

# Planning Committee Meeting

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

**Thursday, 28 September 2017 at 18:00**

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

## Information for Members of the Public

### Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

### Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Your Council> Councillors and Meetings>Have Your Say at [www.colchester.gov.uk](http://www.colchester.gov.uk)

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## Material Planning Considerations

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

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

## **Planning Obligations**

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

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

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

## **Human Rights, Community Safety and Equality and Diversity Implications**

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

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

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

## Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

### **Parking Standards**

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



## **Colchester Borough Council Environmental Control**

### **Advisory Notes for the Control of Pollution during Construction and Demolition Works**

*The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.*

#### **Best Practice for Construction Sites**

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

##### **Noise Control**

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

##### **Emission Control**

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

## **Best Practice for Demolition Sites**

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

### **Noise Control**

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

### **Emission Control**

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

# **The Town and Country Planning (Use Classes) Order 1987 (as amended)**

## **Class A1. Shops**

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

## **Class A2. Financial and professional services**

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

## **Class A3. Restaurants and cafes**

Use for the sale of food and drink for consumption on the premises.

## **Class A4. Drinking establishments**

Use as a public house, wine-bar or other drinking establishment

## **Class A5. Hot food takeaways**

Use for the sale of hot food for consumption off the premises.

## **Class B1. Business**

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
- (b) for research and development of products or processes, or
- (c) for any industrial process,

being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

## **Class B2. General industrial**

Use for the carrying on of an industrial process other than one falling within class B1 above

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

**Class C1. Hotels**

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

**Class C2. Residential institutions**

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

**Class C3. Dwellinghouses**

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

**Class C4. Houses in multiple occupation**

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

**Class D1. Non-residential institutions**

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

**Sui Generis Uses**

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

**Interpretation of Class C3**

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

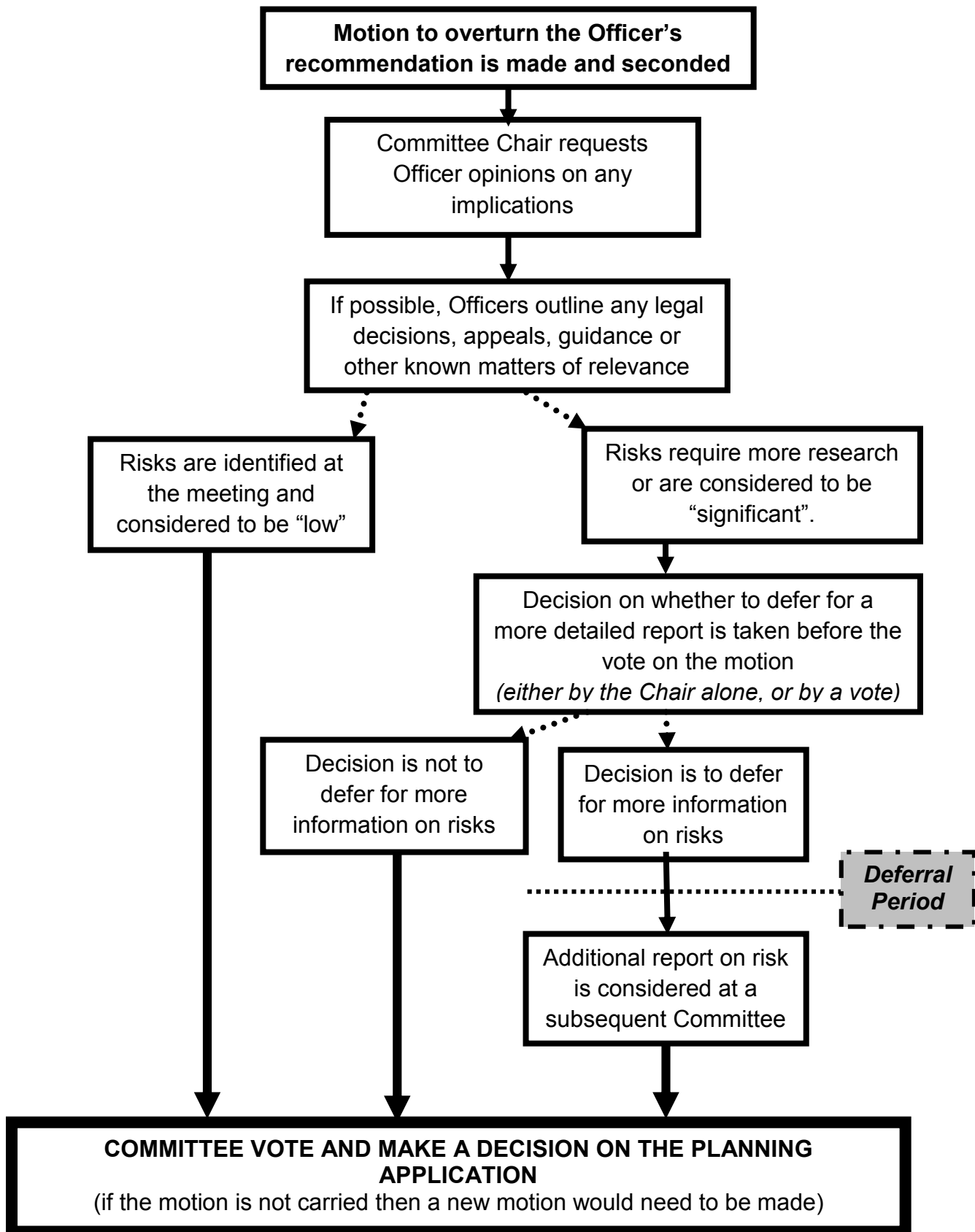
**Interpretation of Class C4**

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

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 28 September 2017 at 18:00**

**Members:**

Councillor Theresa Higgins  
Councillor Cyril Liddy  
Councillor Lyn Barton  
Councillor Helen Chuah  
Councillor Pauline Hazell  
Councillor Brian Jarvis  
Councillor Derek Loveland  
Councillor Jackie Maclean  
Councillor Philip Oxford  
Councillor Chris Pearson

Chairman  
Deputy Chairman

**Substitutes:**

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

Councillors Christopher Arnold, Roger Buston, Nigel Chapman, Peter Chillingworth, Phil Coleman, Nick Cope, Robert Davidson, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dominic Graham, Dave Harris, Darius Laws, Mike Lilley, Sue Lissimore, Fiona Maclean, Patricia Moore, Beverley Oxford, Gerard Oxford, Lee Scordis, Rosalind Scott, Jessica Scott-Boutell, Lesley Scott-Boutell, Paul Smith, Martyn Warnes, Dennis Willetts, Julie Young and Tim Young.

**AGENDA - Part A**  
(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief and agenda items may be considered in a different order if appropriate.

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Members of the public please note that any further information which they wish the Committee to consider must be received by 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

**1 Welcome and Announcements**

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
  - action in the event of an emergency;
  - mobile phones switched to silent;
  - the audio-recording of meetings;

- location of toilets;
- introduction of members of the meeting.

## 2 **Have Your Say! (Planning)**

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

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

## 3 **Substitutions**

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

## 4 **Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

## 5 **Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the

interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

<b>6</b>	<b>Minutes of 7 September 2017</b>	<b>17 - 24</b>
	To confirm as a correct record the minutes of the meeting held on 7 September 2017.	
<b>7</b>	<b>Planning Applications</b>	
	In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.	
<b>7.1</b>	<b>171467 Lakelands Phase 2, Church Lane, Stanway, Colchester</b>	<b>25 - 38</b>
	Application for approval of reserved matters following outline approval 151479.	
<b>7.2</b>	<b>171646 Aim Hire Site, Hawkins Road, Colchester</b>	<b>39 - 66</b>
	Redevelopment of site to provide 224 student bedrooms (sui generis) in a building of part 6, part 7 and part 8 storeys, with study space (460sqm) and ancillary student uses comprising bin store, bike store, laundry, and reception/office at ground floor, 46 parking spaces, landscaping, substation, and linkages to river walkway.	
<b>7.3</b>	<b>162442 Cosways Holiday Park, Fen Lane, East Mersea, Colchester</b>	<b>67 - 100</b>
	Change of use of land to site 67 static holiday caravans, together with associated landscaping.	
<b>7.4</b>	<b>171172 West End Garage, High Street, Dedham, Colchester</b>	<b>101 - 124</b>
	Demolition of the existing car repair garage and its replacement with a new two storey dwelling house, with proposed change of use to C3.	
<b>7.5</b>	<b>171518 Cambian Fairview, Boxted Road, Colchester</b>	<b>125 - 132</b>
	Retention of existing maintenance compound .	
<b>8</b>	<b>Changes to the Scheme of Delegation</b>	<b>133 - 134</b>
	See report by the Assistant Director Policy and Corporate.	
<b>9</b>	<b>Exclusion of the Public (not Scrutiny or Executive)</b>	
	In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt	

information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

## **Part B**

(not open to the public including the press)

# **Planning Committee**

## **Thursday, 07 September 2017**

**Attendees:** Councillor Helen Chuah, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Chris Pearson

**Substitutes:** Councillor Paul Smith (for Councillor Lyn Barton), Councillor Peter Chillingworth (for Councillor Pauline Hazell), Councillor John Elliott (for Councillor Derek Loveland)

**Also Present:**

### **508 Site Visits**

Councillors Chuah, Elliott, Higgins, Jarvis, Liddy and J. Maclean attended the site visits.

### **509 Minutes of 17 August 2017**

The minutes of the meeting held on 27 August 2017 were confirmed as a correct record.

### **510 170424 Colchester and East England Co-op, Long Wyre Street, Colchester,**

The Committee considered an application for change of use of the building with associated physical works to allow a mix of A1 retail units, A3 restaurant units, along with 24 residential apartments and ancillary storage and service/access areas at Colchester and East England Co-op, Long Wyre Street, Colchester. The application had been referred to the Committee because it was contrary to adopted policies, it constituted a major application for which a Section 106 Agreement was required and on which a material planning objection has been received. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Lucy Mondon, Planning Officer, presented the report and assisted the Committee in its deliberations. She explained that the amendment sheet gave details of amendments to proposed Condition 2 as a consequence of revisions to application drawings. She also explained that the two affordable units would be provided as affordable rented accommodation with management details being agreed with the Council's Affordable Housing Officer and referred back to the Planning Committee if agreement was not reached.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He noted that the Council's policies sought to promote the town centre as the prime retail location for the Borough, however, he considered the application to be in breach of these policies on the basis that it would not deliver adequate retail provision. He was concerned at the increase in restaurant numbers in the town centre but if the Committee was minded to approve the application he sought an additional condition. He was aware that the building contained a foundation stone dating from the 1970s and asked for it to be retained and relocated prominently within the refurbished building. He mentioned the economic decline of the area and attributed this in part to the Council's decision to close the bus station. He also reported that he had sought collaboration between the Colchester and East England Co-op and the owners of Red Lion Walk with a view to their consideration of the provision of an indoor market within the development currently being considered. He asked the Committee members to defer their consideration of the application for negotiations with a view to securing more retail provision within the scheme, preferably including an indoor market.

Matt Clarke addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He welcomed the planning officer's report on the application which followed detailed and lengthy pre-application discussions. He considered the report to be generally well balanced and explained that the proposal would bring back into use a building which had been vacant for a long time as well as providing for the reinstatement of architectural details of the building. The approach adopted in the scheme was consistent with the principles of the emerging Local Plan and would contribute to the revitalisation of the area. However, he was concerned that Condition 6 was overly prescriptive in relation to the shopfront details as it may conflict with the operational requirements of prospective retailers and the associated cost implications may have a further adverse impact on the scheme's viability. He confirmed that the applicants would be willing to accept a further condition to provide for the relocation and display of the foundation stone referred to by Sir Bob Russell.

The Planning Officer explained that the extent of retail use provided in the scheme had been considered within the report. It had acknowledged that the proposal was contrary to policy DP6 in terms of the percentage of non-retail units but this was in respect of one corner unit only which was not considered to be sufficiently detrimental to warrant refusal. In addition, consideration had been given to the length of time the building had been marketed without success and the likelihood of the restaurant use increasing the active frontage areas such that it had been concluded that the proposal being considered by the Committee members was a positive solution for the area.

Members of the Committee generally welcomed the proposed development on the basis that it would rejuvenate and assist the economic growth the area, bring residential units to the town centre and contribute to improving St Nicholas Square generally. Whilst a higher percentage of retail units may be desirable, the buoyancy of the restaurant

market was acknowledged along with the impact of online shopping on traditional retail patterns. The sympathetic design of the buildings was also welcomed. Clarification was sought in relation to the addition of a condition to provide for the display of the foundation stone, the provision of sprinkler systems within the building and whether the outcome of the Tollgate Village Appeal had been taken into consideration in the planning officer's recommendation for the proposal. Reference was also made to the nature of the social housing units proposed, given the Council's view in relation to its own housing stock that studio provision was no longer adequate for current lifestyles.

Particular reference was also made to the importance of adhering to Condition 6 in its entirety on accessibility grounds. The view was expressed that the Committee members wished to encourage full access to all shops and restaurants for those people with disabilities and for this reason the provisions contained in the proposed shop front condition were supported in full. In addition the need to ensure any outside retail / restaurant activity was covered by relevant licencing applications.

The Planning Officer confirmed that an additional condition could reasonably be applied to provide for the display of the foundation stone and the two units of social housing would be one bedsit and a one bedroom apartment. She explained that the impact of the Tollgate Village appeal had been given due consideration and was part of the reasoning whereby the benefits of getting the building back into use with improvements to its design, outweighed a strict adherence to policies seeking to maximise retail provision. She confirmed that the provision of sprinkler systems was not a planning matter but was included within building regulation controls. She further stated her view that it would be beneficial for an addition to be made to the reasons for Condition 6 to include accessibility grounds.

RESOLVED (UNANIMOUSLY) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to provide for the following:

- Two affordable residential units and
- £20,000 towards public realm improvements at St Nicholas Square, Colchester.

(ii) The approval set out in (i) above also be subject to:

- A further condition to provide for the relocation and display of the building's foundation stone
- An additional informative to remind the applicants of the need for relevant licences in relation to use of outside areas for conducting retail / restaurant activities
- An addition to the reason for Condition 6 to include accessibility grounds.

**511 171779 The Former Garrison Gym, Circular Road South, Colchester**

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

The Committee considered an application for the change of use to theatre rehearsal space and for community based lettings, including associated internal fit-out works, and minor exterior alterations at the former Garrison Gym, Circular Road South, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and an amendment sheet in which all information was set out.

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

**512 171944 Castle Park, High Street, Colchester**

The Committee considered an application to provide Colchester with a Halloween event to operate during the month of October 2017 at Castle Park, High Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and an amendment sheet in which all information was set out.

Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. One additional letters of objection had been received which had not raised any additional matters of material planning consideration. He also confirmed that the application had been amended to provide for a last entry time of 22:30 hours and a site clearance time of 23:00 hours.

Jo Crawford, a resident of Greyfriars Court, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She considered that the approval of the application was a fait accompli as the event had already been advertised on the organisation's website. She reminded the Committee members that the Castle Park had numerous residential boundaries and she considered it unreasonable for an event to be conducted up to 23:30 hours on 15 consecutive occasions. Similar events had previously taken place at Colchester Zoo which did not have residents living close by. She was concerned about the mock execution event in terms of its potential impact on young people, people of different faiths and military personnel and was of the view that it compromised the historical integrity of the Castle.

The Principal Planning Officer again confirmed the revised closure times and explained that, in order to prevent noise and disturbance, the event would be policed and

marshalled to ensure access was controlled and visitors would be escorted to the main entrance when the event closed.

Members of the Committee acknowledged the concerns expressed by nearby residents but were generally of the view that similar themed events had taken place elsewhere with no reported adverse effects. One member of the Committee did not consider the proposal to be reasonable but acknowledged there were no material planning grounds to oppose the proposal.

RESOLVED (EIGHT voted FOR, ONE ABSTAINED and ONE voted AGAINST) that the application be approved subject to the conditions set out in the report and the amendment sheet.

**513      171857 8 Roman Road, Colchester,**

The Committee considered an application for the demolition of rear extensions and construction of a two storey rear extension (resubmission of application 170260) at 8 Roman Road, Colchester. The application had been referred to the Committee because the applicant was an employee of Colchester Borough Council. The Committee had before it a report in which all information was set out.

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

**514      171820 8 Ball Alley and Ken Cooke Court, East Stockwell Street, Colchester**

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

The Committee considered an application for the replacement of windows to flats at 8 Ball Alley and Ken Cooke Court, East Stockwell Street, Colchester. The application had been referred to the Committee because it had been submitted by Colchester Borough Homes. The Committee had before it a report in which all information was set out.

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

**515      171870 The Waldens, Lexden Road, West Bergholt, Colchester,**

The Committee considered an application for a proposed first floor rear extension, small side extension at ground floor to form boot room, internal alterations at The Waldens, Lexden Road, West Bergholt, Colchester. The application had been referred to the

Committee because it has been called in by Councillor Willetts. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations. He explained that the amendment sheet gave details of additional conditions requested by the Tree Officer.

David Temperton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He confirmed that his original objection to the application still applied. In his view the three separate extensions would add bulk to the house which would adversely affect the neighbours. As such he considered that the proposal did not comply with the relevant policies. He added that the development would be overbearing due to its height and bulk near to the boundary of the site. He referred to an application nearby which had been refused on similar grounds and considered this current application should be refused on grounds of over development.

Neil Patterson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had communicated in full with his neighbours about the application and had considered residents' views and worked to accommodate their concerns. The proposal had been amended to a more traditional design to accommodate views expressed by the Parish Council and, as such it now complied with the Village Design Statement. The proposal was not harmful as it was an extension to the rear and was not visible from public view. He confirmed that the Parish Council had not raised concerns in relation to over development. He considered objections raised from the occupiers of No 1 Colchester Road were incorrect. He concluded that the proposal had been significantly amended to accommodate concerns expressed and that it complied with all relevant planning policies.

The Planning Manager explained that there was no loss of usable amenity space and, as such, in planning terms, the proposal could not be considered over development. In terms of design, there was no negative impact or harm and the proposal was not prominently visible to the public. In addition there were no windows in the façade facing the neighbouring properties in Colchester Road, which were a reasonable distance away, therefore the neighbours' privacy and outlook could not be considered to be affected. He further confirmed that planning considerations did not include any protection of views, there was no conflict with any of the environmental planning policies including DP1 and UR2 mentioned by the visiting speaker and the revisions to the proposal had ensured that the application now complied fully with the Village Design Statement. As such, there were no material planning considerations to refuse the application.

Members of the Committee were generally of the view that the proposal could not be considered over development and, as the roof of the new extension was no higher, or significantly closer, than the existing roof and there were no windows to this side, it would not impact on the amenity of the neighbouring garden.

RESOLVED (NINE voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report and the amendment sheet.

**516      171964 Colcheser Mercury Theatre, Balkerne Passage, Colchester**

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

The Committee considered an application for the demolition of Mercury House and Food @ the Mercury Restaurant, felling of selected trees, construction of a 2-3 storey production block, construction of a two-storey extension on the northeast corner, infill of the porte-cochere to provide internal ground floor accommodation, archaeological investigation, landscaping works, installation of temporary site cabins and storage areas for the duration of the construction process at the Colchester Mercury Theatre, Balkerne Passage, Colchester. The application had been referred to the Committee for complete transparency and probity because the Mercury Theatre site was land owned by Colchester Borough Council and Colchester Borough Council were heavily involved, as the project lead, in the “Mercury Rising” Project to extend the Mercury Theatre. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations. He explained that the amendment sheet gave details of an additional condition to protect ecology.

Members of the Committee welcomed the proposal as a major enhancement to the area and congratulated all those involved in bringing the designs to fruition with no objections being received. Clarification was sought in relation to the provision of a travel plan for staff members, the possibility of allowing the removal of two trees to the rear of the site, the location of the in-filled former reservoir, the archaeological significance of the site and the access arrangements to be put in place during the construction phase and its potential impact on access and egress via Balkerne Passage connecting to North Hill. Reference was also made to the need for the new open space area to be accessible for cyclists as well as pedestrians.

The Planning Manager confirmed that it would be reasonable to include an additional condition to provide for the agreement of a satisfactory travel plan arrangement. He

acknowledged the need for construction traffic to be suitably and sensitively managed bearing in mind the nearby location of elderly residents but considered the access arrangements during the construction phase needed to be left open for discussion with the Highway Authority as he was aware of requirements of residents of Balkerne Gardens to use Balkerne Passage for both access and egress and alternative traffic management options may be identified. He confirmed that a very comprehensive Archaeological report accompanied the application documents, that the site was of considerable archaeological interest and that a full archaeological excavation would be undertaken. The former reservoir was located near the existing entrance to the Mercury Theatre, there was some limited potential that the unknown in-fill material may be contaminated and work to clarify this would be undertaken at the same time as the archaeological investigations as a precautionary approach.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the amendment sheet as well as an additional condition to provide for the agreement of a satisfactory travel plan arrangement.

## **517 Summary of Recent Appeal Decisions**

The Committee considered a report by the Assistant Director Policy and Corporate giving details of four Appeal decisions which had been received between 27 July and 21 August 2017 for applications in the Borough or in neighbouring Local Authority areas, the intention being to enable the Committee members to remain up to date with outcomes, trends and changes so they could further understand how Inspectors were presiding over decisions.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

Members of the Committee welcomed the information provided in the report.

RESOLVED that the contents of the report be noted.



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## Item No: 7.1

**Application:** 171467

**Applicant:** Mr Phillip Wright

**Agent:** Miss Anna Harper

**Proposal:** Application for approval of reserved matters following outline approval 151479.

**Location:** Lakelands Phase 2, Church Lane, Stanway, Colchester, CO3 8LP

**Ward:** Marks Tey & Layer

**Officer:** Sue Jackson

**Recommendation:** Conditional Approval

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

- 1.1 This application is referred to the Planning Committee because Members requested the reserved application be reported to them when they considered the outline application. It is also a major application and material objections have been received.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are layout, design, impact on the neighbouring area and conformity with the adjacent Lakelands development and Masterplan.
- 2.2 The application is subsequently recommended for Approval.

## **3.0 Site Description and Context**

- 3.1 The application is part of the Lakelands development the area was a former sand and gravel pit and is now 'made-up' ground as levels were raised to accommodate the development. The site is broadly rectangular and measures approximately 1.74 hectares. The Stanway Western By-Pass is adjacent to the west boundary, the north boundary is adjacent to the site of the proposed Tollgate Village development, land to the south and east forms part of the Lakelands area and is either developed or will be developed for residential purposes.
- 3.2 The site is accessed by an existing estate road that serves the wider Lakelands residential development. The site sits below the level of land to the north and there is an escarpment to this and part of the west boundary.

