

# Planning Committee Meeting

**Online Meeting, Virtual Meeting Platform  
Thursday, 09 July 2020 at 18:00**

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

## Information for Members of the Public

### Access to information and meetings

You have the right to observe all meetings of the Council, its Committees and Cabinet including those which may be conducted online such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

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

Occasionally certain issues, for instance, commercially sensitive information or details concerning an individual have to be considered in private. When this is the case an announcement will be made, the live broadcast will end and the meeting will be moved to consider in private.

### Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. Planning Committee meetings, other than in exceptional circumstances, are subject to one representation in opposition and one representation in support of each application. Representations can be a statement or questions of no longer than three minutes when spoken (maximum 500 words) submitted online by noon on the working day before the meeting date. Please use the form [here](#).

If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

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

**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 09 July 2020 at 18:00**

**The Planning Committee Members are:**

Councillor Cyril Liddy	Chairman
Councillor Lyn Barton	Deputy Chairman
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn Warnes	

**The Planning Committee Substitute Members are:**

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

**Councillors:**

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

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

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

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

**Live Broadcast**

Please follow this link to watch the meeting live on YouTube:  
<https://www.youtube.com/user/ColchesterCBC>

**1 Welcome and Announcements (Virtual Meetings)**

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all

Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

**2 Substitutions**

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

**3 Urgent Items**

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

**4 Declarations of Interest**

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

**5 Planning Committee minutes 18 June 2020**

7 - 16

The Councillors will be invited to confirm that the minutes of the meeting held on 18 June 2020 are correct a record.

**6 Have Your Say! (Virtual Planning Meetings)**

At meetings of the Local Plan Committee, members of the public may make representations to the Committee members. Each representation, which can be a statement or a series of questions, must be no longer than three minutes when spoken (500 words maximum). One single submission only per person and a total limit of 30 minutes (10 speakers) per meeting. Members of the public may register their wish to address the Committee members by registering online by 12 noon on the working day before the meeting date. In addition, a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself. The Chairman will invite all members of the public to make their representations at the start of the meeting.

These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each.

**7 Planning Applications**

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

- 7.1 **183046 Land to the north of Mill Buildings, Wakes Colne Mills, Colchester Road, Wakes Colne, Colchester** 17 - 86

Demolition of solid fuel processing buildings; removal of built up hard surfaces against north wall of coach house with associated regrading of land; removal of wider coal yard hard surfaces; conversion of coach house to dwelling with single storey extension; erection of a pair of attached dwellings on coal yard; reorientation of yard access road; erection of detached four bay garage; associated hard and soft landscaping including improvements to public footpath corridor and biodiversity; implicit change of use from coal yard to two residential properties (Class C3) with private meadow.

- 8 **Applications Determined in Accordance with Officer Scheme of Delegation** 87 - 88

See report by the Assistant Director, Policy and Place giving details of the applications which have been determined since the last meeting in accordance with the revised scheme of delegation agreed at the Committee's meeting on 18 June 2020.

**Planning Committee Information Pages v2** 89 - 100

- 9 **Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

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



# Planning Committee

Thursday, 18 June 2020

**Attendees:** Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Martyn Warnes

**Substitutes:** No substitutes were recorded at the meeting

**Also Present:**

## **794 Appointment of Chairman**

*RESOLVED* (UNANIMOUSLY) that Councillor Liddy be appointed Chairman for the forthcoming Municipal Year.

## **795 Appointment of Deputy Chairman**

*RESOLVED* (UNANIMOUSLY) that Councillor Barton be appointed Deputy Chairman for the forthcoming Municipal Year.

## **796 Planning Committee Minutes 20 February 2020**

The minutes of the meeting held on 20 February 2020 were confirmed as a correct record.

## **797 Planning Committee minutes 5 March 2020**

The minutes of the meeting held on 5 March 2020 were confirmed as a correct record.

## **798 Have Your Say! (Virtual Planning Meetings)**

In respect of application number 200351, land at Dawes Lane, West Mersea, previously submitted written representations were presented to the Committee, pursuant to the authority delegated to the Planning and Housing Manager and the Monitoring Officer, following consultation with the Chairman and Group Spokespersons, to vary the Remote Meetings Procedure Rules in respect of the Planning Committee as follows:

David Cooper, on behalf of STOP350, addressed the Committee in opposition and Andrew Ransome addressed the Committee in support.

Councillor Jowers attended and, with the consent of the Chairman, presented to the Committee the written representations previously submitted by Councillor Moore. He also addressed the Committee by referring to the prematurity of the application in the light of the current status of the emerging Local Plan and the hiatus caused due to the modifications awaited from the Planning Inspector and the potential need for further consultation to be undertaken. He also referred to the proposed access onto Dawes Lane which he considered to be inadequate and dangerous and the need for a tree belt of significant width should the application be approved.

Councillor Davidson attended and, with the consent of the Chairman, addressed the Committee. He referred to the current status of the emerging Local Plan and the legal opinion on which that had been commissioned by the STOP 350 group which raised serious doubts about the suitability of the site and the acceptability of some of the emerging policies. He agreed with arguments siting prematurity, he referred to the site at Brierley Paddocks which had been given outline permission and questioned the suitability of the Dawes Lane site. He was concerned about the impact of the development on the view of the Island from the Strood and requested the provision of a tree belt of mature, native trees, some being evergreens 40 metres deep. He regretted it had not been possible for the Committee members to undertake a site visit whilst acknowledging the contribution the application would make in securing the Council's five-year housing supply. He also sought a cascade mechanism to the Section 106 Agreement in consultation with the Town Council to provide for funding for other community buildings rather than the MICA Centre.

In respect of application number 190043, land west of Brook Street, Colchester previously submitted written representations were presented to the Committee, pursuant to the authority delegated to the Planning and Housing Manager and the Monitoring Officer, following consultation with the Chairman and Group Spokespersons, to vary the Remote Meetings Procedure Rules in respect of the Planning Committee as follows:

Jonathan Baldwin and Catherine Spindler addressed the Committee in opposition and Michael Smith addressed the Committee in support.

Councillor Higgins attended and, with the consent of the Chairman, addressed the Committee. She explained that the area was a wildlife haven, she referred to the outline planning permission for a total of 58 units whilst the current application was for double that number of units which she did not consider acceptable. She referred to the need to avoid the use of any herbicides on the site and asked the Committee members to consider the addition of a condition to provide for the erection of the Locally Equipped Area for Play prior to the first occupants taking residence. She acknowledged the principle of development on the site had been established but considered the proposal to be of poor design and regretted the provision of only one affordable housing unit off-site and was concerned that the submission of viability assessment had been used by the developer to incorporate a greater number of units than the site warranted.



Councillor Goacher attended and, with the consent of the Chairman, presented to the Committee the written representations he had previously submitted. He also referred to the frequency of stationary traffic at the bottom of Brook Street, the impact of additional traffic in this part of Brook Street and the circumstances of a number of residents which prevented them from moving away from the area to a healthier location. He also referred to the existing outline permission on the site and the current application effectively doubling of the number of housing units. He was of the view that the development would increase the number of cars using the neighbouring road network and considered the proposals to be over-development.

#### **799      200351 Land at Dawes Lane, West Mersea**

The Committee considered an outline planning application for 100 dwellings and land for community uses, public open space and landscaping and access from Dawes Lane at land at Dawes Lane, West Mersea, Colchester. The application had been referred to the Committee because it was a departure from the Local Plan, substantive objections had been received and a Section 106 agreement was required. The application had also been called in by Councillor Moore

The Committee had before it a report in which all information about the application was set out, together with various written representations which had been presented at the meeting.

The Committee members had been provided with video clips of the site taken by the planning officer to assist in their assessment of the impact of the proposals upon the locality and the suitability of the proposals for the site.

James Ryan, Principal Planning Officer, presented the report and, together with Karen Syrett, Planning and Housing Lead, assisted the Committee in its deliberations. He confirmed that the scheme would contribute to the Council's five-year housing supply, the site had been considered acceptable in the emerging Local Plan, the argument that the application was premature was not considered to be an acceptable one upon which to base a refusal of the application, given the public benefits the application would deliver. He also confirmed that the scheme had included a transport assessment, the findings of which had been accepted by the Highway Authority. He considered the requests for a tree planting belt of 40 to 50 metres needed to be weighed against the use of the land for public open space purposes but confirmed that the Committee members had the option to require an additional informative or condition to this effect if considered desirable. He also confirmed that the cascade mechanism built into the Section 106 Agreement could be varied by the Committee members if preference towards the Glebe site was considered appropriate.

Various members of the Committee referred to the work undertaken on the West Mersea

Neighbourhood Plan and the need for this to be taken into account in some form. In addition, the issue of prematurity was supported, given the current status of the emerging Local Plan and the potential for further consultation to be undertaken, together with concern about the impact of the development on the landscape, the nature of the access road together with the proposals for public open space and the doctors' surgery.

Other members of the Committee acknowledged the quality of the proposed development, the affordable housing and community amenities that were proposed and the support given to the proposals by the Highway Authority and other statutory consultees. The video clips of the application site circulated to the Committee members prior to the meeting, given the restrictions on site visit arrangements, were welcomed as well as the reassurances given by the case officer that the development was compliant with the policies contained in the emerging Local Plan. As such, the ability of the community to influence the development once the emerging Local Plan had been considered sound was welcomed.

A number of Committee members sought an assurance regarding the screening of the development in respect of the length of time taken to come to maturity and the range of species to be planted. Clarification was also sought in relation to the modifications to the emerging Local Plan required by the Planning Inspector.

The Planning and Housing Lead explained that the Planning Inspector had indicated that Section 1 of the emerging Local Plan could be made sound and, in order to do so, modifications would be required. He had also further confirmed that, following requests from Colchester, Tendring and Braintree Councils, he had started work on the modifications to enable the three Authorities to report to their respective Committees in mid-July 2020 and, in Colchester's case, this would be on 14 July 2020.

Reference was made, should the application be approved, to the amendment of the Section 106 Agreement to provide for a revised cascade mechanism to enable the distribution of the community funds as determined by West Mersea Town Council and for the screening belt to include a proportion of evergreen species.

The Principal Planning Officer confirmed that the Highway Authority had appraised the transport assessment submitted with the application and had considered it to be acceptable, subject to the inclusion of conditions. He also confirmed that the Council's landscape adviser had recommended the use of a mix of native species for the tree screening belt which would mature gradually over time and which included evergreen species.

The Planning and Housing Lead explained that, should the application be refused or deferred and be subject to an appeal, it would be determined by an Appeal Inspector who would not wait for the examination of Section 2 of the emerging Local Plan. She acknowledged that the West Mersea Neighbourhood Plan was a considerable piece of

work for the community to undertake and that it had not progressed as quickly as the Town Council had hoped. She cautioned the Committee members against the use of prematurity as a ground for refusal or deferment. Whilst acknowledging this argument had been used by the Council in respect of a speculative development in Tiptree, she explained that the Planning Inspector and the Secretary of State considered this argument was not justified and was contrary to the National Planning Policy Framework. She confirmed that the Council's 15-year housing supply data for Mersea currently included eight units in addition to the Brierley Paddocks site.

The Principal Planning Officer confirmed that the landscaping matters would be dealt with at the reserved matters stage for the application and, as such, an additional informative could be considered by the Committee members to provide for a mix of deciduous and evergreen species to a satisfactory depth and that the cascade mechanism in the Section 106 Agreement could be varied to provide for the community funding to be allocated to the Glebe, followed by the MICA Centre.

