recommended guidelines for internal noise levels under BS 8233 can be met.

16 - Non-Standard Condition/Reason - Details of Lighting Fixtures required

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

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

17 - Non-Standard Condition/Reason - Details of Cycle Parking for flats required

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

18 - Non-Standard Condition/Reason - Provision of Travel Information required

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

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

19 - Non-Standard Condition/Reason - Garages & Parking Spaces to be provided

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

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

20 - Non-Standard Condition/Reason - Store Building

Prior to the first occupation of plots 24, 25 and 26 the store building shall be erected in accordance with the approved drawing and shall thereafter be retained.

Reason: This structure is required to ensure appropriate mitigation from noise generated by the adjacent commercial premises.

21 - Non-Standard Condition/Reason - Construction Method Statement

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- and a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

22 - Non-Standard Condition/Reason – Contamination

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

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

23 - Non-Standard Condition/Reason – Contamination

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

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

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

24 - Non-Standard Condition/Reason – Site Investigation

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

On request of the applicant, a brief will be provided for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation. Pre-determination archaeological evaluation is not required for this proposal. However, it is recommended that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

25 – Non-Standard Condition/Reason – Construction Management Plan

Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan
Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

26 - Non-Standard Condition/Reason – Highway Amendments

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

- a. Minimum 500 mm clearance between any structure and existing or proposed highway
- b. Minimum 1.5 x 1.5 metre pedestrian visibility splays where any private drive meets existing or proposed highway
- c. All shared surface roads a minimum of 6 metres wide including turning heads
- d. All minor accesses with minimum kerb radii of 4 metres

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

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

27- Non-Standard Condition/Reason - Residential Travel Information Packs

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

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

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

28 - Non-Standard Condition/Reason – Surface Water Drainage Scheme

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by Essex County Council as Lead Local Flood Authority. Such details and approval letter/notice will then be submitted to the local planning authority. The scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Infiltration testing in line with BRE 365. If infiltration is found to be unviable, run-off should be restricted to the 1 in 1 greenfield rate based on the area drained by the site or other arrangements to be agreed for all events up to the 1 in 100 inclusive of climate change (40%) storm event.
- Surface water managed suitably on site up to the 1 in 100 inclusive of climate change (40%) storm event. An allowance in storage provisions should also be made for 'urban creep'.
- An appropriate amount of treatment which is demonstrated to be in line with the CIRIA SuDS Manual C753.
- Final detailed modelling of the whole drainage network on site.
- A drainage plan highlighting final conveyance and exceedance routes, location and sizing of storage features, discharge rates and outfall/s from the site.

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.

29 - Non-Standard Condition/Reason – Scheme to Minimise Risk of Offsite Flooding

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the development, has been submitted to and approved in writing by Essex County Council as Lead Local Flood Authority. Such details and approval letter/notice will then be submitted to the local planning authority. The scheme shall subsequently be implemented. The scheme shall be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 and paragraph 109 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 areaduring 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 against this should be proposed.

30 - Non-Standard Condition/Reason – Maintenance Plan

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by Essex County Council as Lead Local Flood Authority. Such details and approval letter/notice will then be submitted to 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.

31 - Non-Standard Condition/Reason 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.

32. Non-Standard Condition/Reason Construction Details to be Submitted and Approved

No works shall take place until a detailed scheme for the construction of the walls of the dwellings fronting Flakt Woods and the construction of the northern slope of the roof to plots 63-66 has been submitted to and approved in writing by the local planning authority the approved details shall thereafter remain in place.

Reason: To ensure the dwellings remain appropriately constructed so that the recommended guidelines for internal noise levels can be maintained.

33 Non-Standard Condition/Reason Windows to be Fixed Shut

The windows above ground level on the front (north) elevation of the dwellings facing Flakt Woods shall be fixed shut prior to the occupation of the dwellings; these windows are shown in pink on the drawing submitted by Persimmon Homes in their email dated 30th January 2017. The precise method of “fixing shut” shall be agreed in writing with the local planning authority prior to any works taking place. These windows shall be retained fixed shut in accordance with the approved details thereafter.

Reason: To ensure the dwellings remain appropriately constructed so that the recommended guidelines for internal noise levels can be maintained.

34. Non-standard Detailed scheme of noise mitigation for units 63-66 inclusive

Prior to the commencement of development a detailed scheme of noise mitigation for the bedrooms contained within the roof space of units 63-66 inclusive shall be submitted to and agreed in writing by the local planning authority. The development shall thereafter be implemented strictly in accordance with the approved scheme prior to the initial occupation of the units and thereafter so retained.

Reason: To ensure that the background noise levels in the attic accommodation is within acceptable limits to maintain satisfactory conditions for unbroken sleep.

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

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

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

(8) PLEASE NOTE that the site is known to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. Tiered risk assessment shall be carried out in accordance with the procedural guidance and UK policy relating to the contaminated land regime. Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land. The Local Planning Authority will determine the application on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post-development and that the applicant had prior knowledge of the contamination, the applicant is likely to be liable for this under Part IIA of the Environmental Protection Act 1990 and as such become an Appropriate Person. In this event the applicant will be lawfully responsible to remove the risk posed by the contamination. Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this the applicant or those acting on his behalf will be liable under Part

IIA of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment. During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public, property and the environment are protected against noise, dust, odour and fumes. The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site. The Local Planning Authority will provide a Validation Certificate mentioned in Condition 23 for completion by the applicant/developer. This certificate will not only provide confidence in the site for the local authority in terms of development control and the Part IIA regime but will help discharge conditions applied by the approved inspector and also provide confidence for solicitors and homebuyers in the conveyancing process.

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

(10) 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>

(11) 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.

☐ Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

☐ Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

☐ 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.

☐ 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.

☐ We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

(12) PLEASE NOTE A badger sett/s may exist within or adjacent to the application site. Badgers are a statutorily protected species, and it is the developer's responsibility to ensure the requirements of the Badgers Act 1991 are fully complied with. Furthermore, if a badger sett is found at any time during the construction phase of the scheme, work should cease in the area and an ecologist should be consulted to ensure legal compliance.

(13) Highway Informative

- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All highway related details should be agreed with the Highway Authority
- The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009