## **4.0 Description of the Proposal**

- 4.1 This reserved matters application has been revised since the original submission and now proposes a total of 62 residential units (previously 64 units were proposed). The development comprises a mix of 55 houses and 7 apartments and includes means access and associated infrastructure works. The units consist of 5 two bed apartments, 2 three bed apartments, 7 two bed houses, 30 three bed house and 18 four bed houses, 13 of the units are identified as affordable.
- 4.2 Access is taken from the Western By-Pass via Plover Road and Nuthatch Chase these roads serve existing residential development. A new road is proposed off Nuthatch Chase the junction of which is already in place. Buildings will front both the existing and new roads. There is no vehicular access onto either the Western Bypass or Plover Road with these units being served by rear parking courts. The majority of the other units have garages and/or parking spaces adjacent to the dwelling with access directly onto the road.

4.3 Following concerns raised by the Case Officer and Urban Designer Officer to the original proposal amended drawings have been submitted. The amendments relate to layout, improvements to the elevational treatment and re-positioning the link path/cycleway to Tollgate Village. The revisions have resulted in the loss of units 62 units are now proposed.

4.4 The application is supported by the following submitted documentation:-

- Illustrative layout drawing 100371F/A/P003
- Parameters plan drawing 100371F/A/P004
- Planning, Design & Access Statement & Health Impact Assessment
- Ground conditions & remediation Statement
- Flood Risk Assessment
- Design & Construction Statement
- Noise Statement

## **5.0 Land Use Allocation**

5.1 Adopted Local Plan- Strategic Employment Zone (SEZ), Employment Zone (EZ), Stanway Growth Area (STA) Publication Draft Local Plan- Residential

## **6.0 Relevant Planning History**

There is a long planning history but the most relevant application is 151479 which granted outline planning permission for residential development on this site which is within a Strategic Employment Zone

6.1 151479 Outline application for the proposed residential development of land known as parcel NE2 (including affordable housing) together with associated landscaping, access roads, car parking, infrastructure and other ancillary works. Planning permission granted 15th December 2016. The accompanying legal agreement secures contributions for Sport and Recreational Facilities, Community Facilities and Education plus 20% Affordable Housing

## **7.0 Principal Policies**

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- CE3 - Employment Zones
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- 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 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- 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
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

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

SA H1 Housing Allocations

SA STA1 Appropriate Uses within the Stanway Growth Area

SA STA2 Phasing of Greenfield sites in Stanway Growth Area

SA STA3 Employment and Retail Uses in Stanway Growth Area

SA STA4 Transportation in Stanway Growth Area

SA STA5 Open Space in Stanway Growth Area

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

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

Backland and Infill

Affordable Housing

Community Facilities

Open Space, Sport and Recreation

Sustainable Construction

Cycling Delivery Strategy

Urban Place Supplement

Sustainable Drainage Systems Design Guide

Street Services Delivery Strategy

Planning for Broadband 2016

Managing Archaeology in Development.

Developing a Landscape for the Future

ECC's Development & Public Rights of Way

Planning Out Crime

Air Quality Management Guidance Note, Areas & Order

Stanway Joint Design Statement and Parish Plan

## 8.0 Consultations

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

- 8.1 **Highway Authority** comments that some details of the proposed layout needed to be addressed.

*Officer comment The Highway Authority has been reconsulted on the revised scheme and their comment should be available to report on the amendment sheet.*

8.2 **Landscape Officer:** The proposals would appear for the most part acceptable but amendment is required to fully comply with the Council's Landscape Strategy for development sites. *Officer Comment: conditions imposed on the outline planning permission require the submission and approval of hard and soft landscape details prior to the commencement of the development*

8.3 **Urban Design Officer:** recommended refusal of the original submission and comments (summarised)The proposals need to better balance the desire for density and low costs with place-making and informed by guidance contained in the approved masterplan and Essex Design Guide. I would suggest this will probably require a reduction in the number of units. The scheme is contrary to the masterplan as a direct and legible dedicated green footpath link isn't provided to access Tollgate in the north (and housing areas to the east). In accordance with the Essex Design Guide, it was agreed a 12.5m minimum privacy distance was required between proposed upper floor habitable windows and approved/planned private gardens in NR5. The scheme appears inappropriately car dominated at the expense of a good place-making and in conflict with guidance in the Essex Parking Standards and Essex Design Guide. Plot 34 is poorly relates to Stanway Western Bypass, with its exposed wide span gable and lack of secondary frontage at ground level. Plot 16 its proximity to the NR5 site boundary means this plot will unreasonably overshadow and overbear the nearest property in NR5, and make the key footpath link appear claustrophobic and unwelcoming wide span gable inappropriately presented to the street scene.

Paving should be extended up to the existing street including to promote pedestrian priority crossings and possibly ramped up to footpath level. Private amenity space have undersized gardens assessed against adopted Colchester standards Landmarks need a significant architectural uplift to provide distinction in response to key views.

An uplift in architecture and distinctiveness is also generally required.

*Officer comment: the revised drawings have been submitted and the Urban Design Officer has been re-consulted, at the time of drafting this report it is anticipated further revisions will be discussed.*

8.4 **Contaminated Land Officer:** has considered the Geotechnical and Geo-Environmental Report and comments that further gas monitoring is required before the conditions imposed on the outline planning permission can be discharged. *Officer comment: these conditions will remain in force.*

8.5 **Environmental Protection:** With regards to the reserved matters application which includes consideration of noise from the Western By-Pass Environmental Protection wish to make the following comments (summarised). This is a reserved matters submission and as such the Noise Assessment report should include the final details of recommended construction. Furthermore where noise levels at façade exceed 60dB LAeq16hour (Daytime) 50dB LAeq 8hour (Night time) we would expect site design and internal layout design to minimise exposure to habitable rooms. The details of the construction, density and acoustic performance of the 1.8m high close boarded fencing proposed to reduce noise to rear amenity spaces should also be provided.

Further consideration needs to be given to

- Internal layout should be shown and attempts made to ensure that habitable rooms are protected as far as reasonable practicable and/or dual aspect rooms used to provide some natural ventilation to shielded facades. With regards to the flats using non habitable rooms and stair ways facing the road and habitable rooms facing west in the noise shadow of the building
- Site design minimise exposure
- Details are submitted of the close boarded fencing and modelling of the acoustic performance to each of the amenity areas where it is considered necessary.
- Internal noise levels shall be shown where mechanical ventilation is necessary (>50dB night and >60dB Daytime at facade)

The above should be shown to be considered as far as practicable before relying on glazing and alternative means of ventilation as final resort.

*Officer comment: it is anticipated revised drawings will be submitted which include a re-design of the floor layout for the units, fronting the Western By-Pass, plots 35-41*

8.6 **ECC SUDS:** “Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the discharge of condition 14 and 15 of 151479.

8.7 **Natural England:** has no comments to make on this application.

## 9.0 Parish Council Response

9.1 The Parish Council have stated that “This phase is too dense and overdeveloped with an increased amount of Social Housing in one area. There is insufficient parking and the proposed 4 storey buildings are not in keeping with the street scene, the rest of the Lakelands Development or the Stanway Area. The Committee is disappointed that the developers have not fulfilled their original Obligations”.

*Officer comment: there are no 4 storey buildings, the legal agreement requires 20% affordable housing on this site, parking meets the Councils adopted parking standards.*

9.2 **Stanway Parish Council** has been notified of the revised plans.

## 10.0 Representations from Notified Parties

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

No representations received

10.2 Neighbours opposite the site in Nuthatch Court have been notified in respect of the revised plans.

### **11.0 Parking Provision**

11.1 Sixty two units are proposed comprising 92 parking bays 18 car ports 14 garage A total of 124 spaces are proposed plus 16 visitor spaces and this satisfies the Councils adopted parking standards.

### **12.0 Open Space Provisions**

12.1 This site does not include an area of public open space. This was not a requirement of the outline planning permission as the Lakelands development benefits from large areas of open space including a country park which in total exceed the 10% policy requirement.

### **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 Planning Obligations**

14.1 As a “Major” application, the outline application was considered by the Development Team. The following obligations have been secured in a legal agreement.

- Sport and recreational facilities Contribution
- Community Facilities Contribution
- 20% Affordable housing or a contribution of £120,000 for each dwelling if the provision falls below 20%.
- Education Contribution

14.2 As this is a reserved matters application following the outline planning permission it will be bound by the provisions of the legal agreement and no further obligations can be sought.

### **15.0 Report**

15.1 The main issues in this case are:

#### The Principle of Development

15.2 The principle of residential development has been established by the outline planning permission. This application is for the approval of the matters reserved by the outline application, in this instance the reserved matters comprise access, appearance, landscaping, layout and scale. Whilst the outline application included an illustrative layout plan indicating 65 dwellings this drawing was excluded from the permission which therefore establishes the principle of residential development only not a specific number of units or layout.

### Design, Layout, scale.

#### 15.3 The relevant local plan policies are set out below

##### Core Strategy Policy UR 2 – Built Design and Character states (summarised)

The Borough Council will promote and secure high quality and inclusive design in all developments to make better places for both residents and visitors. The design of development should be informed by context appraisals and should create places that are locally distinctive, people-friendly, provide natural surveillance to design out crime, and which enhance the built character and public realm of the area. High-quality design should also create well-integrated places that are usable, accessible, durable and adaptable. ....Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported.

#### 15.4 Development Policy DP1 Design and Amenity states (summarised)

All development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Development proposals must demonstrate that they, and any ancillary activities associated with them, will:

(i) Respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape and/or landscape setting, and detailed design features.....

(iii) Protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight.....

(vi) Incorporate any necessary infrastructure and services including recycling and waste facilities and, where appropriate, Sustainable Drainage Systems (SuDS), and undertake appropriate remediation of contaminated land; and.....

#### 15.5 The Lakelands Phase 2 Design and Access Statement document forms the Masterplan for Lakelands. The document obviously shows employment buildings on this site which take on a different design approach to that of a residential development. However, the document does include some important urban design principles including built form fronting roads, identifying key vistas/landmark buildings and promotes the provision of a pedestrian link to the Tollgate Village site. These principles are applicable to either an employment or a residential use.

#### 15.6 Buildings front the roads with continuous built form to the Western By-Pass. There is no vehicular access on to this principle road and parking is provided part in the ground floor of the building part parking courts which are accessed from the rear via the internal roads. The majority of parking spaces are provided on site or in garage courts. The revised plans have reduced the use of parallel parking and introduced greater use of parking courts. As a result of these revisions, the street scene generally is less dominated by parked vehicles.

- 15.7 H2 – Housing Density (Revised July 2014) The Borough Council will seek housing densities that make efficient use of land and relate to the context..... The Lakelands Master Plan proposes densities of 30dph lower density, 35 dph medium density and 40dph high density. The land to the south of the site is identified as medium and high density. The proposed development comprising 62 units across an area of approximately 1.74ha, results in an average density of 36 dwellings per hectare. The density therefore reflects the densities found in surrounding land parcels and is acceptable.
- 15.8 The Lakelands Masterplan shows employment buildings up to 4 storey in height on the application site. However the application proposes buildings with a maximum height of 3 storey with the majority of units being either 2 or 2 ½ storeys with key landmark buildings placed along main avenues to create the required vistas. In terms of the context apartment buildings opposite the site are 3 storey and dwellings are 2 and 2 ½ storeys. The wider Lakelands area includes some 4 storey buildings.
- 15.9 A range of materials are proposed including: brick, timber boarding, colour render and reconstituted stone. These materials complement the neighbouring developments and reflect those used by the applicant Cala Homes on another parcel of land at Lakelands.
- 15.10 The revised drawings have resulted in the introduction of a 3 storey house type approved on Calas other site at Lakelands one of these units has a hipped roof which helps terminate the vista. The span of some roofs has been revised so they now span the longest dimension as recommend in the Essex Design Guide. The ground floor elevation of the apartment building fronting the Western By-Pass has been revised. The original plans proposed the upper floors supported on piers and consequently the parking spaces were visible from this important distributor road. The position of the pedestrian and cycle path linking through to Tollgate Village is now proposed on the east boundary with houses overlooking it. Further architectural details have been introduced which include stone cills and window heads, exposed eaves, small porches, projecting brick string courses, balconies and dummy windows.
- 15.11 In accordance with the adopted policies set out above and the Lakelands Masterplan, the design of the development has been informed by its context and reflects surrounding development parcels within the wider Lakelands development. It identifies key vistas and landmarks. The density, layout and design also accords with the Lakelands Masterplan and adjacent development and are considered acceptable.

### Amenity Provisions

- 15.12 DPD Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This policy seeks, inter alia, to protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight.
- 15.13 The immediate neighbours opposite the site are within Nuthatch Chase which comprises 2 storey houses. In addition, there are 3 storey apartments on the junctions with Plover Road. It is considered the development will not have an unacceptable impact on these existing residents.
- 15.14 The Councils adopted private amenity standard for houses and flats require the following
- One or two bedroom houses – a minimum of 50m/sq
  - 3 bedroom houses – a minimum of 60m/sq
  - 4 bedroom houses – a minimum of 100m/sq
  - For flats: A minimum of 25m/sq. per flat provided communally (where balconies are provided the space provided may be taken off the communal requirement).
- 15.15 The application satisfies this standard in respect of 2 and 3 bed units and the flats. Whilst some of the 4 bed dwellings have private rear amenity gardens below 100m/sq. nevertheless units all have gardens are well in excess of the 60 m/sq required for a 3 bed dwelling. It is considered a smaller garden for these units is not sufficient grounds in isolation to refuse planning permission.

### Impact on the Surrounding Area

- 15.16 In terms of the impact of the development on the surrounding area it is considered that the residential use compliments the surrounding uses. Neighbouring development comprises newly erected residential properties on the opposite side of the access road (south boundary), Persimmon Homes has planning permission for residential development on land to the east (this development has not yet commenced). To the west is vacant land allocated for employment use whilst on the north boundary is vacant land forming part of Tollgate Village.

### Highway Safety and Parking Provisions (including Cycling)

- 15.17 A new pedestrian footpath and cycleway is proposed in the north eastern corner of the site linking up to the Tollgate Centre. The revised application shows this path on the east boundary with houses overlooking it. This conforms to guidance set out within the Essex Design Guide which specifically requires street layouts to encourage walking and cycling to ensure developments are permeable and well connected with natural surveillance and the proposal is in accordance with the Masterplan. Parking

provision satisfies the Councils adopted parking standard. Cycle parking for the apartments will be secured by condition.

- 15.18 The Highway Authority commented that certain details on the original application required amendment, they have been reconsulted on the revised drawings.

#### Other Matters

- 15.19 Essex County Council Sustainable Drainage Team has confirmed the submitted information is acceptable and the drainage conditions imposed on the outline application can be discharged. The Contaminated Land Officer has confirmed further tests are required and these conditions will therefore remain in force. The site is a former sand and gravel pit and contains no landscape features other than a bank on the north boundary with the Tollgate Centre. The bank and other areas within the site will be landscaped. The application includes 20% of the units to be affordable as secured in the legal agreement.

### **16.0 Conclusion**

- 16.1 To summarise, this reserved matters application generally satisfies the design parameters, density and layout on the wider Lakelands area and it is recommended reserved matter consent is granted.

### **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

#### **1. ZAF – Reserved Matters Application**

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference 151479 relating to this site and the conditions attached thereto remain in force.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

#### **2 ZAM – Development to accord with approved plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers (to be supplied on the amendment sheet)

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

### **3. ZBC – Materials to be agreed**

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

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

### **4. ZBE – Materials Shown on Plan to be agreed**

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

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

### **5. ZDM - Retaining Garage for Parking**

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

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

### **6. ZKM - \*Residential Parking Spaces Retained\***

Prior to the first occupation of the development, the GARAGE(S) / CAR PORTS/PARKING SPACE(S) 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) / CAR PORTS/PARKING SPACE(S) 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.

### **7. Non Standard Condition – Cycle Parking**

Prior to the first occupation of the development hereby permitted, cycle parking shall have been laid out within the site in accordance with details that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority. The agreed cycle parking provisions shall thereafter be maintained and made available for this use at all times.

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

Plus extra Conditions as required by the Highway Authority and Environmental Protection. To be updated via Amendment Sheet.

## **18.0 Informatives**

18.1 The following informatives are also recommended:

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

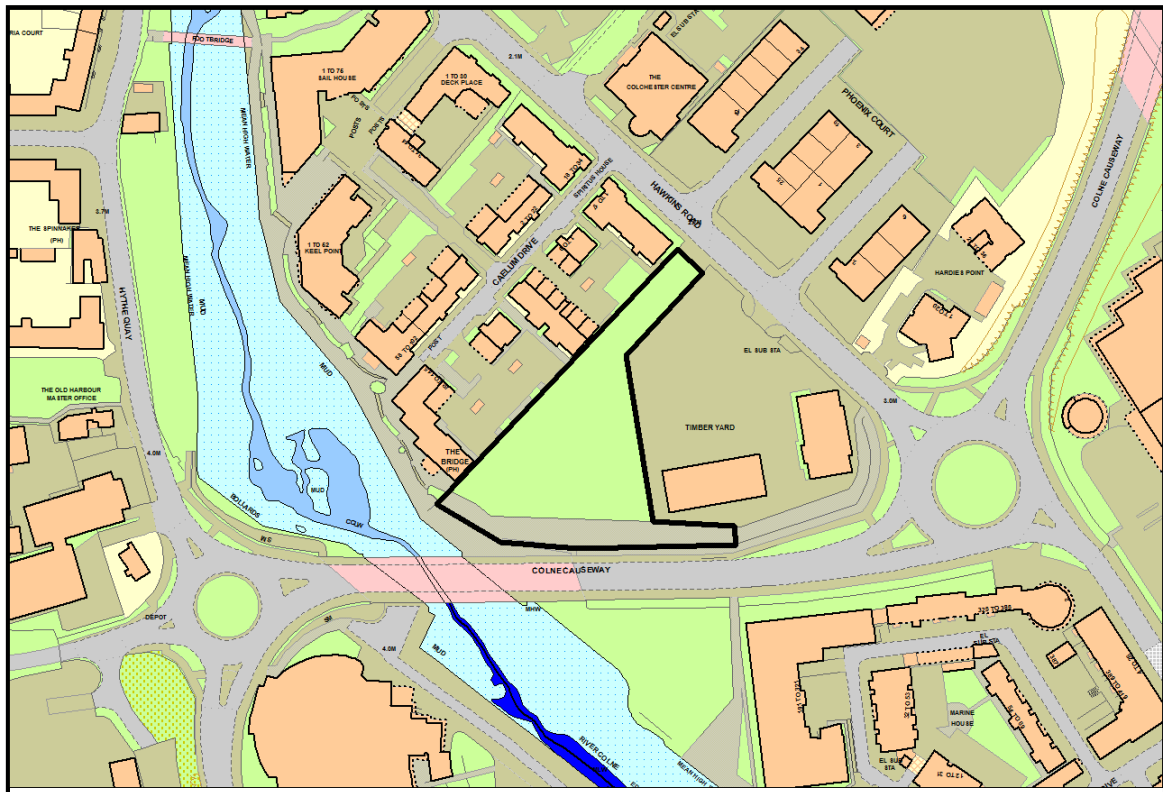
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

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

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

### **(3) ZTB - Informative on Any Application With a Site Notice**

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



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## Item No: 7.2

**Application:** 171646

**Applicant:** Southern Grove Hawkins Road Ltd

**Agent:** Mr Paul Manning

**Proposal:** Redevelopment of site to provide 224 student bedrooms (suitable for generic use) in a building of part 6, part 7 and part 8 storeys, with study space (460sqm) and ancillary student uses comprising bin store, bike store, laundry, and reception/office at ground floor, 46 parking spaces, landscaping, substation, and linkages to river walkway.

**Location:** Aim Hire Site, Hawkins Road, Colchester

**Ward:** Greenstead

**Officer:** Bradly Heffer

**Recommendation:** Approval subject to design revisions and s.106 agreement

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

- 1.1 This application is referred to the Planning Committee because it is a major development proposal to which objections have been received and which is recommended for approval contingent upon detailed design revisions and subject to prior completion of a s.106 agreement.
- 1.2 Furthermore, in the event that planning permission is granted for the application it would be necessary for a s106 legal agreement to be secured and Members' approval is required to allow the Council to enter into such an agreement.

## **2.0 Synopsis**

- 2.1 The key issue for consideration is the proposed redevelopment of the application site in order to provide student accommodation, and its overall appropriateness in planning terms within this defined regeneration area. Members are advised that following the submission of the application, ongoing discussion has taken place with the applicant – particularly in relation to issues of scale and design. Revisions have been secured that have, for the most part, addressed officers' concerns. The originally submitted scheme proposed a development containing 231 bedrooms. This current scheme has been scaled down, reducing the proposed number of bedrooms to 224. Additionally, improvements have been made to the detailed design of the proposed development. Further improvements are considered necessary and officers have been in ongoing dialogue with the applicant regarding this issue. Approval is contingent upon securing these further revisions.
- 2.2 Having considered the proposal, the application is recommended for conditional approval, subject to completion of a s106 agreement as described in the report and securing the additional design improvements.

## **3.0 Site Description and Context**

- 3.1 The site for this proposal is an irregularly-shaped area of brownfield land that has a wide frontage on to Colne Causeway and the river, extending through to an access off Hawkins Road. The main body of the site has an approximate triangular shape, with frontage onto the river and facing towards an elevated section of Colne Causeway, and behind an undeveloped, unkempt area of vegetation. It narrows to a linear area where it meets Hawkins Road.
- 3.2 The majority of the site is given over to generally worn hardstanding areas, with some instances of scrub vegetation. Hard boundaries are located between the site, the adjacent residential area to the north-west and the commercial site to the east. The site is located within the historic, now defunct Hythe Port. In the adopted Local Plan the site forms part of an area defined as predominantly residential. It is also located in an East Colchester Special Policy Area (Area 4 – Hawkins Road).

- 3.3 Immediately to the northwest of the application site is predominantly residential development – also located on a former commercial site. To the east is an established builders' merchant. The access to the site faces commercial development on the opposite side of Hawkins Road. To the south of the application site, on the opposite side of Colne Causeway, is a significant, stand-alone development, known as The Maltings, which also contains student accommodation.

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

- 4.1 The submitted planning application seeks to create a new residential development to specifically serve students attending courses at the University of Essex.