*RESOLVED* (FOUR voted FOR, TWO voted AGAINST and THREE ABSTAINED) that -

(i) The Assistant Director Place and Client Services be authorised to approve the planning application subject to the conditions set out in the report, an additional informative to advise that the landscape buffer screening belt should include a significant proportion of native evergreens and be of sufficient depth to provide effective screening and filtering of views as swiftly as possible and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Archaeology – £17,553.00 contingent on finds for display;
- Parks and Recreation – £31,992.72 for play equipment, likely to be used for an upgrade of the Wellhouse Farm play space with a request for an outdoor gym and a commuted sum if the Council was to maintain the open space, the legal agreement to include a clause to determine the precise sum when the detail of the open space is finalised at reserved matters stage, based on the following costings:  
Rural and/or suburban countryside - £9,430 per hectare for single sites greater than 1 hectare in extent,  
Maintenance of sports pitch area - £69,700 per hectare,  
Woodland (new planting) - £32,400 per hectare,  
Public Open Space, predominantly urban in character - £43,460 per hectare;
- The option of transferring the open space and maintenance fee to West Mersea Town Council if all parties are agreeable;
- Community – £168,652.00 to be spent via a cascade mechanism, with priority going towards the funding of a multi- use community centre at the Glebe but if that is not possible then the contribution to go towards an upgrade of the MICA centre;
- Affordable Housing – contribution to meet the requirements of emerging policy DM12, that is, 95% of affordable housing to be compliant with M4 Cat 2 and 5% of the affordable housing to be compliant with M4 Cat 3 (2) (b);

- NHS – £59,027.00 to expand facilities;
- The gifting to West Mersea Town Council of 0.7hectares of land suitable for community uses/a doctors' surgery/ community parking or other uses as the Town Council consider fit;
- North Essex Recreational disturbance Avoidance Mitigation Strategy (RAMS): a contribution of £12,558.00 (£125.58 per dwelling) towards mitigation under the Conservation of Habitats and Species Regulations 2017;

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

## **800 190043 Phase 2, Land west of Brook Street, Colchester**

The Committee considered an amended proposal for creation of 119 one and two bedroom apartments in five blocks plus associated roads, landscaping and open space at Phase 2, land west of Brook Street, Colchester. The application had been referred to the Committee because it was a major application, material objections had been received and a legal agreement was required. In addition, Councillor Cope had called-in the application.

The Committee had before it a report and amendment sheet in which all information about the application was set out, together with various written representations which had been presented at the meeting.

The Committee members had been provided with video clips of the site taken by the planning officer to assist in their assessment of the impact of the proposals upon the locality and the suitability of the proposals for the site.

Sue Jackson, Planning Project Officer, presented the report and assisted the Committee in its deliberations. She explained that a Viability Appraisal had been submitted by the applicant which had been independently reviewed and had concluded that the development would be unviable if the financial obligations pursued exceeded £400,000. She also explained that a request had been submitted for the Committee members to consider the inclusion of an additional informative providing for fire certification of the external cladding material.

One member of the Committee referred to the five-storey aspect of the proposals and the visual impact in relation to the height of neighbouring buildings. The provision of external balconies and electric vehicle charging points were welcomed, whilst the likely negative impact on levels of pollution was acknowledged. Clarification was also sought in relation to the protection of badger setts found on-site.

Another member of the Committee regretted the provision of only one off-site affordable housing unit and sought the addition of a condition to provide for the installation of sprinklers in each flat.

Clarification was also sought regarding the provision of lifts in the accommodation blocks, the disabled car parking provision proposed, whether the reference to a wheel-chair accessible flat referred to one only or one in each of the five blocks of accommodation and whether the footbridge was to be upgraded for use by cyclists.

Members of the Committee generally expressed support for the proposal to ensure that the Locally Equipped Area for Play was available prior to the occupation of the site.

The Planning Project Officer explained that the height of the proposed buildings in relation to those in George Williams Way were very similar and that the tower feature was only nominally higher. Three surveys had been undertaken which had revealed different occupation activity at the badger setts on each occasion, as such, it had been concluded they did not constitute the main sett and were not being continually occupied. She explained that consultants had interrogated the viability assessment and had agreed that the site was not viable, as such, the funding would only be sufficient to provide for one affordable housing unit off-site. She confirmed that four of the blocks of accommodation would include a wheel-chair accessible unit and she considered it appropriate to add a further condition to provide for the provision of suitable disabled parking facilities. She confirmed that the Section 106 Agreement could be varied to provide for the Locally Equipped Area for Play to be available prior to the occupation of the development. She also confirmed that the scheme did not include lifts but it would be required to comply with fire and buildings regulations in relation to the dimensions of the staircases. She was aware that the applicant would be willing to accept an additional condition to provide for the installation of sprinklers in the units. She confirmed that it was intended that the paths linking to the existing bridge over the railway line would be improved by the provision of CCTV and lighting.

Reference was made that the proposal was allocated in the Local Plan, it benefitted from outline planning permission, constituted a brownfield site and would constitute sustainable development and, whilst the absence of lifts on the site and the flat roof design were regretted, additional conditions providing for sprinklers and disabled parking were supported. Further detail was also sought in respect of the proposals for disabled residents, including disabled parking bays for all four wheelchair accessible units, all four ground floor apartments to be fully wheelchair accessible with suitable internal layout and level external access faced in a suitable paving material for wheelchair users.

The Planning Project Officer confirmed that the Committee members had the option to strengthen the conditions in relation to the wheelchair accessible accommodation and the disabled parking provision.

**RESOLVED** (EIGHT voted FOR and ONE voted AGAINST) that -

(i) The Assistant Director Place and Client Services be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet, additional conditions to provide for a scheme to be submitted and approved including disabled parking bays for all four wheelchair accessible units, all four ground floor apartments to be fully wheelchair accessible with suitable internal layout and level external access faced in a suitable paving material for wheelchair users, sprinkler systems to be installed throughout all apartments and public areas and an additional informative providing for fire certification of the external cladding material and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- NHS contribution of £43,217;
- A single affordable 2-bed unit off-site at an estimated cost of £150,000;
- CCTV/ lighting (estimated cost);
- Computer facilities within nearby community facility £5,000;
- North Essex Recreational disturbance Avoidance Mitigation Strategy (RAMS): a contribution of £14,944.00 (£125.58 per dwelling) towards mitigation under the Conservation of Habitats and Species Regulations 2017;
- The purchase of a car club car to be made available to the general public;
- Prior to the first occupation of the development, an area of public open space with a Locally Equipped Area for Play;
- The retention of a 12metre strip of land for the East Colchester Rail Transit route;
- A mechanism to further review viability (using the same criteria as the Viability Assessment submitted with the application) prior to the occupation of 25% and 50% of the units;
- Any further viability identified to be apportioned equally between affordable housing and education.

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

## **801 Temporary Changes to planning Scheme of Delegation**

The Committee considered a report by the Assistant Director, Policy and Place setting out the temporary measures that were introduced to allow planning decisions to be made during the Covid-19 lockdown. It also detailed, with further updates listed in the amendment sheet, all those applications that had been determined during this period and proposed a further change to the scheme of delegation while virtual committee meetings were in operation.

Karen Syrett, Planning and Housing Lead, presented the report and assisted the Committee in its deliberations.

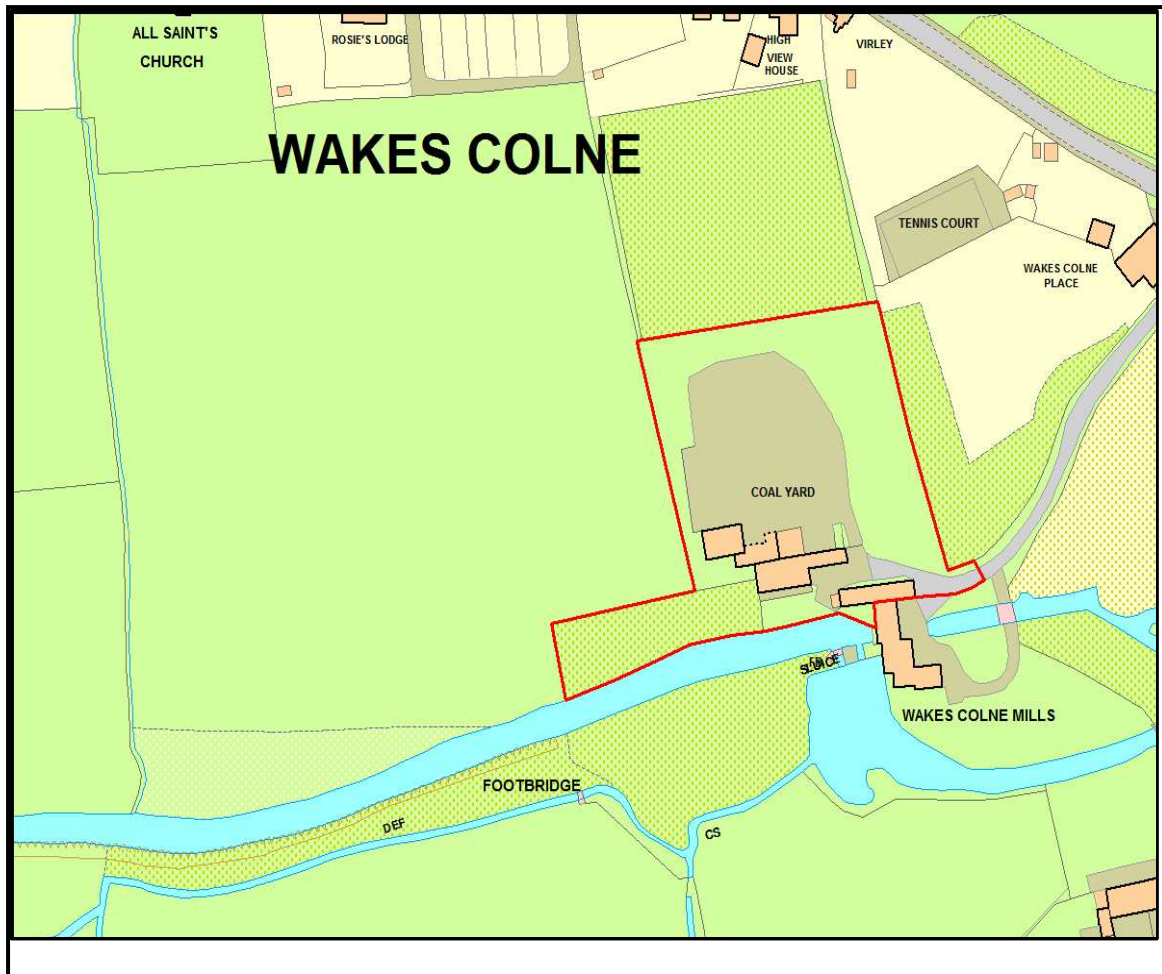
Reference was made to the need for the agendas for the virtual meetings to be carefully managed in terms of the number of applications to be considered at each meeting and this was supported by the Planning and Housing Lead.

Two members of the Committee acknowledged the need for virtual Committee meetings to take place in the current circumstances but considered these arrangements should be temporary only and asked that a definite timescale be agreed for a review of the arrangements.

*RESOLVED* (UNANIMOUSLY) that those applications which had been determined in accordance with the emergency delegation arrangements be noted and, subject to a review to be conducted by the Committee in December 2020, the further changes to scheme of delegation during the operation of virtual meetings be approved.







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**Item No:** 7.1

**Application:** 183046

**Applicant:** Ingleton 7 Limited

**Agent:** Mr Russell Forde

**Proposal:** Demolition of solid fuel processing buildings; removal of built up hard surfaces against north wall of coach house with associated regrading of land; removal of wider coal yard hard surfaces; conversion of coach house to dwelling with single storey extension; erection of a pair of attached dwellings on coal yard; reorientation of yard access road; erection of detached four bay garage; associated hard and soft landscaping including improvements to public footpath corridor and biodiversity; implicit change of use from coal yard to two residential properties (Class C3) with private meadow.