- 4.2 The following description of the development is taken from the planning statement that accompanies the application submission:

'The development will provide 224 student rooms in a part five, part six, part seven and part eight storey building. The proposed building is a 'T' shape located at the southern end of the site...Uses ancillary to student accommodation are provided at ground floor level...The existing vehicular access from Hawkins Road is to be retained leading through to a loop road that can be used for access and servicing to the building. Forty six parking spaces are provided on site including five disabled parking bays...Seventy seven cycle parking spaces are to be provided at ground floor level...A pedestrian link is proposed to connect in to the walkway that runs along the eastern side of the River Colne. In terms of amenity space a terrace is provided at fifth floor level (135 sq m) as well as large landscaped areas to the north and south of the proposed building...'

- 4.3 Members are advised that the ancillary uses proposed at ground floor level include a commercial study space, social space, facilities management office, laundry and cycle store. The student accommodation proposed comprises the following:

- 128 en suite rooms
- 56 studio rooms
- 19 premium studio rooms
- 21 accessible rooms

- 4.4 The Design and Access Statement that accompanies the application submission states that the main range of buildings would be constructed in brick, linked by a polycarbonate wall system. The rear-projecting block would be clad in metal panels.

## **5.0 Land Use Allocation**

- 5.1 The site for this proposal is located in a predominantly residential area as allocated in the Local Development Framework Proposals Maps. It also falls within a flood zone (zone 3) and an East Colchester Special Policy Area (no. 4).

## **6.0 Relevant Planning History**

- 6.1 The following, previous planning applications are relevant to the consideration of this planning application:

081852 – Erection of 63 residential units and 823 sq.m commercial floorspace with associated car parking and provision of river walkway connecting with Colne Causeway.  
Conditional planning permission granted 3<sup>rd</sup> February 2010.

130129 – application for a new planning permission to replace extant planning permission 081852 in order to extend the time limit for implementation for erection of 63 residential units and 823 sq.m commercial floorspace with associated car park and provision of river walkway connecting with Colne Causeway.

## **7.0 Principal Policies**

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

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
CE1 - Centres and Employment Classification and Hierarchy  
CE2a - Town Centre  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
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

TA4 - Roads and Traffic  
TA5 - Parking

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

DP1 Design and Amenity  
DP2 Health Assessments  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP12 Dwelling Standards  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP25 Renewable Energy

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

SA H1 Housing Allocations  
SA EC1 Residential development in East Colchester  
SA EC2 Development in East Colchester  
SA EC6 Area 4: Hawkins Road  
SA EC8 Transportation in East Colchester

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Open Space, Sport and Recreation  
Sustainable Construction  
Cycling Delivery Strategy  
Urban Place Supplement  
Sustainable Drainage Systems Design Guide  
Street Services Delivery Strategy  
Planning for Broadband 2016  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
ECC's Development & Public Rights of Way  
Planning Out Crime  
Colne Harbour Masterplan  
Air Quality Management Guidance Note, Areas & Order

## 8.0 Consultations

8.1 The **Highway Authority** has advised that it has no objection to the proposal subject to the imposition of conditions on a grant of planning permission. Amongst other things, these include a requirement for the applicant to provide a minimum 4 metre wide riverside footpath/cycleway between the adjacent former Ballantyne Centre site and the Colne Causeway toucan crossing.

8.2 The Council's **Spatial Policy Officer** has commented as follows:

*'The site lies within an area currently designated in the adopted Local Plan as an East Colchester Regeneration area, specifically Area 4: Hawkins Road which is covered by Policy SA EC5. The policy provides that to the west of Hawkins Road, which includes the proposal site, 'housing areas will be extended and consolidated and other small-scale uses will be encouraged provided they are compatible with the overall housing and regeneration proposals.'*

*It is noted that while there are some potential flood risks related to the site, the general principle of residential use of the site was previously accepted as part of the Site Allocations DPD approval process. The FRA submitted with the site concludes that risks and impacts can be managed to an appropriate level.*

*Policy EC2 in the Publication Draft Local Plan, although of limited weight given that the plan is yet to be submitted, establishes that the Council continues to support the regeneration of the area for mixed uses. The site lies within the East Colchester/Hythe Special Policy area. In particular the policy highlights the potential benefits of the location adjacent to the University.*

*The current scheme provides amendments to the similar scheme previously submitted as application 170251. Planning Policy responded to that application, noting that 'the proposal presents an opportunity to regenerate brownfield land in a sustainable location whilst contributing to the Borough's supply of new housing. To be in accordance with adopted policy the proposal must make provision for improvements to the public realm along the riverside to improve its function as an attractive and sustainable transport link.'*

*Changes to the new scheme include a reduction in the scale of development along with design changes. The current proposal is not considered to raise any new issues of principle. It is recommended, however, that a condition(s) should be applied to restrict occupation to students given that the layout and space standards of the scheme would not be appropriate for general housing. '*

8.3 **Natural England** has advised it has no comment to make on the application. In addition, attention is drawn to its standing advice on assessing impacts of development on protected species.

8.4 The **Contaminated Land Officer** has commented as follows:

*'Since the hardstanding covering the majority of the site has yet to be removed, there is the potential for further, as yet unidentified, sources of contamination to be exposed. It is recommended that the Environment Agency should be consulted with respect to potential risks to controlled waters, given the proximity to the river Colne, tidal influence and depth to groundwater and as a piled foundation solution is proposed (care must be taken to ensure no new contamination pathways are created).*

*Environmental Protection will expect to see a minimum provision of 450mm clean cover soils in soft landscaped areas (or deeper dependent upon the nature of any planting): not the 300mm suggested. We will expect to see the verification reporting include confirmation that potable water supplies have been installed to the satisfaction of the service provider. It is noted that there is a pile of asbestos sheeting near south eastern boundary. It is assumed that this material will be safely removed and disposed of as soon as possible and in accordance with the applicant's responsibilities under the Control of Asbestos Regulations 2012. In the meantime, it is essential to ensure that this material is being appropriately and safely stored. It will be necessary for the applicant to submit a separate, stand-alone Remediation Method Statement for approval, sufficient to ensure that the site can be made suitable for use and taking into account all of the above, together with any comments from the Environment Agency.*

*However, based on the information provided, the identified contamination would not preclude the proposed development if appropriately mitigated: it is suggested that these remaining matters could be dealt with by way of relevant conditions. Consequently, should permission be granted for this application, Environmental Protection recommend inclusion of...conditions [on a grant of planning permission]'*

8.5 **Environmental Protection** has no objection to the proposal subject to the imposition of conditions on a grant of planning permission. The following specific comment is made in relation to the issue of air quality:

*'Environmental Protection has not required an Air Quality Impact assessment at this time as it has been presumed the application is for Students at the university and therefore there is a strong link between Hawkins Road and the University rather than a significant impact on Air Quality Management areas which are **Area 1** – High Street Colchester, Head Street, North Hill, Queen Street, St. Botolph's Street, St. Botolph's Circus, Osborne Street, Magdalen Street, Military Road, Mersea Road, Brook Street, East Street and St. Johns Street and **Area 2** – East Street and Ipswich Road.'*

8.6 The **Landscape Planning Officer** has commented on proposed revisions to the landscape treatment of the site and has also recommended the imposition of a condition requiring the submission of a detailed landscaping scheme.

8.7 The **Archaeological Officer** states that:

*'This proposal is located in an area of archaeological interest, defined in the Colchester Historic Environment Record, within the area of Hythe quayside. There is high potential for encountering the archaeological remains of the historic wharf at this location. There is also potential for encountering palaeo-environmental remains (waterlogged archaeological deposits). 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. In accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.'*

8.8 **Essex County Council SuDS** authority's final views were not available at the time this report was drafted. Any comments received will be reported at the Committee meeting.

8.9 The **Environment Agency's** final views were not available at the time this report was drafted. Any comments received will be reported at the Committee meeting.

**9.0 Parish Council Response**

9.1 Not applicable – the site is located in the town ward of Greenstead.

**10.0 Representations from Notified Parties**

10.1 As a result of local notification and advertisement, three objections to the proposal have been received. The comments made can be summarised as follows:

- The area is already blighted by noise nuisance at night and this proposal will make matters worse.

*Officer comment: the behaviour of future occupiers of the development is not a matter for planning control. That said, the development will incorporate on site facilities management.*

- The existing road conditions are dangerous

*Officer comment: the infrastructure to serve the development has not been identified as unsafe by the highway authority.*

- The proposal will unacceptably obscure the skyline

*Officer comment: the overall size and impact of the development is not considered excessive in the context of the surrounding form of development. Further, as Members are aware, in planning terms there is no right to a view across private land.*

- Parking space is at a premium in the vicinity

*Officer comment: it is noted that a significant amount of on-road car parking takes place along parts of Hawkins Road. This has decreased over time as vision splays to serve the accesses of redeveloped sites are protected by parking restrictions in the highway. In the case of this proposal a similar restriction would be in place to discourage on-road parking. As explained in the relevant sections of this report, the development would incorporate its own parking provision.*

- Existing problems with rubbish will be exacerbated

*Officer comment: the proposed development includes refuse bin storage facilities and refuse collection would take place on site via the access off Hawkins Road. With regard to litter, this point is acknowledged. However, the submitted application is for a student residential facility that does not propose hot food takeaway facilities etc.*

- There is no need for further student accommodation

*Officer comment: it falls for the submitted application to be determined on its merits. The fact that the development would be occupied by students is not considered to be a contentious issue per se – particularly in the light of the comments made by the Spatial Policy team.*

#### 10.2 The following comment has been received from Colchester Cycling Campaign:

*'We request the involvement of Essex County Council's cycling officer to identify how to improve the cycling route to the university (this could involve changes to the bridge beside the Sainsbury site); we note Peter Kay's comment about bus coverage not being as good as the applicant believes it is. We request appropriate s106/CIL funding to pay for changes. We request a cycling /pedestrian access (modes segregated from each other) on to both Colne Causeway and Hawkins Road, to be treated as a driveway with bollards not barriers. We request that the developer surrenders to the highway authority 2m of curtilage on both Colne Causeway and Hawkins Road to facilitate future improvements to adjacent cycle routes. We request that CBC keeps a watch during building work to minimise contractors' need for car parking (London schemes provide good examples of this) and to ensure pedestrian and cyclist safety and free passage while work is in progress; at no time should there be any motor vehicles parked in full or partly on the footway.'*

#### 10.3 A representation has also been received on behalf of C-Bus. In summary, it is stated that the transport report submitted with the application contains major errors in relation to bus transport, for example in terms of location of bus stops. It is noted that the application is poorly served by accessible stops and it is suggested that nearer stop facilities should be provided.

## **11.0 Parking Provision**

11.1 Members are advised that there is no specific parking standard applicable to off-campus student accommodation. However, a development nearby at King Edward Quay (also for predominantly student accommodation) utilised an agreed standard of 1 space per 5 bedrooms. This standard derives from that applied to residential educational establishments (further/higher education) falling within a C2 Residential Institutions use class. The scheme submitted for Members' consideration proposes a total of 224 bedrooms, this would require that 45 spaces are provided on site in order to meet this certain ratio. The submitted scheme proposes 46 spaces.

## **12.0 Open Space Provisions**

12.1 Policy DP16 of the Adopted Development Policies document of the LDF requires that residential development will be expected to provide publically-accessible areas of open space and as a guideline at least 10% of the gross site area should be utilised for this purpose. However, Members are advised that there is no specific policy standard that relates to the provision of public open space as part of a student accommodation development. That said, the s106 agreement that would be attached to a grant of planning permission would include a contribution of £90 000 towards improvements etc. to open space provision within the area/ward.

## **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 Planning Obligations**

14.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations that should be agreed as part of any planning permission would be:

- £85 000 contribution to a footbridge over the River Colne
- £90 000 contribution towards open space improvements
- £80 000 contribution towards a bespoke student travel plan (this figure would include a £56 000 contribution for the provision of new bus stops located nearer the site to encourage an alternative travel mode)
- £60 000 contribution towards the securitisation and signing of the walking route to the University, together with the resurfacing, lighting and security of the nearest pedestrian route (located adjacent to the old Custom House).
- £35 328 contribution to mitigate the impact of the development on primary healthcare delivery in the area (as identified by the NHS)

14.2 The legal agreement would also include a clause that required the part of the river wall that is adjacent to the application site to be surveyed and, if necessary, repaired as part of the overall works to create the extension to the riverside footway and cycleway. Members are advised that similar clauses have been included in agreements relating to residential redevelopment sites elsewhere along the river.

## 15.0 Report

15.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Amenity Provisions
- Landscape and Trees
- Highway Safety and Parking Provisions (including Cycling)
- Public Open Space Provision
- Private Amenity Space Provision
- Parking Provision
- Other Matters

### The Principle of Development

15.2 As noted elsewhere in this report, the site for this proposal is located within an area allocated for predominantly residential development in the adopted Local Plan. Therefore it is considered that the principle of a residential development – albeit for a specific occupier - taking place on the site is acceptable.

15.3 In consideration of the principle of this scheme, it is important to note that one of the core planning principles contained in the NPPF encourages ‘...the effective use of land by reusing land that has previously been developed (brownfield land), provided that it is not of high environmental value...’ It is considered that the application site matches this requirement, having been previously used for a commercial plant hire operation, and having been empty and unused for a significant period of time.

15.4 Following on from this point, the land does fall within a defined regeneration area within Colchester. The Council’s Core Strategy document recognises this part of the town as a sustainable development location and Members will be aware that the Strategy identifies East Colchester as an area where new development opportunities exist. Specifically, the Adopted Site Allocations document includes Policy SA EC6 Area 4: Hawkins Road which states:

*‘To the west of Hawkins Road housing areas will be extended and consolidated and other small-scale uses will be encouraged provided they are compatible with the overall housing and regeneration proposals. New development on the eastern side of Hawkins Road shall continue the existing mix of commercial and*

*industrial uses, and encouragement will also be given to office based employment and business incubation space. Proposals must not adversely affect the amenity of neighbouring housing areas. New development should incorporate public realm enhancements focused on providing improved pedestrian and cycle routes.'*

- 15.5 Members will note that the Spatial Policy comment identifies the acceptability of the proposed use, notwithstanding that the residential use proposed does not fall within a C3 category in the Use Classes Order. Members will also note the Team's comment also identifies that a restrictive occupancy condition should be in place in recognition of the link between the proposed development and the University of Essex and the specialist nature of the accommodation proposed. An occupancy restriction is also in place at the nearby student development known as The Maltings at King Edward Quay.

#### Design and Layout

- 15.6 The general design approach taken with regard to this application takes a contemporary approach. Members will be aware that the surrounding area contains buildings in a variety of architectural styles. In the vicinity of the application site the residential development is predominantly flatted, and buildings are ranged so that the higher elements are positioned closest to the river frontage.
- 15.7 Whilst the design of the development now proposed does not seek to replicate the form of adjacent buildings they do follow particular principles in relation to vertical emphasis, use of traditional materials, ground floor 'active' frontages facing on to public space etc. Generally the form of the buildings creates a frontage on to the river (thereby creating enclosure of space).
- 15.8 Members are advised that ongoing discussions have taken place with the applicant regarding the overall design of the proposed buildings. These have centred on reducing the scale/monumentality of the built form and also improving the detailed design. It is fair to say that the scheme that is presented to Members has progressed significantly from the original submission. Nevertheless, further detailed design improvements are considered necessary, in order to ensure that an overall visually satisfactory appearance is achieved – particularly given the prominence that this development would have in the street scene and wider townscape of the river frontage. To this end, the suggested recommendation for approval is contingent upon receipt of amended drawings that work-up the detailed design further to enhance the detailed design quality.
- 15.9 Servicing of the site would take place off Hawkins Road, leading to a combined parking and amenity space that is also proposed to be landscaped. Importantly, the submitted scheme also includes the provision of a footpath and cycleway across the frontage of the site that would extend to the Colne Causeway.

### Scale, Height and Massing

- 15.10 The adopted Colne Harbour Masterplan identifies that:

‘...Generally, buildings should increase in height towards places of special importance, such as the neighbourhood centres, urban squares and the river. The occasional building that is very much taller than its neighbours can be of benefit to urban character where they act as a (sic) landmarks and are appropriate their context...’

- 15.11 The buildings proposed under this application are of similar height to the adjacent development. The apartments immediately adjacent (to the northwest) of the application site achieve eight storeys at their highest point. The previously approved residential (C3) scheme on this application site proposed a building that achieved 7 storeys across its width. This application submission proposes six storey elements nearest the existing residential development. The tallest central element is eight storeys, while the element nearest to the commercial development reduces to 7 storeys. In the context of the surroundings it is considered that the overall height of the proposed development is in keeping and would not appear incongruous or overbearing.

- 15.12 In terms of massing, the established development on this side of the river adopts a design approach where the accommodation is broken into individual elements – in order to avoid an unrelieved mass of built form. The same approach is taken in relation to this current proposal. The fact that individual elements of the scheme incorporate differing elevational treatments would further assist in breaking down the overall visual mass of the development.

### Impact on the surrounding area

- 15.13 Given the context of the redevelopment that has taken place in the area generally, and along the same side of the river in particular, it is considered that the overall impact of the proposed development would not be harmful to visual amenity in this location. Indeed, the proposal would also have the benefit of securing further redevelopment within this defined regeneration area.

### Impacts on neighbouring properties

- 15.14 The organisation of the accommodation within the proposed development, and the arrangement of windows, would mean that the nearest flank of the proposed building that faced northwest towards the adjacent residential buildings would not contain any window openings. Therefore, it is considered that the proposed development would not create unacceptable intervisibility between windows, thereby maintaining current levels of privacy in this particular location. Where windows in the new development would face directly towards the existing residential development they are considered to be sufficiently remote to avoid unacceptable loss of privacy.

- 15.15 The planning application submission includes a document that considers the impact of the development in terms of daylight and overshadowing of neighbouring properties. The conclusions of the document are included below for Members information:

‘...Our analysis demonstrates that the scheme has been designed sensitively to respect the surrounding context, which is exemplified in high compliance rates with the vast majority of neighbours retaining values which fully comply with the BRE targets. Where minor deviations to individual windows occur these are the secondary fenestration to rooms lit by other windows such that there will be no material change in the overall amenity enjoyed by neighbours...Overall the development minimises the effect on neighbouring properties and provides excellent internal amenity within the accommodation. The proposal is therefore considered to be entirely consistent with the BRE guidance and relevant planning policy in terms of daylight and sunlight.’

#### Amenity provisions

- 15.16 It is a policy requirement of the adopted Local Plan that new developments adjacent to the river should include the provision of access along the riverside. Policy SA EC2 Development in East Colchester inter alia states that:

‘Development within the East Colchester Regeneration and Growth Area will be permitted provided it complies with all the relevant key criteria, as set out below:

...3. Development of sites fronting the river will be expected to include uses which attract a significant number of people including visitors, residents or workers. Public access to the riverside should be provided so as to create a continuous riverside walkway and cycleway...’

- 15.17 The application submission does include proposed access to the existing pathway that currently links Colne Causeway with the river frontage. Furthermore, the Highway Authority has requested, as part of its recommended conditions, that a minimum 4 m wide footway/cycleway be provided that extends across the site frontage – linking to the toucan crossing on Colne Causeway.

#### Landscape and trees

- 15.18 Currently the application site is practically devoid of vegetation, and the redevelopment presents an opportunity to introduce some new landscaped areas, augmented by tree planting, into the area. The introduction of these features would also assist in improving visual amenity. Members are advised that since the initial submission of the scheme, the treatment of the spaces to the front and the rear of the proposed building has been revised in order to improve their accessibility. Although the application site sits at a slightly lower level than the adjacent footway and cycleway, new hard links would be provided between the two spaces to encourage permeability. It is

proposed to include a condition whereby the final details of hard and soft landscape treatments are agreed with the Council.

#### Highway safety and parking provisions (including cycling)

- 15.19 The highway authority does not object to the proposal as submitted, subject to the imposition of conditions. Members are advised that where redevelopment schemes have taken place elsewhere along this side of Hawkins Road, a requirement of the highway authority was that a visibility splay should be achieved at the access. A similar conditional requirement would be added to a planning permission for this proposed development. Double yellow lines are already in the carriageway, which would assist in keeping the visibility splay clear. Additionally, as noted elsewhere in this report, the highway authority would require the provision of the footway/cycleway route across the site frontage – extending to the existing crossing along Colne Causeway.
- 15.20 With regard to the provision of parking, in the case of cars a standard agreed for student accommodation in this location i.e. 1 space per 5 occupiers has been met (infact exceeded by one space). Anecdotally, the identical provision as utilised at The Maltings student development at King Edward Quay has not resulted in students' cars being parked in the adjacent highways.
- 15.21 In relation to the provision of cycle parking the submitted scheme proposes a total of 77 spaces – this provision accords with the requirements for cycle parking in relation to residential educational establishments. These spaces would be contained in a secure area forming part of the ground floor of the development.

#### Private amenity space provision

- 15.22 As is the case with public open space provision, there is no policy requirement for the provision of private amenity space to serve student accommodation as such. Nevertheless it is proposed as part of this development that the site is served by amenity spaces at ground level and also at roof level of the rear element of the built form. This has an area of 135 sq m. Members are advised that this space would be managed during the day and closed at night.

#### Other matters

- 15.23 With regard to sustainable development principles, the development submitted for consideration includes solar panels and air source heat pumps for energy generation. The Energy Statement that accompanies the application advises as follows:

'This Energy Statement identifies how the proposed development will address the energy and CO<sup>2</sup> emission reduction policies ER1: Energy, Resources, Waste, Water and Recycling and DP25: Renewable Energy. In line with these policies, the development must ensure that...a 15% energy

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reduction by on-site renewable technologies is achieved. Space heating will be provided by electric radiators, air source heat pumps and Solar Thermal technologies implemented to achieve the required carbon emission reduction and energy reduction required by the policies identified previously...The statement follows the Colchester Borough Council Energy Hierarchy and exceeds the 15% energy reduction by renewable technologies, by using the measures identified...achieving a 30.20% energy reduction by the use of on-site renewable technologies...'

15.24 Members are also advised that (although not strictly a planning matter) the development would incorporate sprinkler system. Additionally the buildings would incorporate 4 staircases.

15.25 In terms of ecology impacts the applicant commissioned a study that has determined that no statutory or non-statutory protected wildlife sites will be affected by the proposals. The study also recommends particular species are incorporated into landscaping schemes and planting to encourage wildlife, together with the provision of bird and bat boxes. It is considered that these elements could be secured through the landscaping scheme to be approved via condition.