**Location:** Land to the North of Mill Buildings, Wakes Colne Mills, Colchester Road, Wakes Colne, Colchester, CO6 2BY

**Ward:** Rural North

**Officer:** Lucy Mondon

**Recommendation:** Approve Conditional

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

- 1.1 This application was deferred by the Planning Committee at its meeting on 4<sup>th</sup> July 2019 in order to further negotiate a revised design. The original committee report, amendment sheet, and committee minutes are included as an appendix to this report.

## **2.0 Synopsis**

- 2.1 The application was deferred at the planning committee meeting on 4<sup>th</sup> July 2019 for the following reason:

*Resolved Unanimously that the application be deferred for further negotiations to secure a revised design approach to reflect a more vernacular approach that better reflects the immediate locality.*

- 2.2 An accompanying Listed Building Consent application for works to convert the Coach House to a dwelling was resolved for approval at the same committee meeting.
- 2.3 The original Committee Report and amendment sheet, along with the Committee Minutes, are included as an appendix to this report. The policies and considerations in the appendix documents remain relevant to the consideration of this application unless updated or revised within this latest report.
- 2.4 Since the committee meeting, the following submissions have been made:
- Revised drawings for the 2 No. new build dwellings (Site Layout; Floor Plans and Elevations; Site Section as Proposed; and Typical Materiality);
  - Landscape and Visual Assessment Addendum (Nigel Cowlings letter dated 8<sup>th</sup> January 2020);
  - Revised Heritage Statement dated 13<sup>th</sup> January 2020 (and supplementary comment from Heritage Consultant in email dated 3<sup>rd</sup> April 2020); and
  - New Flood Risk Assessment dated April 2020
- 2.5 The following report focuses on the matter for the deferral (to negotiate a revised design of the new build properties proposed), but also provides updates on relevant matters, as well as local representations. Material planning matters are assessed, with the concluding recommendation being to approve planning permission, subject to conditions.

## **3.0 Consultations**

- 3.1 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.

### Arboricultural Officer:

The revised proposal relates better to trees than the previous proposal.

Environment Agency:

Following receipt of the April 2020 Flood Risk Assessment, the Environment Agency confirmed that they do not object to the proposal provided that Flood Risk (the sequential and exception tests) is considered.

Environmental Protection:

Recommended conditions for hours of work and to secure the provision of EV charging points.

Essex County Council Highways:

Confirmation that the proposal is acceptable in terms of highway and transportation matters subject to conditions relating to car parking and cycle storage provision, construction method statement, and the erection of temporary signs to notify users of the footpath of construction works.

*[Case Officer Note: Further information was sought in response to continued local resident objections with regards to highway safety. The Highway Authority confirmed that there are no further recorded incidents at either the junction with Colchester Road, between the site and along the connecting roads towards Colchester Road or at the connection of the private drive to the site. They also confirmed that there are no reports of congestion on Colchester Road and recorded speeds in the AM and PM peaks are averaging 30mph in both directions. See paragraphs 16.52-16.56 of original report for previous comments.]*

Essex County Council SUDS:

No comment on minor applications.

Historic Buildings and Areas Officer:

No objection. Comments on the design of the revised proposals are included in section 6 of this report.

Historic England:

Confirmation that they do not wish to offer any comments.

Landscape Officer:

The landscape content of the proposals is satisfactory and there are no objections to this application on landscape grounds. Recommended conditions to secure detailed landscape proposals and landscape management.

## **4.0 Parish Council Response**

4.1 Both Wakes Colne Parish Council and Chappel Parish Council maintain their objections to the proposal, summarised as follows:

- The Heritage Statement fails to emphasise the importance of the mill; fails to assess the impact of the proposed new dwellings on the setting of the Listed Buildings and the Conservation Area;
- The view from the public footpath to the east and north of the mill group would be completely altered and would remove the sense of isolation, to

some extent blocking the public's view of the heritage asset, therefore seriously harming the setting of the listed group;

- The height of the new dwellings in relation to the mill group would have a high impact on the view from the south across the valley.

## **5.0 Representations from Notified Parties**

5.1 The application resulted in a number of notifications to interested third parties including neighbouring properties.

5.2 Cllr Chillingworth has commented that there is serious concern that the Heritage Statement fails to emphasise the importance of the mill and has failed to assess the impact of the proposed new dwellings on the setting of the listed buildings and the Conservation Area. The full text of Cllr Chillingworth's correspondence is available to view on the Council's website.

5.3 Several letters of objection have been received from 2 objectors, the content of which is summarised as below, with the full text of all of the representations received being available to view on the Council's website. The comments have been summarised in topics in no particular order:

- Policy:
  - The site is not an allocated site in the current or emerging local plan and is not included in the Council's Housing Land Supply Position Statement. There is no need to permit the new dwellings and compromise heritage for future generations
  - Queries how the proposals meet Policy ENV1: requires conservation and enhancement of the natural and historic environment and direct development away from land at risk of flooding.
  - The proposal is outside the settlement boundary and therefore not supported by Policy ENV2.
  - The site does not fall within the settlement hierarchy of Policy SD1 and is not considered to be an accessible or sustainable location in policy terms
  - The proposals adversely affect a listed building and conservation area so do not comply with Policy DP14
  - The Heritage Statement does not provide sufficient information in order to assess the impact of the proposals so fails Policy DP14
  - The proposal can be provided on an alternative site so fails Policy DP21 which states that proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas or protected species will not be permitted unless they cannot be located on alternative sites that would cause less harm.
- Heritage Statement:
  - Errors in terms of referring to Listed Building Consent being granted for the change of use of the Coach House to a residential dwelling (Note: Listed Building Consent can only grant consent for the physical works/alterations and not the change of use)
  - Does not describe the significance of the Mill and its attached buildings and does not describe the contribution made by its setting;

- Is incorrect when it states that the site does not sit within the Conservation Area;
- Does not include assessment of local policy
- Essex County Council's 'Water and Steam Mills in Essex Comparative Survey' (2008) is not referenced; this should form part of the assessment of significance
- Does not include any reference to 'Colchester Heritage Explorer' which cites Wakes Colne Mill as being one of the most important c19 water mills in the County and having a group value that makes a positive contribution toward the historic character of the Conservation Area
- Does not consider the height and positioning of the proposed buildings and their visual impact given that a key element of the Mill's architectural interest is its rural isolation within the landscape and its group value with the other mill buildings
- No clear consideration of impact
- No substantive evidence of public benefit
- No reference to the Colchester Borough Landscape Assessment
- Council Heritage Advice:
  - No objective assessment of the level of harm caused
  - No description of the significance of the heritage asset
  - No objective assessment of the level of harm caused by the proposal
- Heritage/Landscape:
  - The former coal yard is currently read as an isolated 'green field' setting which is an important part of the character of the mill
  - There is no indication that the site was ever a former coal yard from distant views
  - No justification for the loss of garden to the Mill House or the removal of evergreen hedge
  - The proposal would not improve the footpath corridor as urbanised boundaries and views would be introduced which destroy the historic context of the site
  - No assessment as to how the new dwellings would enhance the setting; the remedial works proposed (and granted under Listed Building Consent) can go ahead irrespective of whether the proposal for new dwellings is approved
  - The Coach House does not need a new use as it already has a viable use as a garage to serve Mill House
- Pre-application advice referred to the isolated character of the mill complex
- No indication as to how the 'meadow' would be managed or protected from development in the future
- Highway safety issues as the proposal would generate unnecessary traffic at the junction with the A1124 that is 'notorious for accidents'

## 6.0 Report

## Revised Design

- 6.1 The application was deferred by the Planning Committee in order to negotiate a revised design for the proposed 2 No. new build dwellings so that they would reflect more of the vernacular of the locality. The original design was of an industrial modernist style in response to the previous use of this part of the site as a coal yard. Members considered that this approach may harm the setting of the listed mill; particular concerns were cited as being: the block form, the height, the materials which were out of keeping, and the utilitarian design.
- 6.2 Revised proposals have been submitted for a 'barn-like' design which reflects the rural character of the site. The dwellings are no longer attached as a single block and the materials have been revised to more traditional materials such as brick, timber cladding, and slate. The height of the dwellings (in terms of their highest point) has remained unchanged, although the buildings have now been broken down with single-storey elements. The Council's Historic Buildings and Areas Officer has commented that the revised proposals put forward a 'solution that represents a contemporary expression of the local vernacular. The proposals include a composition of single and two-storey volumes set at right angles in a manner that is reminiscent of a farmyard. The architectural vocabulary and the design approach, including the configuration of the openings and the use of the timber louvres also refer to local agricultural buildings. The alternate use of timber and brick for the single and double-storey volumes respectively serves their distinction and adds a welcome variety to the appearance of the complex. Contrary to the previous solution which used modern materials and minimalist design in an attempt to avoid the visual competition with the Mill complex, this version responds to the rural character of the area while still reading as a contemporary development that does not create confusion regarding its age.' The amendments to the proposal are therefore considered to adequately address the concerns raised by the committee in respect of the previous proposal.
- 6.3 The Committee did not object to the principle of development with regards to its impact upon heritage assets (i.e. the listed mill buildings and the surrounding conservation area). The impact of the revised proposals upon the setting of the listed mill and conservation area is addressed in this report to ensure that the revised proposals comply with both Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), as well as the requirements of local planning policies ENV1 and DP14 and the National Planning Policy Framework (the Framework).
- 6.4 Paragraphs 16.18-16.36 of the original committee report considered heritage matters, including significance and the level of harm in respect of the proposed development on the listed mill and surrounding Conservation Area. An important contribution to the interest of the mill complex is how it has evolved over time: being a single dwelling and working mill, diversifying as a coal merchants, and the closure of the mill and its conversion into three private dwellings (which involved modern alterations and new build). At the time of listing (January 1982) the coal merchants had been in operation at least 40 years so the site and its surroundings would have witnessed considerable activity. This evolution also

contributes to the special interest of the conservation area, along with the rural nature of the surroundings. Historic England 'The Setting of Heritage Assets Planning Note 3 (Second Edition) 2017' states that 'the historic character of a place is the group of qualities derived from its past uses that make it distinctive. This may include: its associations with people, now and through time; its visual aspects; and the features, materials, and spaces associated with its history, including its original configuration and subsequent losses and changes.' The changes that have taken place on site are considered to contribute to its special interest and character.

- 6.5 Since the closure of the coal yard, the former coal yard site has remained vacant; the coal yard buildings have fallen into disrepair and the site is untidy with remnants of the coal yard use and the encroachment of nature. As expressed in the original report, the current state of the coal yard is considered to detract from the setting of the listed mill and surrounding conservation area. In addition, the ground raise alongside the Coach House is having a directly detrimental physical impact on the curtilage listed building in terms of structural pressure and damp.
- 6.6 There are currently public views of the mill complex and its surroundings; details of public footpaths are included in paragraphs 3.5 and 16.3 of the original report. Views from the public rights of way to the east and north of the site are largely filtered by boundary hedges, although views can be gained if one were to stop and look through any gaps in the hedge; the vacant coal yard buildings currently obscure any views of the Coach House. The proposed development would result in removing the various coal yard detritus, as well as the vacant coal yard buildings, although new built form would be introduced in its place. The submitted site sections show that the proposed new build would be the same height as that of the Coach House; whilst parts of the new build would be visible above the lower parts of the Coach House when seen from public rights of way to the south of the site the new built would be seen as subordinate to the Coach House and the dominance of the Coach House and mill complex would be maintained. The mill building complex would be maintained as a group, and its rural surroundings would be largely retained other than the introduction of the 2 no dwellings in lieu of the coal yard buildings. This level of impact is also confirmed in the landscape assessment which is discussed in the original report.
- 6.7 The proposed design amendments are not considered to cause substantial harm (which is a high test) to the listed mill and conservation area. The proposal will introduce built form and increased domestic activity which is considered to be less than substantial harm to the setting and special interest of these heritage assets. Part of the special interest of the site is its evolution since the mid-1800s and the proposed development would be part of this evolution. The proposed development would not detract from the relationship between the various mill buildings as a group (this relationship would remain intact) and there would be public benefit in the scheme by removing the current harm in terms of the visual impact of the vacant former coal yard and physical impact upon the curtilage listed Coach House. Historic England guidance ('Managing Significance in Decision-Taking in the Historic Environment – Historic Environment Good Practice Advice in Planning: 2 (2015)') comments that 'sustainable development

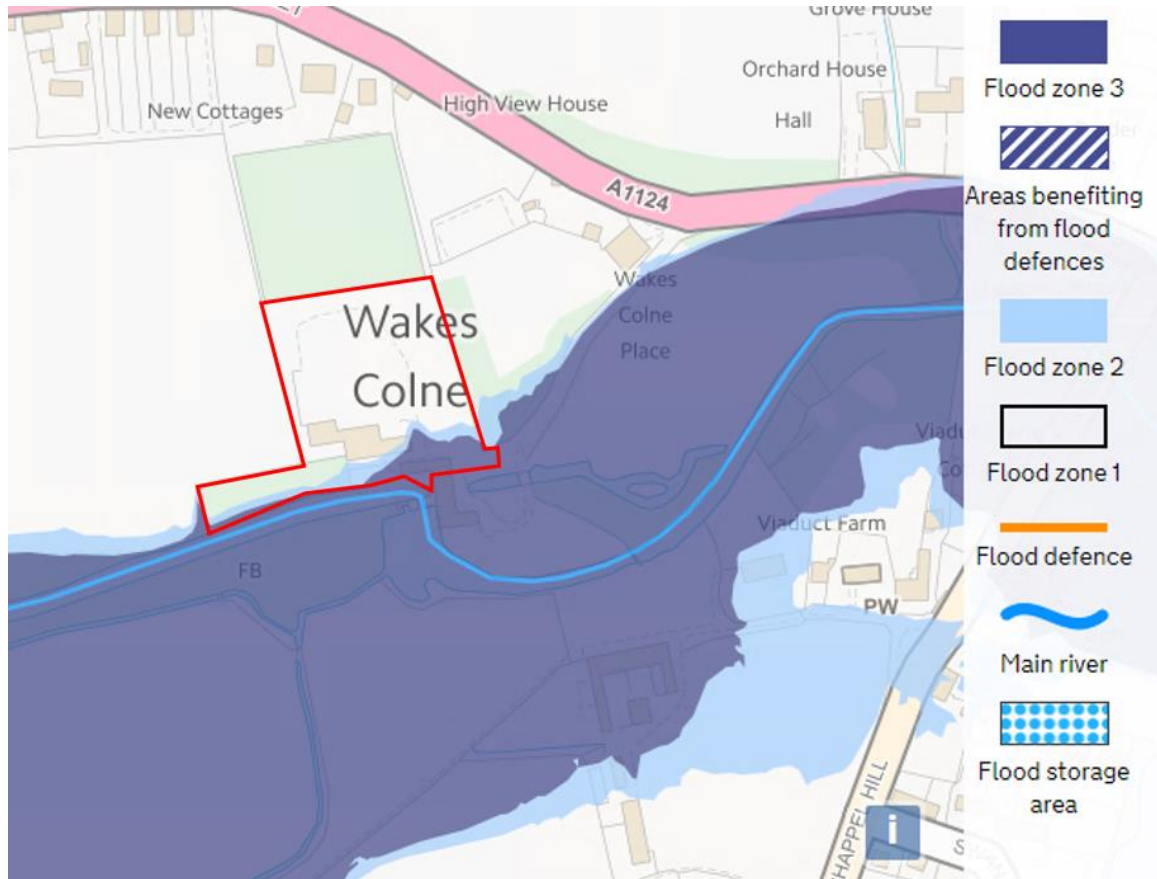
can involve seeking positive improvements in the quality of the historic environment' and this is considered to be achieved by way of removing the harmful impacts derived from the former coal yard site.

- 6.8 Paragraph 193 of the NPPF states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be) and that this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In this case, the relevant assets (the grade II listed mill and the conservation area) would be conserved. Both the listing and conservation area designation took place whilst the coal yard was in operation which suggests that the assets are not significantly diminished by additional built form or activity. This is perhaps demonstrated in the content of the Essex County Council 'Water & Steam Mills in Essex – Comparative Survey of Modern & Industrial Sites and monuments No. 18' document which has been referred to in some of the objections received. This document refers to the 'innovative design and construction' of Wakes Colne Mill and that it survives as one of the most important c19 watermills in the county, although the document acknowledges that the mill has been compromised by subsequent alterations. When the document was published the coal yard was in operation and it is interesting to note that the significance of the mill includes reference to the mill group value 'with a number of contemporary mill and farm buildings'. The document sets out a recommended action to maintain the current status of the mill as a Grade II listed building, it does not make any recommendations in respect of, what was at that time, a working coal merchants; the proposed development would not result in any works that would compromise the listing of the mill so the main action point from the Essex County Council report is maintained.
- 6.9 Although not a statutory consultee in this case, Historic England were consulted on the revised proposals and have confirmed that they do not wish to make any comment. It is therefore taken that Historic England have no objections to the proposal.
- 6.10 In conclusion, the public benefits of the scheme are considered to justify and outweigh the less than substantial harm to the special interest of the listed mill and surrounding conservation area.



## Flood Risk

- 6.11 The majority of the site lies within fluvial Flood Zone 1, with the southern edge of the site and the majority of the access to Colchester Road being in Flood Zones 2 and 3a/3b as shown in the plan below:



- 6.12 Following consultation on the revised plans, a holding objection was received from the Environment Agency (no comments had been received as a result of previous consultation so the Case Officer had proceeded with the application in the absence of comment as per National Planning Policy Guidance (NPPG); the absence of any comment being taken to mean that the Environment Agency did not object to the application). A new Flood Risk Assessment was submitted in response to the comments received and, having considered this information, the Environment Agency confirmed that they no longer have any objections to the scheme subject to the Local Planning Authority carrying out the sequential and exception tests in respect of flood risk.
- 6.13 The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The new build element of the proposed scheme is located within Flood Zone 1 where the sequential test would not be applicable. Similarly, the conversion of the Coach House is a change of use which also does not trigger the sequential test (as per National Planning Policy Guidance (NPPG) 'Flood Risk and Coastal Change'). As the sequential test is not applicable, the exception test is not triggered. This approach has been checked with the Environment Agency (in case there are

any extenuating circumstances in this case that would require additional assessment) and no objections have been raised.

- 6.14 It is acknowledged however that, whilst the sequential and exception tests are not required to be undertaken in this case, the vehicular access to the site and the proposed Coach House garden are within Flood Zones 2/3. It is therefore considered appropriate to ensure that the proposed development is safe (in terms of there being suitable refuge and means of escape in the event of flooding). It is also necessary to ensure that the proposed development does not increase flood risk elsewhere.
- 6.15 The Environment Agency have provided a useful summary of key points taking from the submitted Flood Risk Assessment to aid considerations. This summary highlights the fact that the floor levels of the proposed dwellings would be above flood levels and therefore dry of flooding, with flood resilience and resistance measures being proposed within the Coach House. The site level around the Coach House could give rise to 20mm depth of flood water, but this is confirmed as being a very low flood hazard. The access road has potential flood depths of up to 1 metre and is not safe during a flood. The proposed development would not, therefore have a safe means of vehicular access in the event of flooding, but the Environment Agency have confirmed that they have no objections to this as the buildings themselves will be dry and provide a safe refuge and there is dry pedestrian access; a proposed pedestrian evacuation route is included in the Flood Risk Assessment. The evacuation plan included in the Flood Risk Assessment can be secured via condition.
- 6.16 In terms of how the proposed development would impact on flood risk elsewhere, compensatory storage has been proposed in the Flood Risk Assessment and the Environment Agency have confirmed that there will be minimal loss of floodplain storage due to the proposals, with the basic lowering of land proposed being adequate to compensate for any loss of floodplain. Again, the compensatory storage measures included in the Flood Risk Assessment can be secured by condition.
- 6.17 In addition, the Environment Agency have set out potential requirements for permits, notification of works, and maintenance of areas close to and within watercourses which can be included as informatics should the application be approved.
- 6.18 Having considered the site specifics and content of the submitted Flood Risk Assessment, as well as Environment Agency advice, the proposal is considered to be safe and not increase flood risk elsewhere in accordance with both National and Local planning policy.

#### Other Matters:

- 6.19 The majority of points raised by objectors have been addressed above (or in the original report). Additional matters are considered as follows:

Heritage:

- For clarity, the site in its entirety is not within the conservation area; the main body of the site (i.e. the former coal yard) lies adjacent to the conservation area, the Coach House and part of the adjacent garden is within the conservation area.
- The Heritage Statement is not considered to be 'flawed'; the content of the statement fulfils National Planning Policy (NPPF) requirements which are that 'the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary' (paragraph 189, NPPF). The Heritage Statement has been undertaken by a qualified consultant and includes the historic record for the site and sets out details of its development and evolution over time. The Heritage Statement assessment of significance takes more of a quantitative than qualitative approach, but this does not mean that it hinders the Case Officer's assessment of the application. Paragraph 190 of the NPPF states that in assessing the significance of a heritage asset (including its setting) the Local Planning Authority should 'take account of the available evidence and any necessary expertise'. It is important to note that the assessment has not been based solely on the Heritage Statement; specialist advice has been sought from the Council's Historic Buildings and Areas Officer, research has been undertaken by way of searching planning records, site visits have been conducted, and relevant legislation and guidance has been considered (including the Planning (Listed Building and Conservation Areas) Act 1990; NPPF; National Planning Policy Guidance (NPPG); and Historic England guidance Managing Significance in Decision-Taking in the Historic Environment – Historic Environment Good Practice Advice in Planning: 2 (2015) and The Setting of Heritage Assets Planning Note 3 (Second Edition) 2017).

#### Meadow:

The objections query the future use and maintenance of the proposed 'meadow'. This was addressed at the previous committee meeting (see the Amendment Sheet in the attached appendix). For clarity, details of the future maintenance of the meadow can be secured by way of condition and this has been included in recommended condition 20 below.

#### Highway Safety:

Concerns have been raised regarding highway safety matters, particularly in respect of the access/egress onto Colchester Road. These matters were considered in paragraphs 16.52-16.56 of the original report. The Highway Authority have been re-consulted following submission of the revised proposals and have again confirmed that they do not object to the proposal on highway safety grounds. Further information was sought by the Case Officer in respect of any recorded incidents on Colchester Road in the vicinity of the access. The Highway Authority confirmed that there are no further recorded incidents at either the junction with Colchester Road, between the site and along the connecting roads towards Colchester Road or at the connection of the private drive to the site. They also confirmed that there are no reports of congestion on Colchester Road and recorded speeds in the AM and PM peaks are averaging

30mph in both directions. There are not, therefore, considered to be any grounds for refusal on highway safety grounds.

## **7.0 Conclusion**

7.1 The revised proposals are considered to address the previous concerns expressed by Committee Members whilst still adhering to relevant National and Local planning policy (subject to conditions).

## **8.0 Recommendation to the Committee**

8.1 The Officer recommendation to the Committee is for APPROVAL of planning permission subject to the following conditions:

### **1. Time Limit for Full Permissions**

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

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

### **2. Development to Accord with Approved Plans**

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

Existing Site Plan	15.3297/E101
Site Layout Plan as Proposed	2818-0106 Rev P05
Plot 1 and 2 Plans as Proposed	2818-0301 Rev P10
Plots 1 and 2 Elevations as Proposed	2818-0401 Rev P10
Elevations as Proposed (Coach House)	2818-A-0311 Rev P04
Plans as Proposed (Coach House)	2818-A-0313 P03
Site Sections as Proposed – Scheme 2	2818-0502 Rev P02

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

### **3. Removal of PD for All Residential Extensions & Outbuildings**

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

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

#### **4. Removal of PD for Open Plan Fences/Walls**

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

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

#### **5. Tree Protection**

The development hereby approved shall be undertaken in complete accordance with the following:

- Arboricultural Method Statement and Tree Protection Plan ref 180826-1116;
- Tree Survey and Tree Constraints Plan ref 180826-1116; and
- Arboricultural Implication Assessment ref 180826-1116 Rev A.