## **16.0 Conclusion**

16.1 To summarise, the proposal submitted for consideration to Committee represents a significant opportunity to secure further regeneration within the former port area of the town. It is considered that the development generally responds positively to the area context, and follows the principles of redevelopment established elsewhere along this side of the river.

16.2 Since the initial submission of the application discussions have taken place in order to improve the overall appearance of the built form and the scheme presented to Members is considered now be of an appropriate standard in terms of size, scale and the organisation of architectural forms. Nevertheless, further work is required to lift the detailed elevational treatment further, hence the recommendation for approval is contingent upon the receipt of further revised drawings to demonstrate this requisite uplift in detailed design quality.

## **17.0 Recommendation to the Committee**

17.1 The Officer recommendation to the Committee is that the application be deferred and that:

Subject to the satisfactory completion of a s106 agreement to achieve the contributions set-out in paragraphs 14.1 & 14.2 of the report above; then,

The Assistant Director of Policy & Corporate be authorised to grant planning permission subject to further amended drawings first being submitted by the applicant which satisfy the Assistant Director that the elevational treatment has by then achieved the quality being sought as described in the report and subject to the conditions set out below. Members should note that some of the drawing numbers that are listed in condition 2 below will be varied as a result of further design revisions.

- 17.2 In the event that the Assistant Director of Policy & Corporate is not satisfied with the amendments to the elevational treatment then the application must be referred back to the Planning Committee for a decision.
- 17.3 In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions:

**1. ZAA - Time Limit for Full Permissions**

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

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

**2. ZAX - \*Development to Accord With Approved Plans (qualified)\***

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers as follows:

- Site Location Plan – 3448\_0001 – P1
- Site Ownership Plan – 3448\_0002 – P1
- Proposed Site Plan – 3448\_0003 – P1
- Proposed Ground Floor Plan – 3448\_0004 – P1
- Proposed Typical Floor Plan – 3448\_0005 – P1
- Proposed Ground Floor Plan – 3448\_0150 – P1
- Proposed First-Fourth Plan – 3448\_0151 – P1
- Proposed Fifth Floor Plan – 3448\_0152 – P1
- Proposed Sixth Floor Plan – 3448\_0153 – P2
- Proposed Roof Level plan – 3448\_0154 – P2
- Proposed Seventh Floor Plan – 3448\_0155 – P1
- Proposed South Elevation – 3448\_3000 – P2
- Proposed East Elevation – 3448\_3001 – P2
- Proposed North Elevation – 3448\_3002 – P2
- Proposed West Elevation – 3448\_3003 – P2
- Proposed Colne Causeway Elevation – 3448\_3004 – P2
- Proposed East West Section – 3448\_3500 – P2
- Proposed North West Section – 3448\_3501 – P1
- Landscape GA – 900 – P7
- Softworks GA – 902 – P3
- Landscape Masterplan – 901 – P3

- Key Sections – 903 – P2
- Tree Retention and Removal Drawing – 904 – P2

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

### **3. ZBC - Materials To Be Agreed**

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

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

### **4. ZBF - Surfacing Materials to be Agreed**

Prior to the laying down of any surface materials for private, non-adoptable access-ways, driveways, footpaths, courtyards, parking areas and forecourts, full details of these materials shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and such details are considered important to the character of the area.

### **5. ZCF - Refuse and Recycling As Shown**

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

### **6. ZCI - Connection to Foul Sewer**

All sewage and waste water shall be discharged to the foul sewer.

Reason: To meet the requirements of Circular 3/99 and to ensure that the environmental, amenity and public health problems that can arise from non-mains sewerage systems do not occur.

## **7. Non-standard condition – Occupancy restriction**

The residential accommodation hereby approved shall only be occupied by students attending educational courses at the University of Essex during term times or persons attending courses, seminars or events at the University campus outside of term times, and for no other purpose.

Reason: The development has been approved on the basis of the link between its use and the nearby University of Essex campus. The Council has considered the proposal on this basis and wishes to control the occupancy of the residential units in order to avoid any doubt that the building may not be utilised for general (C3) occupancy.

## **8. ZFB - \*Full Landscape Proposals TBA\***

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

### **9. – Non-standard condition – Landscape Management Plan**

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

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

### **10. ZPA – 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.

### **11.ZGB - \*Restricted Hours of Delivery\***

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

Weekdays: 08.00 to 20.00

Saturdays: 08.00 to 20.00

Sundays and Public Holidays: 10.00 to 16.00

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

### **12.ZGF - Self-Closing Doors**

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

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

### **13.ZGG - Site Boundary Noise Levels**

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of the proposed and adjacent noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

### **14.ZGI - Sound Insulation on Any Building**

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

### **15.ZGK - \*External Noise\***

Prior to the commencement of development, a noise survey for proposed residential properties that are in the vicinity of the Colne Causeway shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax)

- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAm<sub>ax</sub>)

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter.

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

#### **16.ZGO - Food Premises (Control of Fumes and Odours)**

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

#### **17.ZHA - Grease Traps Required**

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

#### **18.ZGR - \*Light Pollution for Minor Development\***

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

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

#### **19. ZGS - External Light Fixtures TBA**

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

Reason: To reduce the risks of any undesirable effects of light pollution.

## **20. Non-standard condition – Submission of Remediation Scheme**

In accordance with the previously submitted Idom Merebrook Geo-environmental Assessment, Hythe Mills, Hawkins Rd, Ref. GEA-20653-17-193REVA, dated 21/06/17, no works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

## **21. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)**

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

## **22. Non-standard condition – reporting of unexpected contamination**

In the event that any unexpected 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 re-commence 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.ZG3 - \*Validation Certificate\***

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 23.

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 – Traffic Management Plan**

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

Reason: To protect highway efficiency of movement in the interests of highway safety.

### **25. Non-standard condition – Highway works**

No occupation of the development shall take place until the following have been provided or completed:

- a) Improvements to the existing site access which shall include but limited to a minimum 43 x 2.4 x 43 metre visibility splay
- b) A minimum 4 metre wide riverside footpath/cycleway between the adjacent former Ballantyne Centre site and the Colne Causeway toucan crossing.

Reason: To protect highway efficiency of movement in the interests of highway safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

### **26.ZIN - \*Protecting Public Rights of Way\***

The public's rights and ease of passage over PUBLIC FOOTPATH number 127 shall be maintained free and unobstructed at all times.

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

### **27.ZJB - Cycle Parking (as approved plan)**

Prior to the first OCCUPATION/USE of the development, the bicycle parking facilities indicated on the approved plans shall be provided and made available for use. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

### **28.Non-standard condition – Archaeology**

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

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

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

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

## **18.0 Informatives**

- 18.1 The following informatives are also recommended:

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

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

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

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

**(3) ZTB - Informative on Any Application With a Site Notice**

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

**(4) ZTC - Informative on Noise and Sound Insulation Competent Persons**

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

**(5) ZTG - Informative on Section 106 Agreements**

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

**(6) ZTM - Informative on Works affecting Highway Land**

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631, or via email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.

#### **(7) ZTX - Informative on Public Rights of Way**

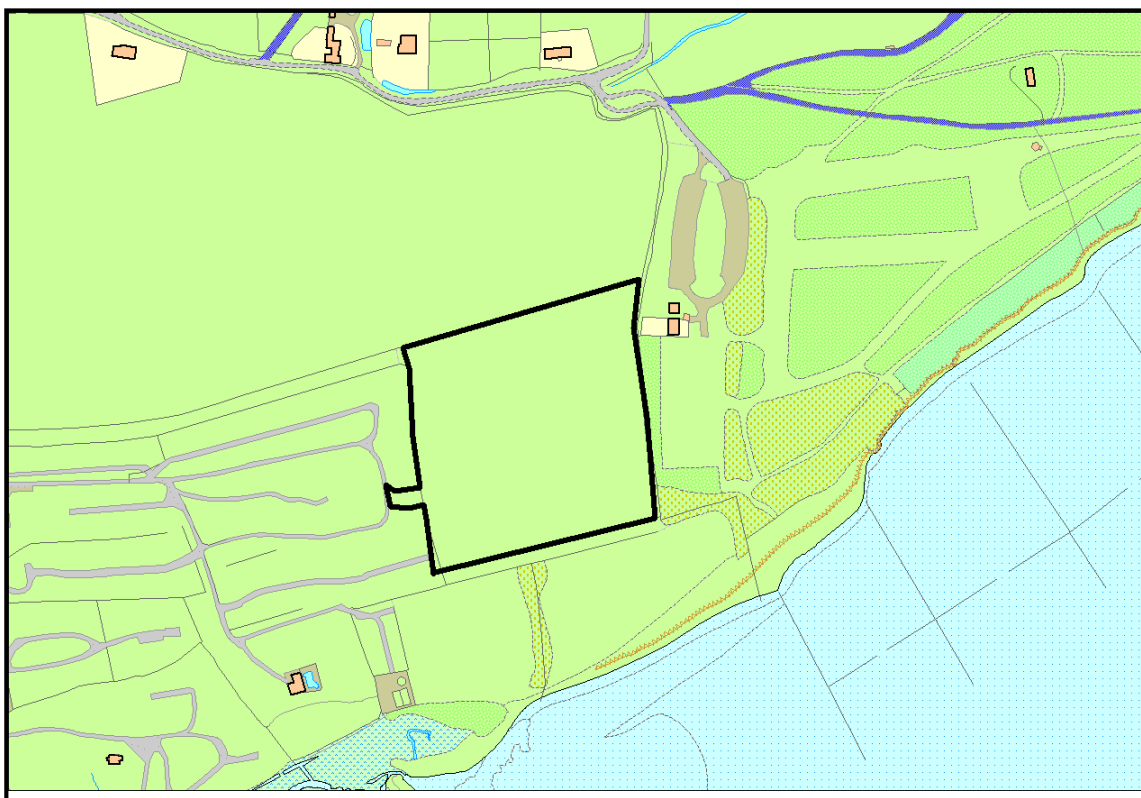
PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563.

(ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.

(iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).





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**Item No:** 7.3

**Application:** 162442

**Applicant:** Mr Greg Lashley

**Agent:** Mr Martin Taylor

**Proposal:** Change of use of land to site 67 static holiday caravans together with associated landscaping.

**Location:** Cosways Holiday Park, Fen Lane, East Mersea, Colchester, CO5 8UB

**Ward:** Mersea & Pyefleet

**Officer:** Chris Harden

**Recommendation:** Refusal

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

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Tim Young who states that “I understand that the above application is being recommended for refusal. I think this is a mistake.” He adds that the proposal “looks positive and beneficial to the Borough’s offer as a visitor destination.” He strongly requests that the application goes to committee.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of the development, impact upon the landscape, wildlife, archaeology, highway safety and residential amenity and any flood risk or drainage issues.
- 2.2 To summarise, it is not considered the proposal can be supported in principle on the grounds of the site being within a sensitive countryside location, including within the Coastal Protection Zone and not being allocated for Caravan use in the current Local Plan. There would also be serious visual detriment to the character of this part of the landscape and countryside from the introduction of the caravans and associated works, including hard surfacing and potential lighting. Whilst there would be some economic benefits from the proposal, it is not considered these would outweigh the principle policy objections and the serious visual harm that would be caused to the landscape and character of this part of the countryside by this major development.
- 2.3 Accordingly, the proposal is not considered to be of an appropriate scale for this location. The proposal is, therefore, considered contrary to Local Plan policies ENV1, ENV2, DP1, DP10 and DP23 and to the National Planning Policy Framework which recognises the importance of “protecting and enhancing valued landscapes” and maintaining the character of undeveloped coastlines. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. It is not considered that there are material considerations that would warrant departing from the Development Plan.
- 2.4 It is not considered that the impact upon wildlife, including upon the adjacent European Designated sites and upon the site itself would be of such significance to warrant a refusal on these grounds. Natural England has not objected in this respect, although Essex Wildlife Trust maintains its objections. Archaeological concerns have been addressed and there would not be a detriment to highway safety or residential amenity. There are no objections on Flood Risk or drainage grounds.

### **3.0 Site Description and Context**

- 3.1 The application site is an open grassed area that lies adjacent to the associated existing caravan site that was known as Cosways Holiday Park but is now called Mersea Island Holiday Park. This grassed area is generally higher than the adjacent caravan site as parts of the original site are located in what used to be a quarry. The application site lies within the countryside and within the coastal Protection Belt zone. It also lies adjacent to the Colne Estuary Ramsar site, the Colne Estuary Special Area of Conservation and the Colne Estuary Special Protection Area and the Site of Special Scientific Interest. Further eastwards lies Cudmore Country Park. The site is bound to the North by arable fields. The site lies within Flood Zone 1.
- 3.2 Footpath 131\_25 runs adjacent to the eastern boundary of the site and the west of the Country Park in a north-south direction from Broman's Lane to the sea.

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

- 4.1 The proposal is for the change of use of land to site 67 static holiday caravans together with associated landscaping. The proposed plan includes an access road from the existing caravan site into the application site and internal roads to serve the static caravans. The caravans would be laid out in a series of crescents with a mixture of 45 single unit caravans and 18 twin-unit holiday lodges. Two play areas, landscaped areas and refuse bin areas are also shown. A hardstanding base and parking space alongside each caravan would be provided. Shallow bunds with 1:3 sides to 2 metres high were originally shown on the Northern and Eastern boundaries but these have now been omitted from the scheme.
- 4.2 The supporting documents submitted with the application include: a landscape statement, planning statement, full ecological appraisal, reptile survey report, transport statement, flood risk assessment and landscape masterplan.
- 4.3 The holiday park has a site licence for 230 caravans. In support of the application the agent states that this current proposal, together with the recent approvals for 28 new caravans by the entrance to the site and the central clubhouse leisure facilities represent a major investment in the park to match expectations of modern families. The existing park has a range of facilities including reception, shop, laundry, tennis courts, clubhouse, swimming pool and play area. Currently the number of jobs on site are 11 FTE (8 Full Time) and the agent states that this will increase to 15 FTE (12 Full Time.)

### **5.0 Land Use Allocation**

- 5.1 Coastal Protection Zone  
Countryside

## **6.0 Relevant Planning History**

### **6.1 Main Site:**

162027 Extension of clubhouse  
Approve conditional 14/10/16

151231 Children's play area  
Approve conditional 4/8/15

151235  
09/06/2015 - Removal/Variation of a Condition (13 Week Determination)  
Removal of condition 02 of planning permission 132270 in order to allow the extended season to apply without time limitation.  
Approve Conditional - 02/10/2015

132235  
Extension of existing and erection of new building to provide A3 (Restaurant), A5 (Hot Food Takeaway), B1 (Business), B8 (Storage), A1 (Shop) uses with ancillary facilities; together with Children's Play Equipment, associated access and parking facilities.  
Approve 25/03/15

132233  
Use of land for the stationing of (23) static holiday caravans and children's play area.  
Approve conditional 7/04/13

131667  
04/09/2013 - Full (13 Week Determination)  
Application to extend occupancy period of Cosways Caravan Park from 1st March- 31st December to 1st March - 31st January.  
Approve Conditional - 07/11/2013

132270  
14/11/2013 - Removal/Variation of a Condition (13 Week Determination)  
Variation of holiday occupancy period from 1st March - 31st December to allow for a 12 month year round holiday season. Resubmission of 131667.  
Approve Conditional - 07/01/2014

072975  
04/12/2007 - Full (8 Week Determination)  
Variation of occupancy condition attached to COL/98/0445 and COL/99/0655 to allow site opening between 1 March to 31 December each year .

98/0445  
20/03/1998 - Full /rem cond  
Amendment to Condition 01 of planning permission COL/86/1555 to allow extension of annual site opening period from 1 March to 30 November  
Approve Conditional - 26/05/1998

6.2 Other applications:

171137 Regularisation of three lighting columns and three bollard lights.  
Approve Conditional – 18/08/17

161410 Application to remove Condition 4 of planning permission 132233  
(implementation timetable) –  
Approve 9/9/17

**7.0 Principal Policies**

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

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

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
CE1 - Centres and Employment Classification and Hierarchy  
UR2 - Built Design and Character  
TA1 - Accessibility and Changing Travel Behaviour  
TA4 - Roads and Traffic  
ENV1 – Environment  
ENV2 - Rural Communities

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

DP1 Design and Amenity  
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses  
DP9 Employment Uses in the Countryside  
DP10 Tourism, Leisure and Culture  
DP14 Historic Environment Assets  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes  
DP23 Coastal Areas\*

7.4 Some “allocated sites” also have specific policies applicable to them. There are no adopted Site Allocations (adopted 2010) policies of relevance to the application.

7.5 East Mersea does not have a Neighbourhood Plan.

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

External Materials in New Developments  
EPOA Vehicle Parking Standards  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Sustainable Drainage Systems Design Guide  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
East Mersea Village Design Statement

7.7 National Planning Practice Guide 2014

## **8.0 Consultations**

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

8.2 Planning Policy has made the following points:

- Site is currently an undeveloped area of open grassland located to the east of the existing Mersea Island Holiday Park. The land that is the subject of this planning application is not allocated for caravan use in the current Local Plan.
- Extension of the caravan park does not conflict with the objectives of paragraph 28 of the NPPF or Development Policy DP10 which support the delivery of sustainable rural tourism and leisure developments that benefit existing local community services and facilities. The proposal will extend an established tourism business, delivering additional jobs [from 11 FTE (8 full time) to 15 FTE (12 full time) ] and increase support for local businesses on Mersea as a result of an increase in holiday makers visiting Mersea. Proposal is therefore considered to accord with paragraph 28 of the NPPF and this element of policy DP10.
- East Mersea Parish Council produced a Village Design Statement in 2013. This is a material consideration when determining this planning application. There is general support in the adopted East Mersea Village Design Statement for the expansion of local businesses which do not detract from the rural character of East Mersea and which generate jobs locally. Despite acknowledging the importance of tourism locally on Mersea and the fact that the caravan parks provide alternative

community facilities, there is strong community opposition to any further expansion of the caravan parks in East Mersea.

- The ecological survey submitted to support the above proposal satisfies the requirement of criteria (i) of Development Policy DP21. However, the site is located immediately adjacent to the internationally designated Colne Estuary Ramsar site, the Colne Estuary Special Area of Conservation and the Colne Estuary Special Protection Area (Phase2) designated under European directives.
- Policy ENV1 does not support development proposals that result in adverse impacts on Natura 2000 sites. Given the close proximity of the caravan site to the designated sites the extension to the caravan site could potentially increase recreational disturbance at the Natura 2000 sites. The citation for the Colne Estuary SPA (paragraph 4.3 ) in the Ecological Appraisal acknowledges that this site is vulnerable to recreational pressure with potential impacts to both the habitats designated as part of the SPA and to feeding and wintering waterfowl. Under the Habitats Regulations 2010 (as amended), all projects must be screened to determine any likely significant effects on European designated sites. No HRA screening opinion has been sought or submitted with the planning application.

Given the close proximity of the caravan site to the designated sites, it may not be possible to conclude no likely significant effects and where this is the case, a full Appropriate Assessment would be needed to identify mitigation measures to address identified impacts. The application should not be determined until the proposal has been screened and submitted to Natural England for further consideration. This will help ensure compliance with Core Strategy policy ENV1 and policy DM21 and the Habitats Regulations.

- The planning policy team welcomes the fact that a traffic assessment has been completed however we have concerns about the application of the TRICS data. There is no supporting information about how this data was derived from TRICS. The team recognise that most visitors will arrive at the caravan park by car given its location and poor accessibility by public transport. The planning policy team has concerns around some of the conclusions reached in the Transport Statement with respect to the site's accessibility. The policy team disagree that the caravan park is accessible by a range of transport means including public transport. Bus provision to East Mersea is very limited with only 2 services, the 69A and 69 running on Tuesdays. Access on foot for all users, would be unsafe due to the lack of a pedestrian footway and lack of street lighting. Similarly, accessing the caravan park by bike would not be realistic particularly for families.

Previous comments from the Planning Policy team in April 2016, identified the need for final proposals to promote sustainable travel opportunities between the site and West Mersea, to help minimise traffic

impacts and to reduce impacts on the local community. Any final proposal should include measures to achieve these objectives to ensure compliance with policies ENV2, TA1, and TA4 in the Core Strategy and development management policies DP1 and DP10.

The spatial policy team welcomes the preparation of the Flood Risk Assessment/Drainage Strategy. We note however that no flood or evacuation plan has been submitted which is now promoted by the Environment Agency as good practice and considering that the sea wall at the Rewsalls frontage not far from the Mersea Island Holiday Park, failed in high winter storms in January 2014.

Finally the spatial policy team received a significant number of comments from residents in Mersea in response to the recent Local Plan Preferred Options consultation that people were living permanently at the caravan parks in Mersea.

If this is the case it is in clear breach of existing licensing agreements. A condition restricting the use of caravans/chalets at the Mersea Island Holiday Park solely for short term holiday use needs to be strengthened significantly if this application secures approval.

- 8.3 Landscape Officer: states that “Core Policy ENV1 requires protection of the landscape in accordance with the Colchester Borough Landscape Character Assessment (CBLCA). The proposed development site lies within Character Area (CA) E1 within the CBLCA and immediately adjacent to CA C3.

It should be noted CA E1 (Mersea Island Coastal Farmland) requires the landscape be ‘*conserved and enhanced*’ with guidelines to:

- a. *Consider the impacts of any new development in adjacent character areas avoiding visual intrusion and adverse impact on the generally undisturbed character;*
- b. *Conserve the open nature of some views across the coastal farmland;*
- c. *Consider the visual impact of any new small-scale development appropriate scale, form, design and use of materials appropriate to landscape character;*
- d. *Prevent coalescence of tourist orientated development on the southern edge of the area;*
- e. *Seek to screen visually intrusive caravan parks using structure planting (appropriate to local landscape character);*
- and for CA C3 (West Mersea Estuarine March/Mudflat), an objective ‘*conserve*’, with guidelines to:
  - f. *Conserve the mostly undisturbed, undeveloped character;*
  - g. *Consider the impact on views from the area to potential areas of new development within adjacent Mersea Island coastal farmland;*
  - h. *Manage and control possible levels of sewage and pollution released from adjacent caravan parks and development on Mersea Island.*

8.4 The Landscape Officer also makes a number of additional observations including:

- to better screen the development a more comprehensive tree and shrub belt should be proposed to enclose the eastern and southern boundaries of the site. This complementing the planting belts and groves to the adjacent Cudmore Grove and the requirement under the CBLCA to screen the development. The currently proposed screening is weak to the southern boundary, where it would currently be categorised as 'filter screening' rather than 'screening'. The existing screen planting to the elevated western boundary of the site is in generally poor condition, consisting primarily failing elm with a poor screening value in the long term. The current level of landscape enclosure would allow the development to visually bleed out to the surrounding landscape (and seascape) to varying degrees, potentially impacting detrimentally on the character of those areas that Core Policy ENV1 requires to be conserved.
- the proposed bunding would be fairly uncharacteristic of this landscape and should ideally be deleted from any proposals, if proposed then it should be extremely subtle (i.e. very shallow, a max 500mm high), this in order to help conserve the landscape as required under Core Policy ENV1.
- The Landscape Statement's response needs to be expanded to consider all changes in public views, including views from the south (land and sea) and west & northwest from the caravan park and exposed views from East Road & Broman's Lane.