Reason: In order to satisfactorily safeguard and protect trees in the interests of amenity.

#### **6. Ecological Mitigation**

The development hereby approved shall be carried out in accordance with the Adonis Ecology Ltd Updated Preliminary Ecological Appraisal (project ref: 1065) and Adonis Ecology Ltd Report for Bat and Reptile Surveys (project ref: 9732).

Reason: In the interests of protecting and enhancing biodiversity.

#### **7. Flood Risk Assessment**

The measures contained in the Waterco Flood Risk Assessment (ref: 12957-FRA-01), dated April 2020, shall be fully implemented and in place prior to the first occupation of the development and retained as such thereafter.

Reason: In the interests of mitigating flooding and protecting future residents from flood risk.

#### **8. Car Parking**

All off street car parking shall be constructed in semi-permeable materials and be provided prior to occupation of the development hereby approved and shall be maintained free from obstruction and retained as parking thereafter.

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

#### **9. 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.

#### **10. Programme of 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 that has been submitted to and approved, in writing, by the Local Planning Authority.

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

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

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

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

## **11. 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.

#### **12. 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.

#### **13. 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.

#### **14. 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 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, 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 13.

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

### **15. 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 and under body washing facilities;
- Measures to control the emission of dust and dirt during construction;
- Measures to ensure that access to all existing homes in the vicinity of the site will be maintained and free from obstruction; 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.

### **16. Signs of Public Footpath**

No development shall take place, including any ground works or works of demolition, until temporary signs have been erected both sides of the carriageway 10m along and before the Public Footpath No 17 (Wakes Colne) crosses the carriageway (highway access) to the site alerting users of the footpath of construction works, plant and machinery ahead additionally “slow” and “pedestrians in the carriageway” temporary signs 15m either side of where footpath 17 (Wakes Colne) crosses the carriageway which shall remain in situ until all plant and machinery has vacated the development site and all construction and fitting out phases are complete.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way.

### **17. Historic Building Survey**

Prior to the commencement of any works to convert the coach house, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written



scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

### **18. Architectural Detailing**

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the lintel and cill, the depth of reveal and dormer features); rooflights to be used; cladding; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: To ensure that the proposed works are of high quality design for the rural location.

### **19. Landscape Works**

No groundworks 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.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. lighting).
- Planting plans.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

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.

### **20. 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, but including the meadow to the eastern side of the site, 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.

## 21. 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 13.

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. Bicycle Storage

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

Reason: To promote the use of sustainable means of transport.

## 9.0 Informatives

9.1 The following informatives are also recommended:

### 1. Advisory Note on Construction & Demolition

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

### 2. Informative on Conditions Stating Prior to Commencement/Occupation

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

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

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>

#### **5. Landscape Informative:**

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

#### **6. Highway Informatvies**

The shared access to the proposed 4 bay cartlodge should extend to at least 6.0m but ideally 8.0m in width between the front elevation and soft landscaping, to ensure convenient and efficient access manoeuvres can be achieved.

The public's rights and ease of passage over Public Footpath No.17 (Wakes Colne) shall be maintained free and unobstructed at all times.

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

#### **7. Environment Agency Informatives:**

An environmental permit for flood risk activities may be required if work is being undertaken in, under, over or within 8 metres from a fluvial main river and from any flood defence structure or culvert or 16 metres from a tidal main river and from any flood defence structure or culvert. The River Colne is designated a 'main river'. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone

carrying out these activities without a permit where one is required, is breaking the law.

The Environment Agency will always seek an undeveloped margin between built development and the top of bank or rear edge of river wall/defence as a starting position when they are advised about any proposals close to a main river watercourse. If the Environment Agency currently uses or requires access at the location, they should be contacted before any work is carried out so that they can advise on what may be acceptable. This may include the need to preserve an access strip from the nearest public road through to the riverside which is wide enough to enable large vehicles to pass, probably in excess of 6 metres wide. Maintenance of the area close to and within the watercourse, out to the centreline of the channel, is a riparian responsibility and you will find more details about this in the Environment Agency 'Living on the Edge' document which can be found at: <http://www.environment-agency.gov.uk/homeandleisure/floods/31626.aspx>

## **APPENDICES**

### **Planning Committee Minutes:**

719 183046 and 183047 Land to the north of Mill Buildings, Wakes Colne Mills, Colchester Road, Wakes Colne, Colchester

The Committee considered a planning application and application for listed building consent for the demolition of solid fuel processing buildings, the removal of built up hard surfaces against the north wall of the coach house with associated regrading of the land, removal of the wider coal yard hard surfaces, conversion of coach house to dwelling with single storey extension, erection of a pair of attached dwellings on coal yard; reorientation of yard access road, the erection of detached four bay garage; associated hard and soft landscaping including improvements to public footpath corridor and biodiversity and implicit change of use from coal yards to two residential properties (class C3) with private meadow. The Committee also considered an application for listed building consent for the demolition of solid fuel processing buildings and conversion of coach house to dwelling with single storey extension.

The application had been referred to the Committee because the erection of dwellings in this location would constitute a departure from the Local Plan. Both applications had also been called in by Councillor Chillingworth on the grounds of the effect on the listed building, unsuitable design for the location and dangerous highways access.

The Committee had before it a report in which all the information was set out, together with further information on the Amendment Sheet.

The Committee undertook a site visit in order to assess the impact of the proposal on the locality and the suitability of the proposal for the site.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Matthew Osborn addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on behalf of concerned local residents. The potential consequences of the development on the heritage assets surrounding it needed careful consideration. Consideration needed to be given to the impact on the whole setting of the listed building. The officer report failed to do so, neither did it address how significant views would be affected by the development. The new buildings would be 3.6 metre above the ridgeline of the Coach House, which would affect views of the Mill from across the river and from down the valley. There was a statutory presumption against any application which would fail to preserve the setting of a listed building or the character of a conservation area. In this case there would be harm to the setting of the listed building. Heritage concerns were further exacerbated by the failure to notify to Historic England of the application, despite it meeting the relevant criteria. The conversion of the Coach House did not justify the application for two further dwellings, as it could be converted separately to the development of the coal site. This was not an allocated site and was outside the village settlement boundary. Although it was previously developed land, this did not override other concerns. Whilst Colchester had a good track record of housing

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delivery and protection of heritage assets, but it should not be not so desperate for new housing that it needed to jeopardise this heritage site.

Russell Forde addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He highlighted that he had met with the landowners at the start of the process and the strategy for the application had stemmed from that meeting. The redevelopment of the Coach House could not be separated from that of the coal yard. There were complex interlinked issues. There had been a number of discussions with planning officers and experts. In terms of the design of the new dwellings on the coal yard, traditional cottages had been ruled out from the outset, in favour of a design that reflected the industrial heritage of the site. They would not be visually dominant. This reflected the advice of the Conservation Officer, who had requested a simple and unadorned design. Their scale was carefully proportionate and would not dominate the Mill complex. The officer report was balanced and comprehensive and addressed all the issues.

Councillor Chillingworth attended and with the consent of the Chairman addressed the Committee. He had called in the applications he wanted to ensure that the views of residents and the parish council were understood. It was accepted in principle that the Coach House could be developed, but the introduction of two new dwellings would cause harm. There were omissions in the officer's report, which had led to an incorrect balance of the planning considerations, leading to a recommendation for approval. The site was outside the village boundary and was only being considered for the development of residential housing on the basis that it was previously developed land. It had not been included in the emerging Local Plan. The application stressed the social and economic benefits of the application, but when weighed against the environmental factors necessary for sustainable development, the case was weak. Concern was expressed that Historic England had not been consulted. The Mill was considered to be of national significance. The report recognised that it was the grouping within the Conservation Area that gave the site its character, and this was put at risk. The development would harm the overall setting of the listed building, as viewed from public footpaths. The large, long mass of the new buildings would partially screen some views of the listed building and would be seen as an unsympathetic feature. Concern was expressed that some elevations did not fully demonstrate the design of the new build, nor was there sufficient information about the proposed materials.

In response the Principal Planning Officer explained that although the site had been discounted from inclusion in the emerging Local Plan, this was because it was not adjacent to a settlement boundary, which was the criteria for the initial sift of sites. This did not prevent it from being considered as a development site. The principle of the development was set out in detail in the report. In terms of the details provided in the application, the level of information provided was not unusual and these issues could be secured by condition. The Development Manager explained that officers had identified and carefully assessed the significance of the heritage assets potentially affected by the application and through negotiation had mitigated the impact. Officers had sought clear and convincing evidence for any harm that could result from the development within the setting of the Mill complex. The officer opinion was that this harm was less than significant and that it was outweighed by the repair and reuse of the listed buildings and the remediation of the contaminated area.

Therefore the development was sustainable development in accordance with paragraphs 7 and 8 of the NPPF.

In discussion, members of the Committee welcomed the proposed redevelopment of the Coach House and indicated that there were no objections to the granting of the listed building consent. However, concerns were expressed about the proposed design of the new dwellings and their impact on the setting of the Mill complex. It was suggested by a member of the Committee that a cottage design would be more in keeping with the character of the site.

Officers noted the concerns of members and stressed that design was a subjective matter. The applicant was seeking to reflect the industrial heritage of the coal yard with an industrial design aesthetic. A more vernacular approach might have eroded the authenticity of the site by suggesting that cottages had historically been a feature of the site, when this was not the case. The proposed design was designed to honestly reflect the history and narrative of the site. In respect of the issues raised about the need to consult Historic England, this site did not meet the threshold for the consultation.

Some members of the Committee reiterated their concerns about the design of the dwellings and considered that they would harm the setting of the listed building. They identified their concerns as the block form, the height, the materials, which were out of keeping, and the utilitarian design. A member of the Committee suggested that the quality of the build and the finish would be crucial to the success of the development. It was suggested that the application should be deferred for officers to discuss with the applicant a revised design approach to reflect the vernacular approach in the immediate locality. It would also be important for the Committee to be given detailed information about the materials to be used.

RESOLVED (UNANIMOUSLY) that in respect of application no 183046 that the application be deferred for further negotiations to secure a revised design approach to reflect a more vernacular approach that better reflected the immediate locality

RESOLVED (UNANIMOUSLY) that in respect of application no 183407 that the application be approved.

## Committee Amendment Sheet:

### 7.4 183046 & 183047 – Land to the north of Mill Buildings, Wakes Colne Mills, Colchester Road, Wakes Colne

1. Comments have been received from the Mills Section of the Society for the Protection of Ancient Buildings (SPAB), summarised as follows:

- Reservations regarding the impact of the proposal on the grade II listed mill complex.
- The scheme does have the benefit of bringing the coach house back into use and removing some modern additions that detract from it, but the proposals do not include a requirement to repair the two-storey gault brick office or house on the north-east corner of the Mill.
- The impact on the setting of the listed Mill on the River Colne has not been adequately considered. It is considered that the present form of the development would have a detrimental impact on the setting and thus the significance of the listed Mill complex.
- Urge that decision is delayed until further negotiations have taken place on the proposals to develop the site to the north of the mill.

2. Two further representations have been received from local residents who have previously comments on the proposals. The content of the representations is summarised below (main 'theme' highlighted in bold for ease of reference) and Case Officer comment is provided beneath each point.

- The committee report claims at paragraph 3.4 that the site is 'recorded as being a site of Special Scientific Interest (SSSI)' which is misleading and factually incorrect. The Officer recommendation is therefore predicated on an **incorrect assessment of the site**.

*Case Officer Comment: This is a typing error. The site is within an SSSI Impact Risk Zone. Paragraph 3.4 of the report is a description of the site and its context. Consideration of the proposal within an SSSI Impact Risk Zone is assessed at paragraph 16.50 of the report so the Officer recommendation has been based upon a correct assessment of this particular constraint.*

- Paragraph 7.4 of the report refers to the **Neighbourhood Plan for Boxted/Myland & Braiswick**. How is this relevant?

*Case Officer Comment: Section 7.0 of the report lists relevant planning policy. Paragraph 7.4 is included in error and can be omitted from the report. The Neighbourhood Plan for Boxted/Myland & Braiswick is not relevant to the proposal.*

- **Previously Developed Land:** The report claims that the 'majority of the site is concrete hardstanding', but in considering Google Earth images and online measuring tools (as well as own personal knowledge) it is considered that significantly less than 50% is concreted. The site is a relatively green open space (The CLEUD application 162414 noted that 'vegetation is encroaching'). The NPPF definition of Previously Developed Land excludes 'land that was previously developed but where the remains of the permanent



structure or fixed surface structure have blended into the landscape.’ Serious questions therefore need to be asked as to how much of the site actually falls within the definition of Previously Developed Land. Previously Developed Land does not in itself justify planning permission.

*Case Officer Comment: The Case Officer assessment of the site is based upon the information submitted with the application, a number of site visits, and comments from both statutory and nonstatutory consultees; it is not considered to be a subjective view. Whilst vegetation is ‘encroaching’ as noted in the CLEUD application, the site is not overgrown and cannot be said to have ‘blended into the landscape’: the coal yard buildings remain, as does the built up land and concrete hardstanding. Please refer to paragraphs 16.2-16.6 of the report with regards to the assessment of weight to be given to previously developed land.*

- The report suggests that the fact that ‘there is a great deal of detritus associated with the use of the site as a coal yard’ is an important material consideration to justify development, but **the site could have been tidied up over the last 5 or so years.**

*Case Officer Comment: Please refer to paragraph 16.41 of the report.*

- **Policies ENV1 and ENV2 are relevant** as only part of the site was formerly used as a coal yard. The NPPF comments on Previously Developed Land do not trump the local development plan.

*Case Officer Comment: A full assessment of Previously Developed Land, in the context of both the adopted Local Plan and the NPPF, is included at paragraphs 16.2-16.5 of the report.*

- Reference to a refusal for 2 dwellings on previously developed land (**ref: 172053**) on the basis of policy ENV2 and impact on the countryside. Suggested inconsistency of approach by Colchester Borough Council. Reference to case law that previous decisions, including appeal decisions, can be a material consideration (e.g. DLA Delivery v Baroness Cumberledge [2018]).

*Case Officer Comment: This is referred to in the Local Representation comments in section 10.0, and discussed at paragraph 16.74, of the report. It is agreed that previous decisions can be a material consideration, but the examples provided by the local resident in question relate to entirely different sites, with different site characteristics and context. For example, whilst not the only consideration, the site referenced under 172053 is much further removed from facilities and services than the application site. The examples of appeal decisions provided (and cited in paragraph 10.2 of the report) are not considered to have a material impact on the consideration of the current planning application.*

- **The application site was rejected in the call for sites** and the Council has always maintained it is not under pressure to accept standard sites. There

is no reason why this site is more accessible and sustainable than those sites identified in the emerging local plan.

*Case Officer Comment: The assessment of sites at the call for sites stage of the preparation of the emerging Local Plan takes a number of stages. The first stage is ruling out any sites which are not abutting or in very close proximity to the existing settlement boundary; any of these sites would not progress to the further assessment stages. The application site was rejected at this first stage of assessment as it is not abutting or in very close proximity to the existing settlement boundary. The site was not, therefore assessed any further for the purposes of the emerging Local Plan. The fact that the site was not carried forward in the emerging Local Plan does not prevent an assessment of the proposal as part of the planning application process, taking into account relevant planning policy and material planning considerations, including the planning balance.*

- Comments at paragraph 16.34 of the report that the **ridge line of the proposed new build** is almost the same height as the coach house's ridge is misleading as the report describes the coach house as being single-storey when there is a two-storey element.

*Case Officer Comment: This does not alter the information shown on the submitted section drawings, nor the conclusion that the proposed new build would be 'almost the same height' as the coach house's ridge. The submitted Landscape and Visual Assessment (LVA) also shows the approximate ridgeline of the proposed new build within the context of the mill buildings and this has been assessed.*

- **Photographs provided from PROW 126\_7** to demonstrate visibility of the mill buildings.

*Case Officer Comment: The LVA includes viewpoints from PROW 126\_7. Please see Landscape Officer comments at section 8.0 of the report, and paragraphs 16.11-16.14.*

- Paragraph 16.13 of the report states that viewpoints 8 and 9 are from footpath 152\_27. These viewpoints are from footpath 152\_27 so the Officer's **comments are incorrect and fundamentally wrong.**

*Case Officer Comment: This is an error in the report. For clarity, viewpoints 10, 11, and 12 are taken from footpath 152\_27. The main purpose of specifically referencing these viewpoints was to confirm that viewpoints from the adjacent and surrounding footpaths had been considered; this is not altered by the error in referencing the specific viewpoint numbers. Please refer to paragraph 16.13 of the report with regards to viewpoints included in the Landscape and Visual Assessment (LVA).*

- Paragraph 16.34 regarding the consideration of **landscape impact** is vague and the report does not seem to substantively justify its assertions. The views demonstrate the visibility of the site, especially in winter.

*Case Officer Comment: Please refer to the Landscape Officer comments at section 8.0 of the report and paragraphs 16.11- 16.17.*

- The report does not deal with the impact of the proposals on the **setting of the mill buildings**.

*Case Officer Comment: Please refer to paragraphs 16.33-16.34 of the report.*

- **Insufficient information regarding proposed materials.**

*Case Officer Comment: Please refer to paragraphs 16.40 and 16.73 of the report.*

- The **pre-application advice** raised significant concerns regarding the impact of the proposals on the heritage assets. The Council seems to have back tracked on its view.

*Case Officer Comment: There has been pre-application advice regarding alternative proposals for this site. The current proposals have been developed following this advice and have been assessed during the formal planning application process with the benefit of advice from both statutory and non-statutory consultees, which would not have been the case during the preapplication process.*

- There is no indication that the **meadow area** would be made available for public use and it appears to be a future private development site. The proposal does not comply with policy DP16.

*Case Officer Comment: Planning permission would be required if the meadow site were proposed for development. If the current application is approved and a subsequent application received to develop the meadow land the loss of open space would need to be assessed along with other material planning considerations. The management of the meadow as open space can be included in the Landscape Management Plan required by condition (condition 20) of 183046. If Members are minded to approve the application this condition could be revised to specify the requirement for details of the future management of the meadow.*

- Irrespective of the **traffic incidents** referred to in paragraph 16.55 of the report, there is an abnormally high number of recorded incidents (and unrecorded incidents) around the access of the site. The introduction of further traffic at this junction is going to increase the chances of a fatal accident in this clear accident black spot.

*Case Officer Comment: The Highway Authority have commented on the traffic safety implications of the proposal (see paragraphs 16.52-16.56 of the report). The Case Officer has not received any evidence that the number of incidents are 'abnormally high', there being 10 recorded incidents over a 5 year period. For clarity, the incident records cover over 170m in either direction from the*

*junction with Colchester Road. There are 3 recorded incidents within 22 metres of the Colchester Road junction, but these incidents are related to drivers on Colchester Road and are not related to drivers coming in or out of the junction. The remaining reported incidents are between 40-173 metres from the junction.*

- The Officer has **failed to apply the planning balance properly**: it is the Council's legal duty to understand the setting of the listed buildings and give any harm, even less than substantial harm, great weight in their application of the planning balance.

*Case Officer Comment:*

- *For clarity, the assessment of the proposals took into account the present condition of the site, including the former Coal Yard and 1980s structures that are attached to the North elevation of the Coach House. The local representation fails to acknowledge the harm that these elements represent to the setting of the listed mill, the Coach House (both by obscuring the building and causing material damage to its fabric), and the character and appearance of the Conservation Area. The balancing act for the assessment of the application is not well grounded unless these issues are also factored in which they have been in the Case Officer assessment.*
- *The local representation makes reference to Essex County Council's 'Water and Steam Mills in Essex Comparative Survey' (2008), but this is not considered to alter the assessment taken in respect of the listed status and setting of the mill buildings, nor does it alter the assessment of the impact of the proposals upon the significance of the coach house. The cited survey does not discuss the present harm to the coach house from the adjacent coal yard buildings and built up land. The benefit from the introduction of a viable use consistent with its conservation is also not included.*
- *The submitted Heritage Statement does identify less than substantial harm to the setting of the listed mill. It states at paragraph 7.15: 'With regards to the level of harm, this would be less than substantial, the works would have public benefit in the form of reusing a listed building (coach house). Removal of the buildings associated with the coal yard and the removal of the coal yard would have public benefit through enhancement of the landscape which is also mitigation towards the development of two residential developments.' The Case Officer assessment takes into account the level of harm as part of the overall planning balance, i.e. whether there is sufficient public benefit to outweigh the perceived harm to the setting of the Mill and conservation area.*
- The Council has **failed to assess key views** or take account of the impact of the proposal on the conservations area, largely focusing instead on the alterations to the coach house. Case Officer Comment: Please refer to paragraphs 16.11-16.14 and 16.18-16.36.
- Where are the **recommended conditions for the Listed Building Consent**? Case Officer Comment: These are included at the end of the report.

- **Loss of amenity:** The garden to be provided for the Mill House regularly floods and there would be overlooking, with direct views to the coach house from the Mill.