The landscape officer has confirmed that the omission of the bunds and improved planting details/revised landscape details are beneficial.

8.5 Archaeologist: Originally stated: "The proposed site is of potential archaeological significance with multi-period archaeological remains already recorded by aerial photography within this site (Colchester HER no. MCC8916). It is, therefore, likely that heritage assets of archaeological interest will be found, i.e. below-ground archaeological remains. The evidence indicates that this is a sensitive site, which has a high likelihood of including archaeological deposits of national importance.

The potential archaeological significance of the site should be further explored, by way of pre-determination desk-based assessment, geophysical survey and trial trenching, before any decision is made as to whether or not the development of the site would be acceptable. This accords with the recommended approach contained in paragraph 128 and 129 of the National Planning Policy Framework (the Framework), in order for the LPA to be able to take into account the particular nature and the significance of any below-ground heritage assets at this location."

8.6 Following submission of the required evaluation the Archaeologist now states:

“An adequate geophysical survey and trial-trenched evaluation has been carried out across the proposed development site. On the basis of the results of this evaluation, and although the report on the trial-trenched evaluation has not yet been completed, I am able to revise my previous advice (dated 17 October 2016), which recommended the need for predetermination evaluation.

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

In this case, the following archaeological condition is recommended:

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....”

8.7 Environmental Protection have no objections but recommend the following conditions and advisory notes:

Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

Light Pollution for Major Development

Prior to the first OCCUPATION/USE of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ1 shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein. *Note: In order to comply with this condition external lighting will have to be switched off between 23:00 and 07:00 and we recommend this is also conditioned.*

Demolition and Construction informative.

8.8 Contaminated land officer states: "It is noted that the Planning, Design and Access Statement advises that the land is very rough with noticeable rocks which may have been used for the deposition of spoil from the time when the adjoining the holiday park was used as a quarry. Consequently, should permission be granted for this application, Environmental Protection would recommend inclusion of a condition which would deal with any unexpected contamination which might be encountered."

8.9 Highway Authority has no objections and suggests the following conditions:

1. Each unit shall not be occupied until such time as the car parking area, indicated on the approved plans has been hard surfaced. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

2. The parking spaces / vehicular hardstandings shall be constructed to minimum dimensions of 5.5m x 2.9m.

3. Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each unit, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

4. Prior to the occupation of any of the proposed new units, the vehicular visibility splays at the connection to East Road shown in Stilwells Drawing Numbered TSP/AR/P3043/001 Rev A, shall be provided and maintained in perpetuity free from obstruction clear to ground.

8.10 Essex County Council Flood & Water Management Planning & Environment initially objected to the application on the grounds of the submitted drainage plan being incomplete. Additional details have now been submitted and there are now no objections subject to the following conditions relating to:

1. A detailed surface water drainage scheme for the site.

2. Scheme to minimise the risk of offsite flooding.

3. Maintenance logs.

8.11 Natural England which is the statutory consultee on wildlife issues, has been consulted on the application and has provided a number of comments including reiterating the comments submitted for the applications 132270 and 132233) and submitting additional comments following the receipt of objections received by the Essex Wildlife Trust. The key conclusions received from Natural England are directly below. Full comments received from English Nature are available on the Council's website.

Summary:

(i) attached our previous response for your consideration.

(ii) the site lies in a sensitive location being in close proximity to a European designated site (also commonly referred to as Natura 2000 sites). European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is also in close proximity to the Colne Estuary Special Protection Area (SPA) which is a European site. The site is also listed as the Colne Estuary Ramsar site<sup>1</sup> and also notified at a national level as the Colne Estuary Site of Special Scientific Interest (SSSI). Further eastwards lies Cudmore Country Park.

(iii) the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.

(iv) In terms of impact on the Colne Estuary SPA, the area of the high tide roost is already managed as a country park, as an attraction for visitors and that in winter the wildlife is an important part of that attraction. "The park has therefore been carefully designed to facilitate access to and enjoyment of this area of the coast and its wildlife, and conserve and enhance the over-wintering wildlife interest. This promotes the enjoyment of the wildlife by visitors without disturbing their natural behaviour and movement. For these reasons, Natural England's opinion is that the proposal is *not likely to have a significant effect* on the interest features of the Colne Estuary SPA."

(v) If the development is carried out in strict accordance with the submitted details, Natural England is satisfied that the proposal "will not damage or destroy the interest features for which the site has been notified... this SSSI does not represent a constraint in determining this application."

(vi) Maintain overall position of no objection and have identified need for mitigation measures to reduce anticipated disturbance effects caused by an increase in the local population. Should the applicant implement these measures as part of their project, then we do not anticipate that a formal Appropriate Assessment will be required.

(vii) the overall function of the over-wintering birds of the SPA would not be compromised by the development of the area, notwithstanding that it does make some contribution for these purposes.

(viii) Other parties may identify local impacts, which may still be important at a local level and should still be taken into account by the local planning authority.

(ix) Forage in site area but recent creation of new inter-tidal habitats at Fingringhoe management realignment of the site and closure of sea wall at Rewalls may offset some disturbance. Mitigation measures can be covered by condition.

(x) Roosting resource- function has weakened once land use changed from arable to grass land. Overall, function of overwintering birds in SPA not compromised.

(xi) Ringed Plover: peripheral to core breeding area. Mitigation including financial contribution recommended.

(xii) Buffer with Cudmore Country Park- suggest strengthen boundaries.

(xiii) anticipate that the main route of the Coast Path could be taken along the beach.

8.12 Essex Wildlife Trust: “object to this proposal for the following reasons:

- Insufficient information to conduct an Appropriate Assessment required to demonstrate that it will not pose a risk of unacceptable impacts to interest features of the Colne Estuary Special Protection Area (SPA)<sup>1</sup> and Ramsar site and the Colne Estuary Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR)
- Increased recreational impacts on interest features of the Colne Estuary SPA/NNR/SSSI
- Loss of habitat functionally linked to the SPA; loss of supporting/buffer habitat for the country park and increased “edge effect” (noise disturbance) impacting on the country park boundary
- Increased light pollution with adverse impacts on bats and other nocturnal wildlife associated with the adjacent Cudmore Grove Country Park Local Wildlife Site (LoWS) (Co168); increased predation by domestic cats/
- Loss of hunting/foraging habitat for Kestrels and Barn Owls; loss of nesting habitat for Skylarks”

Summary

Essex Wildlife Trust objects to this application for the reasons outlined above. An Appropriate Assessment is required to accompany this application. The applicant should provide wintering and nesting bird surveys and assessments of impacts (due to recreational disturbance, noise disturbance, light disturbance and loss of functionally linked habitat) on the Colne Estuary SPA. As previously stated, these are necessary to inform the appropriate assessment. Additional surveys to inform this application should include surveys for bats, reptiles and invertebrates.

8.13 Additional comments from EWT:

- Signage and information leaflets are of very limited use in influencing human behaviour.
- Mitigation measures won't work. How will effectiveness of conditions be monitored?
- Increased noise and other disturbance from increased recreational use as a direct result of the proposed caravan park extension is a clear and indisputable risk. It is self-evident that caravan occupiers will want to use the beach and foreshore for recreational activities. Caravan owners are able to occupy vans throughout the winter months; there will therefore be an increase in the numbers of people using the beach during the winter. This poses a risk of increased adverse impacts on feeding waders and wildfowl, particularly at those stages in the tide cycle when only a narrow strip of mudflat is exposed.

- The current application poses a risk of increasing the direct disturbance of feeding birds as a result of people and dogs intruding directly onto their feeding habitat in winter.
- The proposed development will result in an increase in noise disturbance, potentially all year round and most notably after dusk. This will adversely impact on the ecology of the country park due to chronic disturbance to wildlife, reducing the number of suitable territories available for breeding and foraging and affecting the behaviour of nocturnal species. This will result in a localised reduction in habitat quality and an overall reduction in biodiversity in the country park.
- We are surprised to note Mr Meurer's dismissive comment that skylarks, kestrels and barn owls are "common" species. This is highly misleading; while all three species can be described as widespread, they are all birds of conservation concern due to significant population declines over the last 50 years.
- Barn owls are dependent on the availability of prey-rich foraging areas and favour rank, open grassland habitat. The Kestrel has BoCC4 amber conservation status in the UK and is listed as a species of conservation concern across Europe. The cumulative impact of all these new developments and the consequent loss of foraging habitat for skylarks, kestrels and barn owls poses a risk of adverse impacts on the local populations of these species and other grassland specialists.
- Noise disturbance from adjacent caravans on the application site will continue to occur after the hours of darkness, and sometimes well into the night at weekends. This poses the risk of adverse impacts on nocturnal species in the park.
- Caravan owners often like to have additional decorative exterior lighting as well. These lights are often left on by caravan occupiers throughout the night and result in significant light pollution. This is a separate issue to the park's own security lighting and would not be controlled by planning conditions.
- We do not agree with Natural England's conclusions and it is our view that the available evidence does not support their position. The decision on whether an appropriate assessment is necessary should be made on a precautionary basis. The development is not necessary for reasons of overriding public interest. It cannot be excluded, on the basis of objective information, that it will have a significant effect on the SPA, either individually or in combination with other plans or projects. Therefore it should be subject to an appropriate assessment of its implications for the SPA in view of the site's conservation objectives. This is in line with the ruling of the European Court of Justice in Case C-127/02 (the Waddenzee Judgment). We maintain the position that an appropriate assessment is required.

Full comments received from the Essex Wildlife Trust are available on the Council's website.

## 9.0 Parish Council Responses

- 9.1 East Mersea Parish Council “vehemently opposes the Away Resorts Application (162442) for 67 extra caravans on its site for the reasons identified below.

### *Blurring of Residential and Tourist Accommodation.*

East Mersea is a small village of around 100 houses which enjoys a rural and quiet lifestyle. Over the past years, and significantly over the past four years, it has suffered a substantial incremental creep of caravan park applications for both caravans and supporting infrastructure within the sites. This application takes the total of caravans in the parish, sited on three main parks, to over 1100 pitches dwarfing the village population. The design of caravans has improved enormously over the last ten years and new caravans, especially the lodge style of van, which is essentially similar to a two or three bedroom house can now be lived in comfortably all year round. Align this fact with two of the three sites having applied successfully for a 12 month season and caravan owners can and do spend all year on the sites. These two facts have blurred significantly the differential between residential and tourist occupancy and East Mersea has seen around 200 units (including traditional van, lodge style and holiday homes) applied for and approved over the last four years which would have been turned down if they were residential housing applications. The nascent CBC plan acknowledges that East Mersea is unsuitable for further housing yet caravan sites have continued to expand.

This is unacceptable – Colchester Borough Council needs to apply similar criteria to caravan park growth as it does to residential growth and treat them either as one policy rather than as separate entities or at the very least do not treat Policy DP10 – Tourism Leisure and Culture as a standalone policy but consider it as part of the overall plan not in isolation. What is happening in East Mersea is housing growth by stealth due to policy stove piping – it is extremely disappointing and frustrating that CBC has to date ignored this aspect of village planning.

### *Incremental Growth.*

Incremental growth by developers in reality is unacceptable but appears to be accepted as the normal course by planning departments. We have seen Cosways and now the new owners, Away Resorts, put in planning applications incrementally with apparently no requirement to demonstrate a strategic plan. This is planning madness but it does suit the applicant as incremental planning slices may be acceptable to the planning authorities in the Council but the strategic growth and business plan, which all developers will have created, due to size may not be. In the past four months we have seen a number of applications from Away Resorts, which even when taken individually, are very significant but if they had been taken together could have convinced the Council planners that the overall plan was too large for the village. A similar view can be taken with Coopers Beach who has also benefitted from incremental planning. What has happened, and is happening with this application, is that we are seeing uncontrollable and unstoppable growth in and around a small village which has become almost dominated by large urban style conurbations. If this application is approved there will be almost nonstop coastal ribbon development from Cudmore Grove to the Youth Camp on the parish

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council boundary – and all abutting a number of SSIs, the nationally important Colne Estuary National Nature Reserve, the Colne Estuary Site of Special Scientific Interest, The Colne Estuary Special Protection Area and the Essex Estuaries Special Area of Conservation and all within the Coastal Protection Belt.

#### *The Proposed Site.*

The most significant factor against the application is the geography of the site itself. Unlike the majority of the remainder of the Away Resorts site which nestles, at least from the northern perspective, in a natural bowl the proposed site is raised and therefore can be seen from both Broman's Lane, Cudmore Grove and is skylined from the southern aspect.

The application proposes raising bund type barriers to shield from view which will only succeed in creating a significant artificial mound type of view which will be an eyesore and definitely not 'in simpatico' with the landscape of East Mersea or indeed of the island as a whole. It is also likely to reduce resident's panoramic views. In addition the site has a boundary with Cudmore Grove, one of the few true country parks in the area. Having an essentially large housing development (with its attendant car parking, lighting and access roads) next to the rural country park is ridiculous – at least currently there is a field separating Cudmore Grove from the Away Resorts site which as described above sits in a bowl like geographical feature which shields those using the park from the urban sprawl like view.

Although trees are being provided as a screen in winter the site will be very visible and night time lighting (already a current issue with the remainder of the existing site) will be exacerbated by the height of this application. It is incongruous that in the Coastal Protection Belt this application would be allowed to progress. Approving the application on this land will essentially almost increase the physical size of built on land on the site by around 40%.

#### *Policy DP10 – Tourism Leisure and Culture.*

DP10 is the overarching Development Policy in the current Local Development Framework. It emphasises that 'proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside or designated sites.' It also states that 'Proposals for new or extended tourism facilities will be assessed against their ability to help deliver Core Strategy policies SD1, SD3, UR1, ENV1 and ENV 2.' This application certainly does not appear to satisfy either ENV1 - Environment or ENV2 –Rural Communities policies. ENV1 states that 'development will not be permitted that would adversely affect the open and rural character of the undeveloped coastline and its historic features, sites of nature conservation importance and wildlife habitats.'

Whilst ENV2 states 'that the Council will favourably consider sustainable rural business, leisure and tourism schemes that are of an appropriate scale (Parish Council emphasis) and which help meet local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment.(Parish Council emphasis)' It is of the opinion of

the Parish Council that this application clearly does not meet those requirements – this development is certainly not sensitive to or integrates at all with its countryside landscape surroundings.

#### *East Mersea Village Plan and Design Statement.*

The East Mersea Village Plan was produced in July 2013 and whilst it is accepted that it is for guidance only it does demonstrate how the village residents feel about the village and what should and should not occur. It is very significant that 76% of those polled disagreed or strongly disagreed with the statement 'We should allow expansion of the existing tourism/holiday/leisure sites.' In addition over 72% agreed with the statement 'Local business development should be encouraged as long as it does not detract from the peaceful rural character of the village.' Local resident's views must be considered a factor when planning officials consider this application – it is clear in this case that there is significant opposition to this application. The Parish Council notes the very significant amount of comments opposing the application on the planning website. This clearly shows the local swell of feeling against having yet further building in the village.

#### *Wildlife Impact.*

The Parish Council also have concerns about the impact on wildlife that this application, if approved, will bring to the area. Having spoken to the Ranger in charge of Cudmore Grove it should be noted that the site and the immediate area is hugely important for foraging bats, breeding skylarks, local kestrels and barn owls, reptiles and nationally rare moths. The siting of the new caravans will be only 75 metres from the edge of the Colne Estuary National Nature Reserve with its international and national designations. Brent geese and six species of wader found on the adjacent mud are present in nationally important numbers and there will be increased disturbance to waders and wildfowl on the foreshore from the increased usage. This is one of reasons why visitors come to Cudmore Grove – it would be hugely ironic if the application succeeded and the knock-on consequence was a reduction of the local wildlife and a commensurate reduction in those visiting Cudmore Grove. We also note that the Ranger at Cudmore Grove is very sceptical of the ecological appraisal carried out by the applicant which apparently was carried out over only one four hour visit – clearly insufficient study has been done.

#### *Sustainable Transport Policy.*

The Transport Statement written by Stilwell Partnership and submitted as part of the application is so poorly researched, inaccurate and not even proof read that it should not be used as part of this application. Examples of these inaccuracies, but by no means all include:

- Reference is made to East Road being a quiet, rural road with a number of pubs, restaurants and bus stops located on East Lane. With local traffic, Cudmore Grove and the other holiday parks (Fen Farm and Coopers Beach) East Road (not Lane) is not a quiet rural road. It has a single pub and restaurant on it.

- The report claims facilities close to the site. The post Office, shop and Nursery have all been closed for a number of years. The Fox public house is 5 km away in West Mersea.
- The report states that the site is located in a sustainable location with local buses within easy access. There is a single bus service on Tuesday each week. Constant referral to "Chichester" within the report (instead of we presume Colchester)
- Almost all the stated distances are inaccurate (for example the High Street, West Mersea is 6.5km away and not the stated 5km).
- The proposed number of trips associated with the development is stated to generate a maximum of 13 trips in both the AM (13:00 - 14:00) and PM (17:00 - 18:00) peak hour. This information is absolutely irrelevant to East Mersea. It is designed to measure the impact of extra traffic in an urban location that has peak rush hour traffic. It does not address the daily impact of extra traffic on a narrow rural road. The application states that each lodge will be provided with two car parking spaces suggesting a far higher impact on traffic than the report suggests.

This proposed development would not be consistent with Colchester Borough Council's own Sustainable Transport Policy. There is no regular bus service in East Mersea. The closest regular bus service is from Blue Row 4km away which if used would result in a walk of 8km for each round trip. Due to the continued incremental increase in the number of holiday homes in East Mersea, East Road is has now become so busy that it is accepted by cycling clubs as being completely unsuitable for cycling. No resident of the village is currently happy cycling along the only route into the village due to traffic density.

East Mersea is serviced by a single, narrow road that has no pavement and is the only route to and from the village. It is already heavily impacted by tourist traffic with visitors travelling to East Point, Cudmore Grove, Cosways caravan park, Fen Farm caravan park and Coopers Beach caravan park. It has almost no public transport and is unsuitable for use by cyclists. The only practical means of transport is by car. With 2 cars per proposed sites this equates to a further 134 cars clearly contrary to CBC's own Sustainable Transport Policy. Summary. The Parish Council represents East Mersea residents and this application has severely irritated and concerned the villagers – as can be seen by the comments on the Council website.

The new Council Plan, although still in draft, acknowledges that East Mersea is not suitable for expansion yet here is another example of creeping housing growth. We do not believe that the application should be approved as there are hugely significant concerns outlined in this note. This is yet another building expansion (camouflaged by utilising tourism guidelines) which is dwarfing the village. It is essentially housing by default by getting around residential requirements and takes advantage of the 12 month season which allows all round occupation. The location in no way suits the proposal as it would create a hugely geographical eyesore as well as causing a significant impact on the wildlife in the area. It is time that the residents of East Mersea are listened to by the planning authorities rather than them pandering to large commercial organisations whose prime rationale is to see an excellent return on their investment and have no interest in the village

itself. It is interesting that at no time since Away Resorts took on the overall site has any approach been made by their management to talk to the residents or the parish council.

Now is the time for the Planning Department and the Planning Committee to step up to the mark and refuse the application for the reasons described above and then have the courage to continue to oppose the undoubted appeals that will emerge.

9.2 West Mersea Town Council "OBJECT to the above application for the following reasons:

1. Access to the site and most facilities are in West Mersea which realistically is only accessible from East Mersea by car. There is NO public transport in East Mersea. Walking from East to West for a fit and able person will take at least 30minutes at best.

2. Reading the transport statement by Mr David Brooke Stilwell Ltd it is very clear that the company has not visited the Island for the following reasons: a. Item 2.20 & 2.21 i. There are no cycle routes between East and West Mersea  
ii. The public foot paths around the sea wall as shown in 'Oyster beds and vineyard tour' in areas that are now impassable and have had to be altered due to coastal erosion.

b. Item TA3 i. Travel from East to West will be mainly by car. If an accident were to happen on the Strood or East Mersea Road it could potentially totally block the road. The island in general already struggles with road blockages and severe parking shortages.

c. Item TA5 i. West Mersea has car parks managed by the WMTC and North Essex Parking Partnership, some of the car parks are free for the 1st 1 hour but all chargeable after that. These car parks are all fully used and West Mersea is in desperate need of additional spaces. During the height of the holiday season the congestion of the island is unbearable with even residents being blocked into their own drives.

d. Item 3.3 East Road (this is called East Mersea Road as opposed to East Road which is situated elsewhere in West Mersea) i. East Mersea Road, East Mersea is not a quiet road and people, especially visitors, regularly speed in excess of 40mph down it. There have been deaths on this road, though not in the last 5 years  
ii. East Mersea has only one public house  
iii. East Mersea no longer has a Bus service

e. Item 3.7 i. West Mersea has a population of approximately 7800, this does not include the caravan parks in West Mersea. If the population of the caravan parks in West Mersea were taken into account, due to the 12 month residency potential, the population could be more like 9000 and in the summer rising to over 18000 with other visitors to the Island. This excludes East Mersea Parks.

ii. It should be noted that NPPF para 29, is in favour of sustainable transport modes and para 30 encourages reduction in greenhouse gases and congestion.

This development will not only impact on the roads in both East and West but add to the already poorly maintained roads and pollution in what is an important environmental area. Para 32 talks about safe and suitable access, East Mersea Road is an unlit dangerous road and the only real way to travel it is by car.

f. Item 3.8 i. East Mersea information 1. A Post Office or local store is NOT situated in East Mersea the nearest one is in West Mersea over 4km away

2. The “pick you own” farm closed over 2 years ago

3. The Fox is Located in West Mersea over 3.5km from the site

4. The vineyard is over 2km from the site

g. Item 3.9 i. All WMTC car parks are pay and display. The nearest to the site is a 4km drive. 1. Seaview

2. Esplanade

3. Willoughby Car Park

4. Coast Road Car Park

5. Library

h. Item 3.10 i. It states in this paragraph that the site is for holiday use only, but it is known that some caravans are permanently being lived in.

3. WMTC are concerned that the proposed additional caravans and lodges will not comply with section SS17c of Colchester’s Local Plan – Preferred Options. WMTC would like to be assured that all 5 points of SS17c will be met in full.

4. In your current adopted policy DP10: Tourism, Leisure and Culture it clearly states the following: a. Proposals for tourism, leisure and culture development should promote accessibility by a choice of means of transport and must not cause significant harm to the amenity of people living and working nearby. i. The proposed new development would be in breach of the above statement for the reasons mentioned above. 1. There is only one mode of transport from East Mersea 2. It will put extra pressure on West Mersea already stretched amenities.

b. In rural areas, locations suitable for tourism, leisure and culture development should help to support existing local community services and facilities. The proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside or designated sites. It is recognised that not all rural locations are readily accessible by public transport. Where accessibility is poor, proposals should be small scale and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation. In locations where residential uses would be inappropriate, developments of visitor accommodation will be limited to holiday use only and/or certain periods of the year in order to prevent permanent or long-term occupation.

i. Once again the proposed additional caravans are in breach of this. 1. It is not accessible by public transport by any means.

2. The caravan sites have been granted 12-month usage and are not in any way enforced for holiday use only.

a. Item: 4.30 Extensions to existing holiday parks in the Borough, particularly those located at sensitive coastal locations will only be appropriate if a sympathetic development approach is followed and mitigation measures provided to manage climate change and environmental impacts on neighbouring Natura 2000 sites. a. If the development of the 67 new lodges and caravans was to go ahead it would be a disaster for the local environment, being so close the East Mersea Cudmore Grove country park, for disturbance to local wild life and addition to the wear and tear of the beach / cliffs where coastal erosion is taking a massive toll on a yearly basis.

WMTC serious believes this application should be rejected for the reasons stated and as no additional resources will be given to WMTC to cope with the additional demand.”

## **10.0 Representations from Notified Parties**

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

10.2 67 letters of objection have been received which make the following observations:

- Proposed development is on high ground and will be visible from the village, surrounding area and sea. Unacceptable impact on rural agricultural area on a small island.
- Proposal needs to be viewed in light of the current overdevelopment of the island with a proposed 350 extra homes and also with the current development of Coopers Beach. If agreed, total increase to the island population (due to 12 month residency rules) would at a minimum be over 1100 individuals and potentially at 3000 extra individuals.
- Impending development of Bradwell, which under ONR and National Government guidelines would indicate that emergency recovery plans would be required to support evacuation of Mersea Island along with ONR agreement to planning – this would indicate that this application would not be upheld at a national level.
- Application is outside the agreed CBC curtilage of the site.
- Caravan Site – CBC Option: CBC is requested to conduct a full survey of the treatment and sewerage of the site as the local bathing water around the site is known to be contaminated and current infrastructure is unfit for current or any increased capacity.
- Will cause further disturbance to recognised breeding and feeding grounds for a large amount of invertebrates and mammals. As Cudmore is recognised as a SSSI and Ramsar site and the foreshore is also recognised as a SSSI – this is in direct contravention of NATURA 2000 site guidance.
- Increase in this site will cause an increase in traffic as no public transport can realistically or does service the site. Direct effect on residents due to noise and increase in traffic flow as well as light pollution.

- Lights would shine down upon village houses (thus increasing light pollution across the East Mersea peninsula) and increase unacceptable noise levels in a quiet rural environment. Does not meet CBC Caravan Site Options.
- Policy DM1: will take away large green arable area reducing owners' healthy lifestyle. Increase traffic emissions.
- Policy DM 5: have a large impact on a small rural community in terms of light, noise, pollution and unsustainability. AWAY will provide their own shops. This will take away from any local business. CBC, will need to have measures so that AWAY does not abuse the regulations. Does not contribute to LEA.
- Contrary to criteria in Expansion of Business policies and in policies DM9, DM12, DM17, DM18. Need not demonstrated and Mersea infrastructure cannot take any more.
- DM23: Whilst outside Flood Zone 3 by 50m, flooding may occur in 3-5 years owing to erosion. Could also result in more flooding.
- Contrary to criteria in Policies ENV2 and ENV3. Reducing green infrastructure.
- Transportation of caravans a problem.
- Will increase litter.
- If permitted, conditions should include lighting time restrictions, construction working times, layout changes.
- More pressure on schools, doctors, and infrastructure of whole island including roads. East's sewage and water services already overloaded.
- As caravan owner on site, already disturbed by noise.
- Gap to Cudmore Grove should be maintained
- Site of Archaeological interest.
- Many caravans the size of a small bungalow and sites becoming residential in nature with 12 month occupancy.
- Should be audit check no units used for permanent accommodation.
- Contravenes sustainable transport policy.
- Jet skis causing a problem.
- Argument that it would create five more jobs is laughable.
- Other sites will want more units.

10.3 Councillor Bentley States: "As the County Councillor for East Mersea I would like to object. East Mersea is a very rural community that already has a lack of facilities enjoyed by other parts of the borough and to add extra caravan sites would only increase the amount of people using these very limited resources.

There is also genuine concern for the infrastructure and what impact extra vehicles generated by this application would cause, not to mention light and noise pollution as well. Due consideration must also be given to the impact of the wellbeing of existing residents on Mersea Island who are already expecting around an extra 350 homes to be built in future years. As a caravan application these are not seen as extra homes but in affect will use the same facilities as any extra build and this will have an impact also on the environment.

The proposed site is also close to farmland and near to protected nature areas and this should be considered before determination.

For these reasons I believe the application should not be approved."

10.4 The Ramblers state: “The proposal gives the erroneous impression that there are enough public buses for residents of the site to not need a private vehicle when staying here. Mention is made of connectivity to the Public Right of Way network in the locale. I am hoping this relates to the forthcoming Coast Path and look forward to seeing how matters develop. Currently the nearest routes are on the mudflats and in Cudmore Grove Country Park. The area, and particularly Cudmore Grove, are visited to get away from it all and enjoy the wilderness feel and the wildlife which has been promoted and assisted by long-term management. Having a development adjacent to it may well undo a lot of the good which has been done.”

## **11.0 Parking Provision**

11.1 Parking and turning provision details have been shown on the submitted plans and there is ample space on site for such provision.

## **12.0 Open Space Provisions**

12.1 Areas of open space have been shown within the submitted details.

## **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 Planning Obligations**

14.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was not considered that Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### Principle of the Development:

15.1 The proposal at hand is contrary to the Local Plan. It is not considered that the extension to the caravan park can be supported in principle, having regard to Local Plan and National Policies. Whilst tourism uses are supported in some circumstances, the site lies within the countryside and is currently an undeveloped area of open grassland located adjacent to the existing Holiday Park. The land that is the subject of this planning application is not allocated for caravan use in the current Local Plan.

15.2 The site falls within the Coastal Protection Belt zone and Policy ENV1 states that development in this zone “will not be permitted that would adversely affect the open and rural character of the undeveloped coastline, and its historic features, sites of nature conservation importance and wildlife habitats.” The policy also states that development will be strictly controlled on unallocated greenfield land outside of settlement boundaries. It adds that where new development needs, or

is compatible with, a rural location it should demonstrably be in accord with national, regional and local policies and be appropriate in terms of its scale, siting and design. Having regard to this Policy, it is considered that the open and rural character of the countryside would be adversely affected by the 67 caravans and associated infrastructure including hard surfaced access-ways and parking areas in direct conflict with this policy. This major proposal would not be of an appropriate scale for the location.

- 15.3 The supporting text to Policy ENV 1 also emphasises that “Colchester countryside and coastline is extremely diverse and important in terms of natural environment, biodiversity, landscape character, archaeology and cultural heritage. The countryside provides the attractive landscape setting that defines and characterises the villages and rural communities of Colchester Borough.” The text also explains that the Coastal Protection Belt “is a county-wide designation that protects the sensitive character of the undeveloped coastline which could be harmed by development that might otherwise be acceptable in a countryside area.” In this case the development would result in the loss of an attractive, coastal greenfield site to the detriment of this part of the landscape, again contravening the criteria and supporting text of policy ENV1.
- 15.4 Policy ENV 2 also emphasises the importance of such development being of an appropriate scale, that negative environmental impacts should be minimised and that such proposals should harmonise with the local character and surrounding environment. It is not considered the proposal would be in harmony with the local character and surrounding environment or that negative environmental impacts have been minimised.
- 15.5 Policy DP23 has similar provisions and states that within the Coastal Protection Belt development will only be supported where it can be demonstrated that it will not be significantly detrimental to the landscape character of the coast. It adds: “In exceptional circumstances, development may be permitted where it is proven that the proposal provides an overwhelming public or community benefit that outweighs all other material considerations. In such instances, applications must demonstrate that the site is the only available option and be acceptable in terms of other planning merits.” Again, the proposal conflicts with this policy owing to the adverse impact upon the landscape within the Coastal Protection Belt. It has not been demonstrated there is an overwhelming community or public benefit.
- 15.6 Paragraph 109 of the NPPF backs up the above policies and recognises the importance of “protecting and enhancing valued landscapes.” Paragraph 114 adds that Local planning authorities should “maintain the character of undeveloped coast, protecting and enhancing its distinctive landscapes...”
- 15.7 Permitting this scheme would introduce development into an open and undeveloped area of coastal land in East Mersea and extend the Eastern boundary of the caravan park right up to the western boundary of Cudmore Grove Country Park. The proposal, therefore, contravenes the objectives of policy ENV1 in relation to the Coastal Protection Belt.

- 15.8 There are elements of Local Plan and National Planning Policies that offer support for rural tourism. Policy DP10 supports the provision of sustainable rural tourism in appropriate locations, including static and touring caravans. However, it also indicates that proposals must be compatible with the rural character of the surrounding area and that, where accessibility is poor, proposals should be small-scale.
- 15.9 The NPPF recognises that planning policies should support economic growth in rural areas and this includes support for sustainable rural tourism and leisure developments, which respect the character of the countryside (Paragraph 28). Such support should include the “provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities.” Paragraph 18 states that the Government is committed to securing economic growth. It is likely that there will be some economic benefits from the proposal, with the increased size of the holiday park and a likely subsequent increase in income and benefits associated with increased tourist activity. The proposal will extend an established tourism business, increasing jobs to 15 FTE (12 Full Time) from 11 FTE (8 Full Time) and potentially increase support for local businesses on Mersea as a result of a likely increase in holiday-makers visiting Mersea. However, for the reasons outlined earlier, the site is not considered to be in an appropriate location for this expansion and it is not considered the development would respect the character of this part of the Countryside. Accordingly it is not considered that economic benefits would overrule the principle objections mentioned above.
- 15.10 The East Mersea Parish Council Village Design Statement (2013) is also a material consideration. In this statement there is general support for the expansion of local businesses which do not detract from the rural character of East Mersea and which generate jobs locally. However, despite acknowledging the importance of tourism locally on Mersea and the fact that the caravan parks provide alternative community facilities, it is clear from the comments received that there is strong community opposition to any further expansion of the caravan parks in East Mersea.
- 15.11 Overall it is, therefore, not considered that the principle of allowing the extension to the caravan park can be supported, having regard to the above Local and National Planning policies and the nature of this greenfield, unallocated countryside site that lies within the Coastal Protection Belt zone.

### Landscape and visual Impact

- 15.12 The general concerns about the proposal's impact on the landscape, contravening policies ENV1, DP23 and DP10 have been outlined above and the issue ties in with the principle of the development. In more specific terms, Local Plan policy ENV1 requires protection of the landscape in accordance with the Colchester Borough Landscape Character Assessment (CBLCA). The proposed development site lies within Character Area (CA) E1 within the CBLCA and immediately adjacent to CA C3.
- 15.13 As indicated in the response from the council's Landscape Officer, Character Area E1 within the CBLCA requires the landscape to be 'conserved and enhanced' and the guidelines for this are listed in the Landscape Officer's comment above. The site itself is on rising and elevated land and accordingly it is considered that the 67 caravans and associated works, which could include lighting, would be prominent and visible from a considerable distance, including from the estuary. Whilst a landscaping scheme has been submitted, including the reduction of the originally submitted bunds, it is considered that it would be extremely difficult to satisfactorily accommodate the extension of the caravan park into the landscape without there being a serious visual detriment to the character of this part of the countryside.
- 15.14 Much of the original site of the caravan park lies within land that was formerly a quarry; this would appear to form a logical limit to expansion of the site. The existing site is, accordingly, lower than the current application site. Caravans within the former quarry area are therefore less obtrusive than they would be on the application site and benefit from the lower land levels, the banks of the edge of the former quarry and some planting. However, the 67 new caravans would not have the benefit of being sited on this lower land. Indeed the site steps up markedly at certain points adjacent to the original caravan site and so the new caravans would be far more prominent than those within the former quarry area.
- 15.15 The application site itself is generally undisturbed and there would be visual intrusion and an adverse impact on this generally undisturbed character from the caravans and associated infrastructure, contrary to point (i) of the Character Assessment (CA) guidelines. The open nature of views across the coastal farmland would be lost and the large-scale development would not be appropriate for the existing character of the landscape, contrary to points (j) and (k) of the Character Area Assessment.
- 15.16 The proposal would also result in a degree of coalescence with other tourist oriented development which is Cudmore Country Park in this instance. That park is surrounded by vegetation but nevertheless the application proposal would bring the caravan park right up to its Western boundary. The open, undeveloped gap between the park and the existing caravan site would be lost. This would be contrary to the aims of point (l) of the Character Assessment (CA) guidelines.

- 15.17 Point (m) of this guidance also aims to visually screen intrusive caravan parks and, as outlined above, this would be very difficult to achieve given the elevated nature of the site and its prominence. Point (n) of the CA guidelines also provides that the mostly undisturbed, undeveloped character of the area should be conserved and the proposal would clearly conflict with this aim. Point (p) indicates that levels of sewage and pollution released from caravan parks needs to be controlled. However, it has been brought to the Council's attention that Cosways are currently discharging from the site in excess of their allowable volume of fully-treated sewage effluent. They have been informed that they would need to apply to have their permit revised but to date no application has been received.
- 15.18 Overall the concerns expressed by the Landscape Officer about the development visually bleeding out into the landscape (including seascape), detracting from the character of those areas, are considered justified. Whilst the landscape scheme has been amended and further information submitted, it is not considered that the additional information overcomes the serious landscape impact as outlined above.
- 15.19 Accordingly the proposal is considered to be contrary to Local Plan policies ENV 1, DP23, DP10 and DP1 and to the National Planning Policy Framework, which recognises the importance of "protecting and enhancing valued landscapes" and maintaining the character of undeveloped coastlines. (Paragraphs 109 and 114).

#### Wildlife Impact

- 15.20 With regard to wildlife impact, the site lies in a sensitive location, being in close proximity to a European designated site (also commonly referred to as Natura 2000 sites). European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is also in close proximity to the Colne Estuary Special Protection Area (SPA) which is a European site. The site is also adjacent to the Colne Estuary Ramsar site<sup>1</sup> and also recognised at a national level as the Colne Estuary Site of Special Scientific Interest (SSSI). Further eastwards lies Cudmore Country Park.
- 15.21 Natural England, which is the statutory consultee on wildlife issues, has been consulted on the application and has provided a number of comments (as outlined above) including submitting additional comments following the receipt of objections received by the Essex Wildlife Trust.
- 15.22 Having regard to the comments received from Natural England and all of the information submitted by the applicant and the concerns raised by Essex Wildlife Trust it is not considered a refusal can be justified in terms of the impact of the proposal upon wildlife. The reasons for reaching this conclusion are as follows.

- 15.23 Natural England is the statutory wildlife consultee and has determined that the proposal is “unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.” Natural England has also concluded that in terms of impact on the Colne Estuary SPA, the area of the high tide roost is already managed as a country park, as an attraction for visitors and that in winter the wildlife is an important part of that attraction. “The park has therefore been carefully designed to facilitate access to and enjoyment of this area of the coast and its wildlife, and conserve and enhance the over-wintering wildlife interest. This promotes the enjoyment of the wildlife by visitors without disturbing their natural behaviour and movement. For these reasons, Natural England’s opinion is that the proposal is *not likely to have a significant effect* on the interest features of the Colne Estuary SPA.”
- 15.24 Natural England has also concluded that, if the development is carried out in strict accordance with the submitted details, it is satisfied that the proposal “will not damage or destroy the interest features for which the site has been notified... this SSSI does not represent a constraint in determining this application.” Accordingly it is not considered that this conclusion can be justifiably overruled by the Local Planning Authority and it is therefore considered that there are not sufficient grounds to refuse the proposal on the basis of impact upon these designated sites. It is agreed that the proposal is not likely to have a significant impact upon wildlife in the Colne Estuary SPA.
- 15.25 Natural England has provided a number of additional bespoke comments, having analysed the individual merits of the case and the comments received from the Wildlife Trust. It has confirmed that the overall position of no objection is maintained and has identified need for “mitigation measures to reduce anticipated disturbance effects caused by an increase in the local population.” It is also confirmed that, if the applicant implements these measures as part of their project, then Natural England does not anticipate that a formal Appropriate Assessment will be required. As the mitigation measures could have been conditioned if the application was recommended for approval, this again points to a lack of justification for refusing the application on wildlife impact grounds. Additional conclusions reached are that the overall function of the over-wintering birds of the SPA would not be compromised by the development of the area, notwithstanding that it does make some contribution for these purposes.
- 15.26 In terms of further site specific impact detail following the response from Essex Wildlife Trust, Natural England agreed that the site was a forage in site area but that the recent creation of new inter-tidal habitats at Fingringhoe, management realignment of the site and closure of the sea wall at Rewsalls may offset some disturbance. It was considered that appropriate mitigation measures could be covered by condition. Natural England also considers that whilst the site itself is a roosting resource, that its function has weakened once the land changed from arable to grassland. Accordingly it is concluded that the function of overwintering birds in the SPA has not been compromised.

- 15.27 In terms of specific impact upon the Ringed Plover the site is deemed by Natural England to be peripheral to the core breeding area and that mitigation including a financial contribution is recommended. The Local Planning Authority sees no reason to disagree with this conclusion.
- 15.28 The applicant's ecological survey has concluded that "beyond the normal requirements to avoid impacts on protected species and designated sites in the wider area, there appear to be no overriding nature conservation constraints that would preclude the development of the site." A reptile survey was also submitted with the application and this concluded that the "site supports a low-end 'good' population of Common Lizard and very 'low' population of Adder and as such does not qualify as a SSSI, SINCR or key reptile site and as a whole is considered unlikely to be of significant local value for reptiles." The report also outlines measures to ensure compliance with nature conservation legislation and states that, subject to their implementation, no adverse effects on Common Lizard and Adder populations would be expected to arise as a result of the proposed development. It is considered that these are sound conclusions.
- 15.29 Finally, with regard to the impact upon Cudmore Country Park, Natural England suggested that strengthening the boundaries on this side of the site would provide an adequate buffer to avoid significant impact.
- 15.30 Overall, having regard to all of the information submitted by the applicant, the comments and conclusions submitted by Natural England and the objections raised by the Essex Wildlife Trust it is not considered that the proposal can be recommended for refusal on the grounds of impact on upon the European Designated sites or upon wildlife on the site itself. The overall impact upon wildlife is not considered so significant to be able to justify a refusal.
- 15.31 The proposal is therefore not considered to be contrary to the provisions of the Habitat Regulations or to Local Plan Policy DP21, which aims to conserve or enhance biodiversity. The Habitats Regulations process has now been met with appropriate consideration under the requirements of Regulations 61 and 62 of the Habitats Regulations by the Council in conjunction with Natural England. Paragraph 118 of the NPPF also states that Local Planning Authorities should conserve and enhance biodiversity and avoid adverse effect upon sites within or adjacent to sites of Special Scientific Interest. For the above reasons it is not considered that the provisions of the NPPF in this respect would be contravened.

#### Archaeology

- 15.32 It has been concluded that the site is of potential archaeological significance with multi-period archaeological remains already recorded. Accordingly an archaeological evaluation was required by way of pre-determination desk-based assessment, geophysical survey and trial trenching. This approach accords with the recommended approach contained in paragraph 128 and 129 of the National Planning Policy Framework.

- 15.33 Following submission of the required evaluation the Archaeologist now concludes that an adequate geophysical survey and trial-trenched evaluation has been carried out. The archaeologist is now able to revise his previous advice, which recommended the need for predetermination evaluation.
- 15.34 He concludes: There are now no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. An archaeological Programme of Works condition is now recommended in order to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. Subject to compliance with this condition there are now no objections to the scheme on archaeological grounds.

#### Highway Safety

- 15.35 It is not considered there would be any significant impact upon highway safety from the proposal. Adequate visibility splays into the site can be provided and there would be space within the site to provide parking and manoeuvring space for vehicles associated with the use. The Highway Authority has not objected to the proposal, subject to conditions.

#### Residential Amenity

- 15.36 It is not considered that there would be a significant impact upon neighbouring residential amenity from the proposal. The site itself lies some distance from neighbouring properties and so it is unlikely that there would be significant disturbance from noise and activity within the park. Vehicular movements would not be so intensive to cause significant disturbance either.

#### Sustainable Drainage

- 15.37 With regard to the provision of a Sustainable Drainage System, Essex County Council now has no objection following the submission of additional details showing a complete drainage plan. Subject to the conditions as mentioned earlier, it is therefore considered that adequate detail has been submitted and that an adequate sustainable drainage system could be provided.
- 15.38 Policy Framework, 'more vulnerable' development types, such as the static holiday caravans are deemed appropriate within Flood Zone 1. The submitted Flood Risk Assessment confirms that in terms of other forms of flooding there is a low risk to the whole site from fluvial surface water, artificial sources, reservoirs, groundwater and sewer flooding. The Flood Risk Assessment concludes that overall flood risk is assessed as low. The agent has confirmed that there is already a flood warning and evacuation procedure in place.
- 15.39 Accordingly it is concluded that there are no objections to the proposal on flood risk grounds, including having regard to impacts caused by the development itself. As outlined above, the drainage system detail provided is adequate.