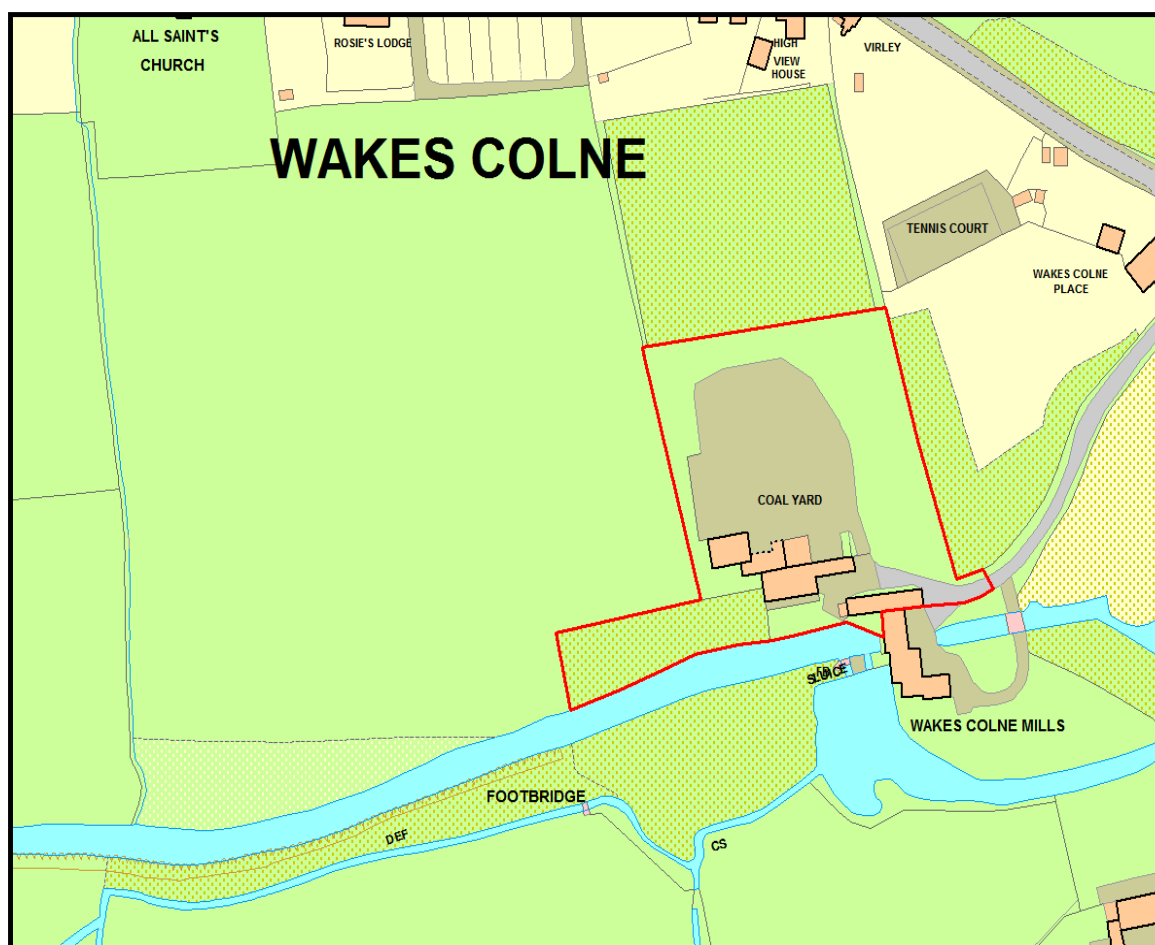
*Case Officer Comment: There are three windows on the south elevation of the main part of the coach house; windows from the Mill face west, but there may be some oblique views as suggested in the representation. The south-facing windows of the coach house, whilst not being high-level windows, are elevated above floor level which would prevent clear views into the rooms beyond. Similarly, the window positions would restrict overlooking from the coach house readily on a day-to-day basis; the resident would need to purposely stand at the window and look out. The position of the windows can be seen on the submitted elevation drawings. There are further south facing windows to the coach house, but these extend beyond the Mill House so would not be visible to or from the Mill. These windows would serve a bathroom, utility, and study/bedroom, but would face onto the communal access to the coach house and Mill House so would not have a detrimental impact on privacy.*

- Concerns regarding the **provisions of utilities**.

*Case Officer Comment: Please refer to paragraph 16.64 of the report.*

- If Members are minded to approve the scheme, request that condition 15 Construction Method Statement is revised to require maintaining safe access at all times to the existing homes.

*Case Officer Comment: This can be accommodated in condition 15 of 183046 if Members resolve to approve the application. Reference to maintaining 'safe access' is considered somewhat vague for a condition; it is suggested that the condition require 'site access to all existing homes to be maintained free from obstruction'.*



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## Item No:

**Application:** 183046 and 183047

**Applicant:** Ingleton 7 Limited

**Agent:** Mr Russell Forde

**Proposal:** 183046

Demolition of solid fuel processing buildings; removal of built up hard surfaces against north wall of coach house with associated regrading of land; removal of wider coal yard hard surfaces; conversion of coach house to dwelling with single storey extension; erection of a pair of attached dwellings on coal yard; reorientation of yard access road; erection of detached four bay garage; associated hard and soft landscaping including improvements to public footpath corridor and biodiversity; implicit change of use from coal yard to two residential properties (Class C3) with private meadow.

183047

Demolition of solid fuel processing buildings; Conversion of coach house to dwelling with single-storey extension.

**Location:** Land to the North of Mill Buildings, Wakes Colne Mills, Colchester Road, Wakes Colne, Colchester, CO6 2BY

**Ward:** Rural North

**Officer:** Lucy Mondon

**Recommendation:** Approval

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

- 1.1 The planning application is referred to the Planning Committee because the erection of dwellings in this location constitute a departure from the Local Plan. Both the planning application and Listed Building Consent application have been referred to planning committee by Cllr Chillingworth on the grounds of: effect on listed buildings; unsuitable design for the location; and dangerous highway access.

## **2.0 Synopsis**

- 2.1 The committee report will cover both the planning application and listed building consent application.
- 2.2 The key issues for consideration are the principle of development; landscape impact; heritage; design and layout; contamination; ecology; highway matters; flood risk and drainage; and amenity. These matters are assessed in the report, taking into account the representations of statutory consultees, professional advisers, and local residents. The application is subsequently recommended for approval subject to conditions.

## **3.0 Site Description and Context**

- 3.1 The site comprises of the driveway and coach house associated with Mill House (itself part of a complex of listed mill buildings now divided into three dwellings) and a former coal yard (located to the north of the mill buildings). The site is located outside the settlement boundary of Chappel and Wakes Colne (approximately 175m away) and is immediately adjacent to (with the frontage of the coach house and the driveway being within) a Conservation Area.
- 3.2 The coach house is directly ancillary to Mill House which forms part of the Wakes Colne Mills complex and is considered to be a curtilage listed building. Wakes Colne Mill was first designated as a grade II listed building on 27 January 1982 and the listing description reads as follows:
- 3.3 *Watermill circa 1840, brick walls in Flemish bond, 3 storeys and range of 4 windows, doors centrally on first and second floors with jettied sack-hoist over. Roof hipped and gambrelled, slate clad with lead flashings. Windows all 6-pane fixed. Half doors central to ground storey. Inside 3 pairs of millstones underdriven mounted on a hearse. Two storey ranges to south and east. Two storey gault*

*brick office or house on north-east corner circa 1820, two window range of marginally glazed sashes at first floor, angled bay window below.*

- 3.4 The frontage of the coach house, part of the garden to Mill House, and the driveway is within Flood Zones 2 and 3, being alongside the River Colne. The coal yard part of the site is located in a Flood Zone 1. The site is recorded as being a Site of Special Scientific Interest (SSSI) and a nitrate vulnerable zone.
- 3.5 Public Right of Way 152\_27 runs along the eastern and northern boundaries of the coal yard part of the site.
- 3.6 The site is recorded as being Grade 3 agricultural land, although the site is clearly previously developed, with the coach house building and the later structures and hardstanding covering the adjacent coal yard site. The boundaries of the site have been built up with earth bunds and there is a great deal of detritus associated with the use of the site as a coal yard scattered on and alongside the bunds. The majority of the site is concrete hardstanding and a considerable amount of coal can still be seen scattered around the site.
- 3.7 The coach house is a single-storey brick-built structure that has undergone some modifications with later garage doors and internal works. The coach house faces south and has a low brick wall immediately to its frontage providing some separation from the garden beyond. Abutting the northern elevation of the coach house are later structures associated with the coal yard use of the adjacent site and the site levels have also been built up against the building. As a consequence, the northern elevation of the coach house is obscured. During site visits to the building it was noted that the coach house was being used sporadically in association with Mill House, at various times it was noted as being used as a makeshift home gym and storage area. The coach house is currently vacant and empty.
- 3.8 Whilst the site is outside the settlement boundary, there are a number of facilities and services in close proximity, such as a village hall, Post Office Store, Public House, Primary School, and business park. The Chappel and Wakes Colne train station is approximately 850m from the application site.

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

- 4.1 This report covers two applications: a full planning application and an application for listed building consent.
- 4.2 The planning application seeks planning permission for the demolition of the coal yard buildings; removal of built up hard surfaces against north wall of coach house with associated regrading of land; removal of wider coal yard hard surfaces; the conversion of coach house to dwelling with single storey extension; and erection of a pair of attached dwellings on coal yard. The proposal also includes the reorientation of the yard access road; erection of detached four bay garage; associated hard and soft landscaping including improvements to public footpath corridor.



4.3 The listed building consent application seeks consent for the demolition of coal yard buildings and internal and external works associated with the conversion of the coach house.

4.4 The application is supported by the following documents:

- Application forms
- Site location plan
- Existing and proposed site plan, plan and elevation drawings
- Site sections
- Indicative images
- Arboricultural Method Statement
- Arboricultural Implication Assessment
- Tree Survey and Constraints Plan
- Tree Protection Plan
- Design and Access Statement
- Preliminary Ecological Appraisal
- Bat and Reptile Survey Report
- Geoenvironmental Desk Study
- Flood Risk Assessment
- Heritage Statement
- Understanding and Design statement
- Landscape and Visual Appraisal
- Nigel Cowlin letter in response to landscape issues raised in local resident objections

## **5.0 Land Use Allocation**

5.1 Previously developed land having previously been a coal yard and part of a working mill complex (in the case of the coach house).

## **6.0 Relevant Planning History**

6.1 Recent relevant planning history as follows:

- 152352: Planning Application for the erection of 6 No. dwellings with associated garages and parking with new shared access and associated works (WITHDRAWN);
- 162414: Application for an existing lawful development certificate for use of land for storage and distribution of solid fuels (Class B8) with ancillary buildings (REFUSED).

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must 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
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- 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
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

7.5 Submission Colchester Borough Local Plan 2017-2033:

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

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

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

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

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

- Backland and Infill
- Vehicle Parking Standards
- Sustainable Design and Construction
- The Essex Design Guide

## 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.

### Anglian Water:

No comments received.

### Arboricultural Officer:

In agreement with the information provided. The proposal requires the removal of vegetation within the internal part of the site. These removals would have limited impact on the wider landscape due to the vegetation on the periphery of the site. The proposals included in the submitted Arboricultural Method Statement, Arboricultural Impact Assessment, and Tree Protection Plan should be secured by condition.

### Archaeological Adviser:

The proposed application concerns the conversion of the Coach House, a curtilage Grade II Listed Building, dating from the early 19<sup>th</sup> century (Wakes Colne Mill and House, NHLE no. 1224981). In terms of below-ground archaeology, the proposed development is situated within the area of archaeological interest recorded in the Colchester Historic Environment Record. The site is located immediately above the floodplain of the River Colne, a location that is topographically favourable for early occupation of all periods. Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist. There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. Additional condition recommended to require a historic building survey in order to record and analyse matters of historical importance associated with the site.

### Contaminated Land Officer:

The submitted Goldfinch Environmental Ltd, 'Geo-environmental Desk Study', Ref. 0561a/1, dated October 2018 is substantially the same as the Desk Study report submitted in support of a smaller application site (152352). This report is acceptable for Environmental Protection purposes. It is noted that some potential sources of

unacceptable contamination have been identified and that a Phase 2 intrusive investigation is recommended to better characterise the risks. Recommended conditions for site characterisation; remediation, reporting of unexpected contamination; and validation of remediation.

Environment Agency:

No comments received.

Environmental Protection:

Recommended conditions to secure construction method statement.

Essex Bridleways Association:

No comments received.

Highway Authority:

The proposal is acceptable to the Highway Authority from a highway and transportation perspective subject to conditions for a construction method statement; for temporary signs along and before Public Footpath 17 alerting users of the footpath of construction works; to ensure that off-street parking is provided and maintained as such; and to secure bicycle storage.

Further consultation with the Essex County Council Public Rights of Way and Records Analyst who has confirmed that, subject to the above conditions, there would not be any negative impact to the Public Right of Way as a result of this application.

Historic Buildings and Areas Officer:

Following receipt of the original proposal, the Historic Buildings and Areas Officer raised certain issues that required clarification before a recommendation could be made. The main concerns were identified as being:

- The treatment of the Coach House's North elevation (including the deepening of the arches to convert them into windows and the opening of a door on the gable section)
- The articulation of the 'sun room', which should leave the added volume legible and distinct from the Coach House
- The form of the proposed garage to the east of the Coach House and mainly the treatment of the asymmetric roof.

Amendments were submitted to address the issues raised by the Historic Buildings and Areas Officer, whose comments are summarised as follows:

The revised proposals (drawings 2818-A-0311 REV P04, 2818-A-0312 REV P03 and 2818 - A-0313 REV P03) have addressed the concerns in regard to the conversion of the Coach House. The relevant comments covered:

- the treatment of the north elevation (including the proposal to deepen the arched openings and convert one of them into a door)
- the articulation of the proposed 'Sun room' to the existing building
- the roof of the proposed garage

The amended proposals provide satisfactory solutions to the above issues according to the Council's recommendations. Therefore and on the basis of these drawings, there are no objections to the proposals on heritage grounds.