## Other Issues

- 15.40 A Traffic Assessment has been submitted and there was initial concern about how the data was derived from the Trip Rate Information Computer System (TRICS). Further information has been submitted, with the agent stating that it is anticipated that there would be 11 to 12 extra car trips per hour based on 2 trips per caravan. It is fair to say that the site has reasonably poor accessibility by public transport. Access by foot could also be unsafe and access by bicycle may be unrealistic to some families. The location of the site is therefore not considered ideal from a sustainability point of view. However, it is acknowledged the majority of people will arrive at the caravan park by car, which is the nature of such holiday parks and that there are facilities within the site to serve the holidaymakers. Access to the centre of Mersea would probably require the use of a car. Nevertheless, given the nature of the site, the fact there are on-site facilities and that sustainable opportunities have now been identified, it is not considered on balance that the proposal should be specifically refused on sustainability grounds. This, however, does not overrule the serious objections raised above as to the site being unallocated and in a sensitive countryside location.
- 15.41 Concern has been raised about the potential impact upon the centre of Mersea itself. On the one hand the development may be of benefit to the economy, by bringing more trade to local shops and other services. On the other hand there could be increased pressure on services and parking provision for example. Overall though, it is not considered the increase in tourist numbers would be so significant from 67 extra caravans to justify a refusal on the grounds of impact upon Mersea and its services. In reaching this conclusion, consideration has been given to the potential cumulative effect in relation to additional housing on the island.
- 15.42 It is not considered there would be any significant impact upon trees and other vegetation from the development. The majority of the site is grassland.
- 15.43 It is not considered that there would be any significant impact upon the setting of the Listed Building in Broman's Lane. This is considered to be far enough from the site to be affected in this respect and is also partly screened by vegetation.
- 15.44 The site lies outside the 5 km consultation zone in respect of Bradwell Nuclear Power Station. In 1999, it was announced that the station would cease operation and in 2002 decommissioning began. All spent nuclear fuel was removed from the site by 2005, the turbine hall was demolished in 2011, and by 2016 underground waste storage vaults had been emptied and decontaminated. Given the distance of the site from Bradwell and the fact that the power station has been decommissioned, it is not considered that an objection can be raised to the increase in numbers of people having emergency evacuation issues. Whilst plans to invest in a new power station on the site may come to fruition in future, at this point in time there is not a justification to object to the scheme on the grounds of proximity to Bradwell.

## 16.0 Conclusion

- 16.1 In conclusion, it is not considered the proposal can be supported in principle on the grounds of the site being within a sensitive countryside location, including within the Coastal Protection Zone and not being allocated for Caravan use in the current Local Plan. There would also be serious visual detriment to the character of this part of the landscape and countryside from the introduction of the caravans and associated works, including hard surfacing and potential lighting. Whilst there would be some economic benefits from the proposal, as outlined above, it is not considered that this would outweigh the principle policy objections and the serious visual harm that would be caused to the landscape and character of this part of the countryside from this major development.
- 16.2 The proposal is not considered to be of an appropriate scale for this location. Accordingly the proposal is considered contrary to Local Plan policies ENV 1, ENV 2, DP23, DP10, DP1 and to the National Planning Policy Framework which recognises the importance of “protecting and enhancing valued landscapes” and maintaining the character of undeveloped coastlines. (Paragraphs 109 and 114). Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. It is not considered that there are material considerations that would warrant departing from the Development Plan.

## 17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

**REFUSAL** of planning permission for the reasons set out below:

The greenfield site lies within a prominent countryside location, within the Coastal Protection Zone and on rising land that is generally elevated compared to the existing caravan park, foreshore and surroundings. The land is not allocated for caravan use in the Local Plan. The proposed use of the site for 67 caravans with associated infrastructure such as hard surfacing and potential lighting would be seriously visually detrimental to the character of the landscape and this part of the undeveloped coastline that lies within the countryside. The proposal would be of inappropriate scale for its location and would not harmonise with the local character of the area. The open nature of views across coastal farmland would be lost and there would be a severe visual intrusion and adverse impact from the 67 caravans and associated infrastructure on the undisturbed character of this part of the landscape.

The proposal would therefore be contrary to the following policies of the Colchester Borough Core Strategy (adopted 2008, revised 2014) Development Policies (adopted 2010, revised 2014, which form the Local Plan:

- (i) ENV1 which provides that development in the Coastal Protection Zone will not be permitted where it adversely affects the open and rural character of the undeveloped coastline. The policy also provides that new development in rural locations must be appropriate in terms of its scale, siting and design and that unallocated greenfield land outside settlement boundaries will be protected and enhanced where possible in accordance with the Landscape Character

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Assessment. The proposal fails to accord with the Landscape Character Assessment criteria for the above reasons.

- (ii) ENV2 which provides that leisure and tourism schemes should be of an appropriate scale, that negative environmental impacts be minimised and that such proposals should harmonise with the local character and surroundings.
- (iii) Policy DP23 which states that within the Coastal Protection Belt and along the undeveloped coast, development will only be supported where it can be demonstrated it needs a coastal location, will not be significantly detrimental to the landscape character of the coast or where there is an overwhelming public or community benefit that outweighs all other material considerations. No such public or overwhelming community development has been demonstrated. It has not been demonstrated that the site is the only available option or is acceptable on its other planning merits.
- (iv) Policy DP10 which provides that such proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside. The policy also states that where accessibility is poor, proposals should be of small scale.

The proposal would also conflict with The National Planning Policy Framework Paragraphs 28, 109 and 114 which provide respectively that rural tourism and leisure proposals should respect the character of the countryside, be in appropriate locations and that the character of the undeveloped coast should be maintained, protected and enhanced.

## **18.0 Informatives**

18.1 The following informatives are also recommended:

### **ZTB - Informative on Any Application With a Site Notice**

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





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

- 1.1 This application is referred to the Planning Committee because Councillor Nigel Chapman has called it in for the following reason: I believe development on this site can be done in a sympathetic manner to reflect its relationship to the surrounding buildings and, in particular, to the setting of the AONB. Policy DP1 states that a proposal must demonstrate that it will 'respect and enhance the character of the site, its context and its surroundings' and 'respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area'. I, together with the parish council and numerous residents believe a far better job can be done in this sensitive corner of Dedham's Conservation Area and the wider AONB.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact of the scheme on the Dedham Conservation Area and the Dedham Vale Area of Outstanding Natural Beauty (AONB). The scheme was originally a highly contemporary residential proposal but, following the objections received from the Parish and neighbours, an amended scheme was submitted. The amended scheme is traditional in approach and held to be acceptable in terms of its design and impact on the Conservation Area and AONB.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The site currently houses West End Garage. This is an industrial unit that was used as a garage workshop in a backland position, set back from the High Street behind the bungalow at Inverell. It has been disused for many years and is in a very poor state of repair. It is harmful to the Conservation Area and is not beneficial to the AONB either.
- 3.2 Inverell is a single storey dwelling as are the dwellings to the south of it. Directly to the south however is the BT Exchange building which is of a two storey height to the rear of the site, dropping to single storey towards the front. It is very unattractive.
- 3.3 To the north of the site is an undeveloped field. To the north of this is a Public Right of Way (the Essex Way) which runs in a north-westerly direction from the High Street. Glimpses of the site can be seen from this footpath. Further north beyond this are more dwellings located on the High Street.
- 3.4 To the east are the dwellings located on the opposite side of the High Street.
- 3.5 To the west of the site is open countryside and the wider Dedham Vale AONB, a landscape of visual and cultural quality that is of national significance.
- 3.6 The quality of the surrounding built environment, particularly to the north further into the historic core, is of the highest order.

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

- 4.1 The demolition of the garage workshop building and the replacement with a single dwelling is proposed.
- 4.2 The proposed dwelling would have three bedrooms on the first floor. On the ground floor a kitchen, dining room and study/snug are proposed along with another bedroom, toilet facilities and a utility room.

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

- 5.1 The land is within the defined settlement limits where development such as that proposed is held to be acceptable in principle. As noted above, the site is in the Dedham Conservation Area and in the Dedham Vale AONB.

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

- 6.1 There is no planning history of note.

#### **7.0 Principal Policies**

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

SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets  
TA5 - Parking  
ENV1 - Environment  
ENV2 - Rural Communities  
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity  
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses  
DP9 Employment Uses in the Countryside  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes  
DP22 Dedham Vale Area of Outstanding Natural Beauty

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

None Relevant

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Backland and Infill  
Open Space, Sport and Recreation  
Sustainable Construction  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
ECC’s Development & Public Rights of Way  
Dedham Vale AONB Management Plan  
Dedham Parish Plan  
Dedham Village Design Statement

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as summarise below. More information may be set out on our website.
- 8.2 Highway Authority: No objections subject to conditions.

- 8.3 Environment Agency: Initially gave a response of no objection but raised issues of concern with the contaminated land report, in particular with the lack of clarity with it regarding the possible impact on the water environment. Following an amended report the Environment Agency has no objections subject to conditions.
- 8.4 Natural England: No objections.
- 8.5 Environmental Protection: No objection but request a note regarding demolition and construction is added to the decision notice.
- 8.6 Contaminated Land Officer: Based on the information provided, it would appear that this site could be made suitable for the proposed new use, with the remaining contamination matters dealt with by way of condition. Consequently, should permission be approved for this application, Environmental Protection would recommend inclusion of five contaminated land conditions.
- 8.7 Arboricultural Officer: I am in agreement with the conclusions and recommendations made within the tree report provided and the revised tree protection plan. Tree protection conditions are requested. Please make the Tree Protection Plan one of the approved drawings.
- 8.8 Landscape Planning Officer: No objection to this application on landscape grounds. Bespoke Landscaping condition requested.
- 8.9 Archaeology: The proposed development is located within the historic settlement core recorded in the Colchester Historic Environment Record. There is high potential for encountering below-ground heritage assets of the medieval period at this location.

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

- 8.10 Historic Buildings and Areas Team: Note: due to the sentiments of the call-in, this has been set out in full:

**1.0 Heritage Asset: Summary of Significance**

*The Dedham Conservation Area is arguably of national significance by reason of the wealth of early vernacular buildings and the associations with the work of John Constable. Furthermore, this is enhanced by the significance of the associated AONB landscape designation.*

**2.0 Scope of Works: Summary**

*Demolition of C20 garage buildings and erection of two storey dwelling.*

### **3.0 Relevant Statutory Duties**

*S.72(1) of the PI (Lb & Ca) Act 1990 and 66(1) of the 1990 Act in terms of the desirability of preserving and enhancing the character and appearance of the wider conservation area, preserving and enhancing the setting of listed buildings in the locality and in addition 85(1) of the Crow Act 2000 that requires a planning authority to take steps to accomplish the purpose of conserving and enhancing the natural beauty of an AONB; and must have regard to that purpose in exercising any function in relation to, or affecting land in, an AONB.*

### **4.0 Analysis of Impact Upon Heritage**

*The site is set to the rear of an interwar bungalow forming part of a similar ribbon development at this gateway into the historic town. The existing buildings are of no particular significance or aesthetic quality and do not contribute positively to the character or appearance of the conservation area visually or in terms of significance. The redevelopment of this site is to be welcomed in principle.*

*The application site is materially set back from the street frontage and serves as a foil to the development that lines the street. It does play a wider role in the settlement edge and is visible in countryside views from the network of PROW footpaths to the north.*

*The revised scheme adopts the form of a vernacular framed structure echoing the silhouette of a cross wing with subordinate single storey range. The use of pentice boards and haphazard glazing to the flank serves to reinforce this impression. The proportioning is also appropriate and the limited palette of natural facing materials respects the character of historic buildings within the conservation area. The simplicity of the proposed fenestration and familiarity of the built form would result in an appropriate and honest building with an understated presence in the landscape and settlement. The use of detailing and quality materials will be essential in this sensitive location to successfully translate these design aspirations into a reality.*

*In terms of the relationship of the development to the streetscene, a narrow entrance flanked by hedging will ensure the unbroken continuity of the existing street frontage and will serve to heal the discontinuity that would otherwise harm the conservation area.*

### **5.0 Compliance with Relevant Policy**

*Paragraphs 126-141 of the framework requires that heritage assets are conserved in a manner proportionate to their significance and that harm is avoided or where essential and unavoidable in the wider public interest that adequate mitigation is provided. Paragraphs 63 and 64 set out the Government's commitment to design quality and state: "63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.*

*64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."*

*The statutory duties identified above are reflected in the adopted local plan (DP1, DP14, DP22, UR2, ENV1) In my opinion, the revised proposals by reason of their contextual compatibility are in conformity with statute, national and local design and heritage related policies.*

## **6.0 Conclusions & Recommended Actions**

*The revised proposed development would serve to enhance the wider conservation area and AONB through the removal of a building/use that currently detracts from the significance and appearance of the conservation area and wider AONB designation.*

## **7.0 Suggested Conditions**

- *Large scale details of ridges, verges, eaves, flat roof and fascia, dormers, all windows and doors, pitching door, lintel and sill details, reveals, plinth, flue and extract vent terminals, rainwater goods.*

## **9.0 Parish Council Response**

### **9.1 Dedham Parish Council have commented as follows:**

We welcome the new application in its attempt to demonstrate a more appropriate design however we strongly object and make the following points. Perspective images clearly demonstrate how overbearing the two storey development is in relation to the foreground bungalow. The aerial perspective also shows how much the site would be overdeveloped and squeezed into a small plot leaving little garden space, except for that required to provide the right of way access through to the fields behind.

The street scene does consist entirely of low level bungalow developments except for the utility exchange building. Justification for the two-storey build seems to be based on that exchange which was subject to different planning rules and was very strongly objected to at the time.

The Landscape and Visual Appraisal report continually refers to the low quality build form of the rest of the properties on that side of the road, we are sure that our residents will make of that what they will. They are well maintained and are classic for the time in which they were built, they are low level and minimise the impact upon the views across the Vale. The one of poor build quality is the exchange and the point regarding its planning rules has already been made, we trust that would be refused if it was subject to domestic planning conditions, one inappropriate building should be no justification for another.

In summary, this revised application does not address the overbearing and overdevelopment points that we made previously, it is not "insignificant" as they suggest. The site is within the conservation area and AONB, whilst we recognise that the existing building is an outdated workshop, it is a single-storey commercial premises. We would welcome the opportunity to view proposals for a single-storey replacement dwelling of an appropriate size and design that complements the rest of the street scene.

We strongly object to this proposal and we do not support any change of use or planning consent based on this application.

If officers are minded to grant consent then we will work with our Ward Councillor to effect a call in to the full planning committee.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below. 18 objections and one letter of support were received prior to the amended drawings and full re-consultation. 13 objections and one general comment was received afterwards. This includes two objections from the Dedham Vale Society.

In summary the representations objected to the scheme for the following reasons:

- The scheme is unattractive in this prominent and important site.
- The scheme should be of a better design.
- Contemporary design is fundamentally unacceptable.
- The scheme is harmful to the Conservation Area and AONB.
- The scheme should be single-storey like the other bungalows.
- The BT Exchange should not be used to justify something of this scale.
- The amended scheme is an improvement on the initial submission.
- The altered plans are more in keeping.
- The applicants should have been made to submit a full new application and not amend the current one.
- One of the trees on site is not a sapling as the tree report suggests.
- The scheme represents overdevelopment.
- The scheme is too high and too massive.
- Loss of views out towards the Dedham Vale.
- The rear windows would be very visible from the AONB.
- The scheme will harm the darkness of the AONB.
- The scheme would set a dreadful precedent.
- The development should have bay windows.
- The detailing is wrong and the false pitching door is 'bogus'.
- I live adjacent to the site and support the scheme as it will be far more attractive than the existing situation in terms of design and compatibility of use.
- It will be better than the crumbling repair garage.
- No objection to the redevelopment of the site for a single dwelling.
- No objection to the scale of the proposal but the design should be much improved.

## **11.0 Parking Provision**

11.1 The proposal provides two off street parking spaces in accordance with the adopted SPD.

## **12.0 Open Space Provisions**

12.1 As a single dwelling this scheme raises no public open space issues.

### **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 Planning Obligations**

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

### **15.0 Report**

#### The Principle of Development

- 15.1 The site is located within the defined settlement boundary where residential development such as this is acceptable in principle.
- 15.2 As the site has an existing commercial use, the scheme also needs to be assessed in terms of Development Policy DP5 which seeks to protect employment uses.
- 15.3 The scheme has come with a report that sets out the reasons for the proposed demolition and replacement with a dwelling. The application has been supported by a Viability Appraisal and a Planning Statement that sets out the likelihood of a commercial use being viable in this location, taking into account the need for such significant work or rebuild, including the cost of site decontamination. It notes that the unit was for sale for 19 months prior to the applicant's purchase and no interest in a commercial use was received in that time. The applicant's offer was the only one the vendor received.
- 15.4 Both the Viability Appraisal and the Planning Statement conclude that there is little or no reasonable future for a commercial use in this location.
- 15.5 Along with the issue of viability, this is a primarily residential part of Dedham. Retaining or intensifying a B2 use in this location is highly likely to have a material impact on the amenity of surrounding neighbouring properties, some of which are very close to either the site or the access point. Despite the objections received there does not appear to be any groundswell of local support for the retention of a commercial use in this location. On that basis the scheme is held to comply with criterion i to v in DP5.

Paragraph 51 of the NPPF states:

*Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers. They should normally approve planning applications for change to residential use and any associated development from commercial*

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*buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.*

- 15.6 In this instance there are no strong economic reasons for the retention of the commercial use. On that basis the loss of the employment use is held to be acceptable in this instance.
- 15.7 The appendix to DP5 looks at the possibly for providing a commuted sum to compensate for the loss of employment land. The supporting Planning Statement does not consider it reasonable to require one in this instance and in line with the NPPF and PPG officers agree, particularly when the cost of decontaminating the site has been factored in. This has been estimated by the architect to be between £60,000 and £80,000 but it has the potential to be greater.
- 15.8 Therefore, when considered against the backdrop of the benefits the scheme will provide, in terms of impacts on amenity and benefits to character of the area it is not held to be reasonable to require a commuted sum in this instance.

#### Design and Layout including impact on the Conservation Area

- 15.9 As set out by the Ward Member Call-in, the Parish Council and the majority of the representations received, the design of the proposal is held to be the key issue.
- 15.10 High quality design is required by The NPPF and PPG. This is carried forward in the development plan through policy DP1 which requires good design throughout the Borough. The bar is set higher in this location due to the Conservation Area location and the Dedham Vale AONB. Policy DP14 requires development in Conservation Areas to meet the legal test of 'preserve or enhance'. Very much in line with this, the Dedham Parish Plan and in particular the Dedham Village Design Statement require the highest quality design. Traditional materials and vernacular designs are encouraged.
- 15.11 As originally submitted, the dwelling with a contemporary flat roofed and zinc clad building. Whilst it had some merit as a building in its own right it was felt by officers that it was inappropriate in this sensitive location. The applicants were also mindful of the neighbouring responses, most of which concurred with this stance.
- 15.12 The applicant's agent met with Council officers and following a discussion went away and produced the amended scheme that is now before members.

- 15.13 The proposal now comprises a dwelling of a similar footprint to the commercial building it replaces. It has an element with low eaves and accommodation into the loft with rear-facing dormers. It also has a taller cross-wing with gable ends. One of these will be visible down the access way. This gable end is punctuated by a false pitching door and a high level window above that. Filling in the L-shape between the two ranges is a more contemporary flat roofed element with roof lights producing a rectangular footprint. The rest of the site will be used for parking and amenity space.
- 15.14 As can be seen in the Major Project Team Manager's response above (which has been reproduced in full due to the sensitivity of this site), the Historic Buildings and Areas Team now supports the scheme. It is held to be appropriate in terms of design, scale and layout. It is an architecturally honest building of a traditional form and will preserve the Conservation Area. It is not held to constitute overdevelopment.
- 15.15 A number of representations stated that they would prefer to see a single storey dwelling on this site. Your Officers consider that a high quality, two-storey approach such as the one that has been proposed is the optimum solution for the site.

#### Impacts on Neighbouring Properties:

- 15.16 As originally submitted, the dwelling had a large first-floor picture window which had a very unfortunate relationship with the bungalow and garden at Inverell. This overlooking was pointed out to the architects and they have resolved this in the amended scheme. The gable end that faces down the access and toward the garden of Inverell has a false pitching door inserted centrally. This adds some visual interest to the centre of the gable but avoids the direct overlooking to the garden. A small high level window sits above this but due to the height it raises no overlooking issues.
- 15.17 The scheme is held to be acceptable in terms of its relationship to Inverell and is not held to cause materially harmful overbearing or loss of light to this or any other neighbour. Representations have noted that this scheme could cause loss of views, however planning does not seek to protect private views so this does not warrant a refusal. Therefore as amended the scheme is held to be acceptable in terms of its impact on the neighbours.

#### Amenity Provisions

- 15.18 The dwelling will fill much of the area of the site that is currently taken up by the workshop building. This leaves the majority of the amenity space to the north beyond the parking area. There is also a small but secluded and useable patio area to the west of the building served by the patio doors. The space is in excess of the 100 square metres as set out in DP16 for a four bedroom house.

- 15.19 The precise nature of the amenity space will be dealt with by landscaping condition to ensure that the access-way, car parking and the private amenity space are all laid out successfully. There is sufficient space on site for this to be achieved.
- 15.20 It is noted that there is an easement (for access purposes) that runs along this section of the site from the road to the field behind. The area can be used for parking and for amenity space but no immovable structures can be put across it in case the easement does need to be used.

#### Landscape and Trees

- 15.21 As the scheme is within the AONB, Development Policy DP22 requires it to make a positive contribution to the special landscape character and qualities of the AONB. It must not adversely affect the the character, quality views and distinctiveness of the AONB and must support the wider objectives of the Dedham Vale AONB Management Plan.
- 15.22 The Council's Landscape Planning Officer originally had concerns with the scheme and with the submitted Landscape and Visual Impact. These were set out to the applicant.
- 15.23 Following this the scheme was amended to the proposal now before Members. An amended Landscape Visual Impact Assessment was also submitted. It concluded that the Landscape Impacts would be 'Negligible' and the Visual Impacts would be 'Insignificant'. It goes on to state that the new dwelling will not be predicted to have a significant impact on the landscape of the Dedham Vale AONB, on residential views or on the amenity of footpath users. It considered the new dwelling to be markedly more attractive than the adjacent buildings and more sympathetic to the residential character of the High Street than the workshop buildings currently on site. Whilst accepting there would be some night time 'glow' from the rear patio doors in particular, it did not consider the scheme to have a materially harmful impact on the darkness of the AONB in the context of the existing village edge.
- 15.24 Following the amended design and amended Visual Impact Assessment, the Landscape Planning Officer has no objections to the scheme subject to a bespoke landscaping condition. On that basis the scheme is held to enhance the ANOB and therefore complies with DP22.

#### Highway Safety and Parking Provisions, including Cycle Parking

- 15.25 This proposal replaces a lawful commercial use with a single dwelling. On that basis the scheme will not cause a materially harmful impact on the highway network. Two off street parking spaces that accord with the adopted standards will be provided.

- 15.26 The Highway Authority has not objected to the scheme subject to conditions. These will be imposed apart from the requirement for cycle parking which does not meet the 'six tests' as set out in the PPG. Cycles can be stored within the house as is normally the case with individual dwellings. In this location within the settlement limits it would be unreasonable to require external cycle storage.

Ecology:

- 15.27 The scheme has come with a protected species survey. This considered the site and the dilapidated building to be of low value ecologically. No further surveys were suggested.

Land Contamination

- 15.28 As a former garage and associated workshop it is inevitable that the land is question will be contaminated. The scheme has come with a Phase 1 Contamination Report to investigate the level of contamination present on site. The Environment Agency and the Council's in-house Contaminated Land Officer required further details which were then supplied by the consultants as a supplementary report. Both the Environment Agency and the in-house Contaminated Land Officer are now satisfied that, subject to the conditions that Members will find at the end of this report, the site can be successfully decontaminated to be made fit for residential use and to prevent harm to the external water environment.

## **16.0 Conclusion**

- 16.1 To summarise, as amended the replacement of this small industrial use with one sensitively designed dwelling is held to be acceptable in terms of the small loss of employment land and in terms of the design in this sensitive location. An approval is recommended.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

### **1) ZAA - Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

## **2) ZAX - \*Development to Accord With Approved Plans (qualified)\***

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 5051 P02\_A, 5051 P04\_C, 5051 P05\_A, 5051 P06\_A and 11471.01 REV B.

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

## **3) ZBC - Materials To Be Agreed**

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

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

## **4) Z00 – Bespoke Details**

None of the elements listed below shall be constructed or installed in the construction of the development hereby permitted until precise details (at a scale of 1:20 or greater) of ridges, verges, eaves, flat roof and fascia, dormers, all windows and doors, pitching door, lintel and sill details, reveals, plinth, flue and extract vent terminals and rainwater goods have been submitted to and approved, in writing, by the Local Planning Authority. Such details as may be approved shall be those used in the development.

Reason: In order to ensure that these details are of a high quality befitting the sensitive Conservation Area location as there are insufficient details within the submitted planning application.

## **5) Z00 - Archaeological Work**

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 which has been previously submitted to and approved, in writing, by the Local Planning Authority.

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

- a. The programme and methodology of site investigation and recording.
- b. Provision to be made for analysis of the site investigation and recording.
- c. Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation.
- d. Provision to be made for archive deposition of the analysis and records of the site investigation.
- e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.

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).

#### **6) Z00 - Bespoke Landscaping**

Prior to the first occupation of the development, full details of all landscape works shall be submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Proposed finished levels or contours;
- Means of enclosure;
- Hard surfacing materials;
- Earthworks (including 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)
- 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.

#### **7) ZFE - 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.

**8) Z00 - 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 as shown in the tree report by Land and Sculpture Design Partnership (Ref: LSDP11471.01 Rev B) dated December 2016. 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.

**9) ZFS - Tree and Hedgerow Protection: General**

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

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

**10) ZFU - Tree Canopy Hand Excavation**

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

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

**11) Z00 – Arboricultural Supervision**

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition 8 has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

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

Reason: To ensure the tree protection is installed and maintained during the construction phase in order to protect trees on the site in the interest of visual amenity.

**12) Z00 – Access width**

Prior to first occupation of the proposed development, the proposed vehicular access shall be reconstructed at right angles to the highway boundary and to a width of 4.2 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

**13) Z00 – No unbound materials**

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

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

**14) Z00 – Closure of old access**

Prior to the occupation of the development hereby approved, the applicant shall submit details showing amendments to the existing access (including the dropped kerb) so that it is reduced to a size required for normal domestic use to the satisfaction of the Local Planning Authority. This shall include the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority. All of these amendments shall be in place prior to occupation of the dwelling and shall be retained as such.

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

**15) Z00 – Provision of Car Parking Spaces**

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in the revised drawing. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

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

**16) Z00 – Construction Method Statement**

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

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

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

### **17) Z00 - Bespoke Removal of PD for All Residential Alterations, Extensions & Outbuildings**

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no alterations may be made nor extensions, ancillary buildings or structures be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority. Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance in this sensitive location within the AONB and the Dedham Conservation Area.

### **18) Z00 – Bespoke Removal Of PD for Walls/Fences and Enclosures**

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 apart for those expressly permitted by discharge of the bespoke landscaping condition, shall be erected anywhere on the site.

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

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

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

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

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

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

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 19, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 20, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 21.

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) ZG3 - \*Validation Certificate\***

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 22.

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) Z00 – Bespoke Drainage Design**

No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to the water environment. The development shall be carried out in accordance with the approval details.

Reason: To protect and prevent the pollution of the water environment (particularly the Secondary A and Principal aquifers, Source Protection Zone 1, River Stour and EU Water Framework Directive Drinking Water Protected Area) in line with National Planning Policy Framework (NPPF; paragraphs 109, 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) G1, G9 to G13, N7 and N10. The water environment is potentially vulnerable and there is an increased potential for pollution from inappropriately located and/or designed infiltration sustainable drainage systems (SuDS) such as soakaways, unsealed porous pavement systems or infiltration basins.

### **25) Z00 - Bespoke Foundation Design**

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

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

## **26) Z00 – Bespoke EA contamination condition**

No development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved, in writing, by the local planning authority:

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

Reason: To protect and prevent the pollution of the water environment (particularly the Secondary A and Principal aquifers, Source Protection Zone 1, River Stour and EU Water Framework Directive Drinking Water Protected Area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 – A6, J1 – J7 and N7.

## **27) Z00 – Bespoke EA contamination condition**

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

Reason: To protect and prevent the pollution of the water environment (particularly the Secondary A and Principal aquifers, Source Protection Zone 1, River Stour and EU Water Framework Directive Drinking Water Protected Area) from potential pollutants associated with current and previous land uses in line with National

Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 – A6, J1 – J7 and N7.

**28) Z00 – Bespoke EA contamination condition**

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect and prevent the pollution of the water environment (particularly the Secondary A and Principal aquifers, Source Protection Zone 1, River Stour and EU Water Framework Directive Drinking Water Protected Area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 – A6, J1 – J7 and N7.

**29) Z00 – Bespoke EA contamination condition**

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

Reason: To protect and prevent the pollution of the water environment (particularly the Secondary A and Principal aquifers, Source Protection Zone 1, River Stour and EU Water Framework Directive Drinking Water Protected Area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 – A6, J1 – J7 and N7.

### 30) Z00 – Ecology

No work shall be carried out on site except in complete accordance with the details set out in section 4 (Assessment and Recommendations) of the submitted ecology report.

Reason: In the interests of ecology.

## 18.0 Informatives

18.1 The following informatives are also recommended:

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

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

### (2) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

### (3) ZTB - Informative on Any Application With a Site Notice

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

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B @ <http://www.colchester.gov.uk/article/13592/Landscape-Guidance-for-Developers>.

### (4) NOTE: Demolition and Construction

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.

**(5) Informative on Archaeology:**

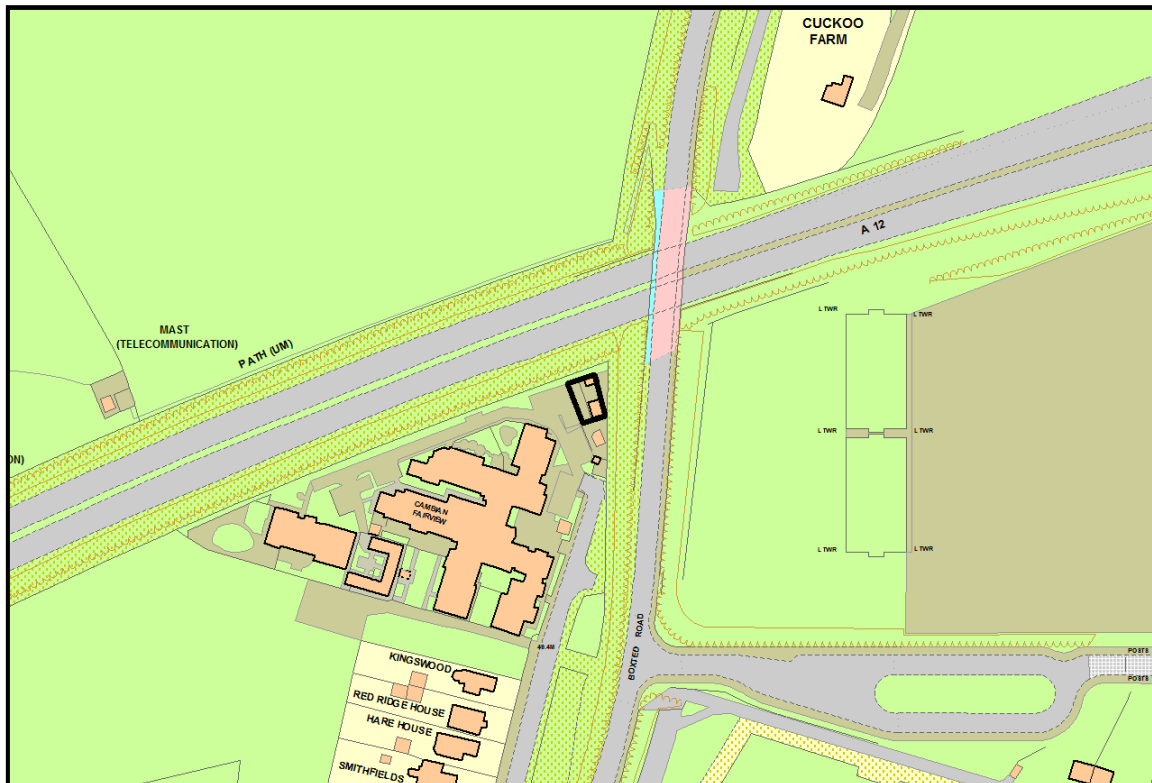
PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk>

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

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

email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

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



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**Item No:** 7.5

**Application:** 171518

**Applicant:** David Kay

**Agent:** KLH Architects Ltd

**Proposal:** Retention of existing maintenance compound.

**Location:** Cambian Fairview, Boxted Road, Colchester, CO4 5HF

**Ward:** Mile End

**Officer:** Eleanor Moss

**Recommendation:** Conditional Approval

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

- 1.1 This application is referred to the Planning Committee because Councillor Goss called it in for the following reason:

*This application is the third submission as the previous two applications have been withdrawn. The application has been submitted to resolve a previous deficit in parking where an illegally placed building has used the spaces.*

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact of the maintenance compound on the character and appearance of the area and impact upon parking and highways safety.
- 2.2 The maintenance compound is not considered to have a harmful impact on the character and appearance of the area.
- 2.3 The proposal does result in the loss of up to eight car parking spaces however the Highway Authority does not raise an objection to the scheme and therefore it is not considered there will be a harmful impact upon highway safety.
- 2.4 The application is subsequently recommended for approval as the retrospective application is considered to be acceptable.

## **3.0 Site Description and Context**

- 3.1 Cambian Fairview (formally known as St Pauls) Hospital lies at the northern edge of the built up area of Colchester immediately to the south of the A12 Trunk Road. Access is by way of a cul-de-sac off the west side of Boxted Road which also serves a ribbon of residential properties on its western side. The area between the cul-de-sac and Boxted Road proper is well treed and this, coupled with the existence of arable land to the west, gives the area a semi-rural character.
- 3.2 The hospital itself occupies a site of 0.8 ha. It provides care to people with learning disabilities and is organised in a series of accommodation blocks and lodges up to two storeys in height, plus secure courts. The predominant building materials are red brick, black boarding, clay pantiles and slates. The existing car parking areas are in the northern and north-eastern parts of the site.

## **4.0 Description of the Proposal**

- 4.1 This application seeks planning permission for a maintenance compound, comprising an office, a shed and two storage containers. This results in the loss of up to eight car parking spaces. The application has been supported by a planning statement which provides the following justification:

- 4.2 The compound is required on site, to provide a maintenance/ storage facility to support the on- site maintenance team. Due to the mental ability of the residents, it is unfortunate that this places a great stress on the fabric and internal fixtures and fittings of the buildings, and it is common to undertake repairs to doors, windows, walls and furniture, where they have been damaged.
- 4.3 Repairs cannot be delayed whilst materials are ordered and delivered, so it is essential that the maintenance team have immediate access to stored materials, tools, temporary hoardings etc., to be able to maintain a safe environment for all residents and staff.

## **5.0 Land Use Allocation**

- 5.1 Residential Institution

## **6.0 Relevant Planning History**

- 6.1 F/COL/00/1696 - Addition of bedroom and shower room to Eleni House, demolish garages at Recit-Et-Eve and extend to provide 3 extra bedrooms, lounge and staff rooms, Construct new 8 bedroom self contained lodge - Approved 15 March 2001
- 6.2 F/COL/02/0396 - 2 No. 8 bedroom residential care homes at 2 storeys - Approved 24 June 2002
- 6.3 F/COL/02/0487 - Reconstruction of existing care home - Approved 25 July 2003
- 6.4 F/COL/03/0898 - Proposed spa room extension - Approved 25 July 2003
- 6.5 F/COL/04/1205 - New boundary treatments - Approved 16 August 2004
- 6.6 F/COL/05/0069 - New enclosure for water main booster set - Approved 9 March 2005
- 6.7 090631 - Erection of three metre high fence around perimeter of the hospital site - Approved 30 June 2009
- 6.8 091084 - Erection of 3.9 metre high fence around perimeter of the hospital site - Approved 3 November 2009
- 6.9 101766 - Erection of new activity centre, extensions, replacement gatehouse, acoustic fencing and replacement septic tank with pumping chamber. Approved 8 November 2010
- 6.10 110658 - Minor material amendment to 101766 to include additional flat roof extension and alteration to entrance lobby to Eleni House. Approved 12 May 2011

## **7.0 Principal Policies**

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

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

H3 – Housing Diversity  
SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
UR2 - Built Design and Character

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

DP1 Design and Amenity  
DP19 Parking Standards

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

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

The Essex Design Guide  
EPOA Vehicle Parking Standards

## **8.0 Consultations**

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

8.2 Highways Agency has not raised an objection to the proposal

8.3 Highway Authority has not raised any concerns to the proposal and have recommended a number of conditions. These recommended conditions will be imposed on any planning consent.

## **9.0 Parish Council Response**

### **9.1 Myland Community Council has stated the following:**

MCC note that two similar applications have already been submitted and then withdrawn by the applicant. We would like to see this matter brought to a conclusion, as the compound has now been in place for five years.

We note the applicant has a parking plan in place and we would wish to make sure this goes ahead and is monitored to prove it is effective.

We note the concerns of residents living in the vicinity of the application site.

## **10.0 Representations from Notified Parties**

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

- Concerns regarding parking on the highway
- Concerns regarding overdevelopment of the site

### **10.2 Councillor Goss submitted the following objection:**

This will be the third application as the previous two have been withdrawn. The application has come about as previously agreed car parking was being used for a building which meant the car parking allocation was under the agreed planning application.

The lack of car parking and enforcement has impacted local residents as the staff park on the streets blocking driveways of residents and cause issues. This application should be rejected.

## **11.0 Parking Provision**

### **11.1 The proposal complies with car parking standards as there are no minimum standards for care institutions.**

## **12.0 Open Space Provisions**

### **12.1 N/A**

## **13.0 Air Quality**

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

## **14.0 Planning Obligations**

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

## **15.0 Report**

### Background:

- 15.1 Core Strategy Policy H3 supports developments such as these that provide support and care for vulnerable people in society and increase the range of healthcare facilities in the Borough. However, Committee has previously expressed concerns at the incremental expansion of this site with the potential to lead to its overdevelopment. Furthermore, it is noted that neighbouring dwellings have complained for a number of years in relation to nuisance parking from Cambian Fairview staff and visitors.
- 15.2 For the most part, however, the maintenance compound is relatively minor and has little impact on views from outside the site. The Highway Authority has been consulted and has recommended that conditions be imposed upon any planning permission. The facilities to be provided are beneficial to the smooth running of the hospital, do not increase staff or visitor numbers and are therefore not intensifying activity in and around the site.

### Impact on the Surrounding Area

- 15.3 The visual impact of the compound is mitigated by the boundary fence and it is located firmly within the application site, therefore there are very limited views from outside of the site. Given the very limited views from the public realm, it is not considered the proposal has created a harmful impact upon the character and appearance of the area.

### Impact on Neighbouring Properties

- 15.4 The proposal is for a maintenance compound, the site will retain existing numbers of patients and staff, therefore it is unlikely that activity levels on site will increase. As such, it is not considered the proposal is likely to increase noise and disruption.

### Highways Safety and Parking Provisions

- 15.5 The site is located at the end of an access road, which terminates at Cambian Fairview. The road serves a number of dwellings as well as Cambian Fairview and it adjoins Boxted Road via a T-junction. It is acknowledged that parking is not restricted on the surrounding road network, therefore parking on the highway is legal. Furthermore, parking on the highway is not a planning matter.

- 15.6 It is noted that members of staff and visitors of Cambian Fairview have parked along the highway, causing a nuisance to neighbouring properties. However, as this is unrestricted and it is legal to do so, causing an inconvenience to neighbouring properties would not be a robust reason for refusal.
- 15.7 The application has been amended as the concerns from neighbouring properties have been noted. The changes include hiring car parking spaces at the neighbouring stadium for members of staff. The hope is that these changes will reduce the amount of staff parking on the highway. Site visits have been undertaken by your Officer and it is noted that the changes have resulted in fewer cars being parked on the highway.
- 15.8 Within the current car parking standards, there is no requirement to provide minimum car parking. However, the applicant has noted the concerns raised in relation to unneighbourly parking and secured 25 car parking spaces at the stadium, changed day staff contracts to ensure parking is at the stadium and erected signs advising staff to not park on the highway. Cambian Fairview will monitor the situation themselves and have confirmed that the park and ride service will be available to members of staff, free of charge, when there is a match at the stadium. It is important to note that the planning authority does not have jurisdiction over the highway and therefore would not be able to impose parking restrictions.

## **16.0 Conclusion**

- 16.1 It is not considered that this scheme is objectionable in terms of land use or impact upon the area and neighbouring amenity. It offers solutions to problems experienced by encouraging day staff to park at the stadium and is, on balance, recommended for approval.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for APPROVAL of planning permission subject to the following conditions:

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 3363-KLH-0100 Revision P01 and 3363-KLH-00-00-00-A-0103 Revision P02.

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

## **2. Z00 – Highways**

Within 28 days of the date of this decision, the applicant shall provide details of the number, location and design of cycle parking facilities sufficient for all employees and visitors who wish to access the site by bicycle. These details shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered, shall be provided within 28 days of the LPA agreeing the details and shall be retained for the purpose of cycle parking at all times thereafter.

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

## **3. Z00 – Highways**

Within 28 days of the date of this decision, the Developer shall submit a Business Travel Plan in writing to the satisfaction of the Local Planning Authority and shall provide and implement this scheme within 28 days of the LPA agreeing the details and shall retain the approved scheme at all times thereafter.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

## **4. Z00 – Highways**

Within 28 days of the date of this decision, the Developer shall provide a schedule / timetable of the proposed minibuss shuttle runs between the off-site parking facilities and the development site to the satisfaction of the Local Planning Authority and the shuttle bus shall be provided as agreed at all times thereafter. This timetable shall be made available to all employees and visitors and shall be maintained all times thereafter.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport

## **18.0 Informatives**

18.1 The following informatives are also recommended:

- (1) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.
- (2) The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

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

The applicant should be advised to contact the Essex County Council travel plan team on [travelplanteam@essex.gov.uk](mailto:travelplanteam@essex.gov.uk) to make the necessary arrangements for the provision of the Travel Plan.

Report of	Assistant Director: Policy & Corporate	Author	Andrew Tyrrell
Title	Changes to the Scheme of Delegation		
Wards affected	All Wards		

**This report concerns two minor changes to the Scheme of Delegation to clarify one category of delegated powers. This is to remove reference to “Conservation Area Consents” which no longer exist, and to allow the refusal of applications where a s106 agreement is required, but is not being provided by the applicant(s), without referral to the Planning Committee.**

## 1. Decision(s) Required

- 1.1 To change the wording of criteria 1(d) that is already delegated from the Planning Committee to the Assistant Director – Policy and Corporate in the existing Scheme of Delegation by removing the struck through bold text below and adding in the bold underlined text as follows:

“1. The determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, ~~Conservation Area Consent~~, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application:

(a) ...

(b) ...

(c) ...

d) which constitutes a major application, that is recommended for approval and where a section 106 Agreement is required (excluding unilateral undertakings);

(e) ...”

- 1.2 For confirmation, no other changes would be made to criteria a, b, c etc.

## 2. Reasons for Decision(s)

- 2.1 This change to the Scheme of Delegation is requested to update the Scheme to reflect the cessation of Conservation Area Consents as an application type, and to allow applications that are being refused (but where a s106 would have been required) to be refused without delay.

- 2.2 At present, the wording of criteria (d) does not allow for any interpretation or flexibility. The purpose of ensuring that s106 agreements can only be approved as part of a planning permission granted through the Committee are obvious, with money normally being paid to the Council and the greater need for this to be completely transparent and also not down to one or two officers.

- 2.3 However, the way the Scheme is worded, officers are also not allowed to refuse any application where a s106 agreement “is required”, including those which are unacceptable. That may be either because the applicant refuses to enter into that agreement and pay obligation to mitigate their impact required by policy, or may be for unrelated reasons such as poor design, highway safety, contamination, noise etc.
- 2.4 It is suggested that where no planning permission is being granted, and therefore no money would change hands between involved parties, then the need for this decision to come before Committee is diminished if the application would not be acceptable anyway. In such circumstances, it is considered that the application should be refused under delegated powers because it does not meet the Councils policies.

### **3. Alternative Options**

- 3.1 The alternative options are to retain the wording as it is now.

### **4. Supporting Information**

- 4.1 Members of the Committee will be familiar with the Scheme of Delegation already, however copies of this can be found on the Councils website. The latest version is from August 2017.

### **5. Proposals**

- 5.1 To change the current wording as set out in section 1.1 of this report.

### **6. Standard References**

- 6.1 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.