Landscape Officer:

The Landscape Officer has referred to the site being outside the settlement boundary and being subject to Core Policy ENV1. ENV1 requires that *'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'*.

The site lies within Colchester Borough Landscape Character Assessment Area A4 (Colne River Valley Floor), this describes the character of the landscape in detail and sets a landscape strategy objective to *'conserve and restore'* the landscape character of the Area. Within the overall charter description for the Area it is identified that *'several bridges, mills and weirs scattered along the river corridor are evidence of the importance of the Colne as an area of settlement and industry'* and specially that *'an interesting weather-boarded – late Georgian example of a three-storey mill is located adjacent to a small church with a little spire at Chappel'*. This would intimate therefore that the visual dominance of the Mill within the landscape needs to be clearly illustrated within the proposal as being maintained in order ensure the character of the area is conserved.

The viewpoint analysis within the Landscape & Visual Appraisal (LVA) dated 04/10/18 (ref NC18.481-lva01) is key in identifying if dominance of the Mill has been maintained as part of the current proposal and, if not, needs to be used as a tool to help redesign the development to ensure that dominance is maintained.

With regards to the original submission, the Landscape Officer made the following specific points:

1. The LVA needs to be augmented to include winter views from key viewpoints, including VP6 on (Fig 7) and VP1, VP8 & VP9 (Fig 8). It is also recommend the accurate outline of the proposed development (simple red line), showing building width and ridge-height, be included to principal viewpoints 10 & 11 (Fig 7) and 1 & 8 (Fig 8). This in order to help fully explore the impact of the proposed development on these principal views.
2. In order to help address concerns raised, the LVA needs to clarified that viewpoint 1 (Fig 8) is the principal point from which the site can be seen from the access track to Old Hall Farm, this as a note against viewpoint photo 1, photo-sheet 1. Likewise it need to confirm that viewpoint 8 (Fig 8) is the principal point from which the site can be seen from the vantage points along Oak Road & PRow 126\_7 as a note against viewpoint photo 8, photo-sheet 4 and that viewpoint 11 (Fig 7) is the principal point from which the site can be seen from the vantage points along PRow 152\_27.
3. Development should propose the removal and re-landscaping of the earth banking to the perimeter of the site (subject to agreement by the ecologists), this to help revive the underlying character of the site, open views from the PRow and offer a deeper landscape setting to it.
4. Where rear gardens abut/back onto the Ecology Zone or Meadow a dark stain 1.8m dark stain hit-&-miss privacy fence needs to be proposed to these unit boundaries, with a native hedge planted along this fence-line on the outer (PRow) side. This in order to protect the privacy of those gardens, the viability of the Ecology Zone and the amenity value/character of the PRow.

Following the submission of further information in respect of the LVA, the Landscape Officer commented as follows:

The professional viewpoint analysis (VA) within the Landscape & Visual Appraisal (LVA) dated 04/10/18 & 15/03/19 (ref NC18.481-lva01) is key in identifying if dominance of the Mill has been maintained as part of the current proposal and, if not, used as a tool to help redesign the development to ensure that dominance is maintained. With this in mind, the VA might be developed further to include an accurate outline of the proposed development (simple red line), showing building width and ridge-height for principal viewpoints 10 & 11 (Fig 7) and 1 & 8 (Fig 8). This in order to help further explore the impact of the proposed development on these principal views.

Further information was subsequently submitted and the Landscape Officer has concluded that the information is satisfactory and that there are no objections to the application on landscape grounds, subject to conditions to secure a detailed landscape scheme and a landscape management plan.

#### Natural England:

Natural England have identified that the development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester Borough Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. This proposal falls below the scale at which Natural England would offer bespoke advice on this issue. It is advised that a Habitats Regulations Assessment (HRA) is undertaken to secure any necessary mitigation and record this decision within the planning documentation, consulting with Natural England where necessary. Planning permission should not be granted until the HRA has been undertaken and the conclusions confirmed.

#### The Ramblers Association:

The Ramblers look forward to the enhanced walking environment along and adjacent to Wakes Colne footpath 27.

#### SUDs:

As the application does not constitute major development, Essex County Council SUDs (as Lead Local Flood Authority) do not have any comments to make in respect of the application. Suggested conditions and informatives have been provided should they be considered relevant.

## **9.0 Parish Council Response**

9.1 Wakes Colne Parish Council objects to the proposal on the following grounds:

- The site is outside the settlement boundary and does not conform to the Local Plan for residential development;

- Major access concerns and increase in traffic movements along a narrow lane leading to the development site. Safety issues at the junction of the lane with Colchester Road (A1124) and to the entrance of the proposed development which is on a blind bend with a public footpath crossing the lane;
- Lack of utilities servicing existing buildings leading to a lack of capacity to accommodate development in this area;
- Inadequate information regarding what types of materials would be used; not in keeping with the rural surroundings of the area;
- Impact of site on the off-site flood risk for the immediate area.

9.2 Chappel Parish Council object to the proposal on the following grounds:

- The access to the site from the A1124 is on an unlit, blind bend which has had numerous accidents over the years and an increase in vehicles is, therefore, of great concern;
- The access road to the site crosses a public footpath;
- The development would be outside the settlement boundary for Wakes Colne;
- The site has not been allocated for development in the emerging Local Plan; and
- The site is within a flood risk area.

## 9.0 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 **Six objections** have been received, the content of which has been summarised below. The summary is provided in topics (in no particular order) for ease of reference.

- Procedural Matters:
  - It is incorrect to describe the site as a former coal yard; it has not recently gone out of use and has been determined as being 'abandoned' by the Council. The industrial use of the site cannot, therefore, be reinstated.
  - No 'blue lined' plan has been submitted with the application.
  - It is not clear whether Chappel Parish Council have been consulted. The site is visible from the public realm of Chappel and impacts on nearby Chappel residents. It is appropriate that Chappel Parish Council are consulted.
  - The photographs submitted with the application have been selectively taken and the points chosen are not the only points where the mill can be appreciated from (from the public realm).
  - The drawings and information included in the heritage statement and Design and Access Statement are insufficient with which to make an informed decision on the preservation or enhancement of the listed buildings/conservation area.
  - None of the drawings include specific reference to materials or the approach to landscaping.

- The heritage statement does not adequately describe the setting or significance of the Grade II listed mill/Old Granary and Mill House, or the Chappel Conservation Area.
- The Design and Access Statement does not meet the legal requirements for information on access.
- No Transport Assessment/Statement has been submitted. Consequently, there is no information on the level of traffic that is expected to be generated by the proposed development or the accident data relating to the junction with the A1124.
- General Queries:
  - Who would own the meadow and maintain it; how could overflow parking be prevented?
  - Would the concrete and other pieces of material along the site bund be removed?
  - How would Mill House be redeveloped?
- Principle of Development:
  - The site is outside the village envelope and is not recommended for development in the new Local Plan. It does not meet the criteria for ENV1 or ENV2.
  - The proposal would be contrary to policy SD1.
  - The proposal is contrary to policy UR2 as it would be discordant with its context and fails to enhance the quality and function of the area.
  - The site should remain undeveloped as this would be better in keeping with the character of the locale than the proposed development.
  - An appeal for residential development at Virley Cottage, outside the settlement boundary of Wakes Colne, was dismissed (APP/A1530/W/17/3178618) with the reasons holding true for this site.
  - The Council refused outline permission for 2 No. houses on a relatively new B2 industrial development (ref: 172053) outside the settlement boundary less than 1km from the application site, the reason being that it would have an unnecessary urbanising impact on the countryside. This site is superior to the application site from a sustainability/accessibility aspect and would have less of an urbanizing impact than the current proposal.
  - There is no presumption that previously developed land should be re-developed.
  - The emerging Local Plan has identified a suitable site for the provision of additional housing (30 units) within Chappel and Wakes Colne.
  - Policy ENV1 states that development will be directed away from land at risk of fluvial flooding.
  - There is little evidence of any substantial economic, social, and environmental benefits which would outweigh other material planning considerations.
  - Paragraph 79 of the NPPF states that decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply: optimum use of a heritage asset; the redevelopment of redundant or disused buildings and enhance its immediate setting; and the design being of exceptional quality. The application does not demonstrate how the scheme meets these criteria.
- Highway Matters:



- Three new dwellings would result in at least six cars which would double traffic movements along the lane and have safety implications for users of the public footpath and access to/from the A1124.
- The site access is limited, being a single track lane that is unlit and without passing places or a footpath. It is not suitable for additional traffic.
- The access lane joins Colchester Road on a sharp bend. Although being a 30mph limit there have been accidents on this road and traffic surveys have recorded average speeds to be in excess of 30mph. the junction is not suitable for additional traffic without improvements.
- 10 no. parking spaces is considered to be excessive for two new houses, the coach house, and Mill House.
- It would be dangerous for pedestrians to reach the bus stop and train station. There is a footpath on the north side of the road which requires pedestrians to cross the main road on a blind corner.
- The application form states that no new or altered vehicular access proposed to or from the public highway is being proposed, but it would appear from the extent of the recent resurfacing work along the access lane that there would be an altered/new access onto maintainable public highway.
- It is not evident that due regard has been given to appropriate visibility splays.
- Services:
  - Neither the site nor the mill buildings have mains sewerage.
  - Mains water is supplied by an old lead pipe that serves all buildings and water pressure is low. There is no information provided to explain how this service would be protected for existing residents or for the new development.
  - The application form proposed that the development will be connected to an existing drainage system/mains sewer. It is not clear how this will be effected as it is understood that there is no main sewer in the vicinity.
- Layout and Design:
  - Current building and population density in the area is low; any increase in densities would be wholly inconsistent with the character of the locale and would be 'urban sprawl'.
  - Lack of information provided regarding construction materials.
  - Whilst the works to the coach house appear sympathetic, the two new dwellings are out of character with the style of the listed buildings present and the general nature of building throughout Colne Valley.
  - The proportions of the proposed new dwellings are 'all wrong' and the developer is trying to cram in too much. The development, as well as proposed landscaping, would obscure parts of the mill from the north, including from Public Right of Way 152\_27.
  - The extension to the coach house, and its fenestration, is incongruous and not harmonious with the character of the existing building. There is no justification for lowering the window sills of the curved windows in the southern elevation. The roofline of the sun room extension would interfere with the visual proportions of the heritage asset. The sun room extension would be a dominant addition to the building as there is no visual break between old and new. Such extensive use of glass would detract from the rural character of the coach house.

- There is nothing within the application to suggest that the proposed design is of a high standard, contrary to policy DP1.
- Paragraph 70 of the NPPF states plans should consider the case for setting out policies to resist inappropriate development of residential gardens. The Mill House currently has an area of lawned garden that will be destroyed by the creation of a new site access. Given that the Mill House is listed this is considered inappropriate development of a residential garden harming an integral part of the heritage asset.
- The new access to the proposed dwellings would result in loss of garden to the Mill House, leaving just an overlooked courtyard area and a detached parcel of land to the south of the river that can only be accessed by crossing the narrow flood gates.
- Concern regarding the scale of the proposal and how it will sit in the landscape and the context of the mill complex; a substantial portion of the building roof would be visible between the coach house and Mill house. The silhouette of the coach house against the landscape would be lost.
- The new dwellings would be overly long and monolithic.
- Landscape Impact and Trees:
  - The proposal is contrary to policy ENV1. It is not appropriate in terms of its 'scale, siting and design' and does not 'protect, conserve or enhance landscape character, including maintaining settlement separation. The proposal does not 'protect, conserve or enhance the interests of natural and historic assets'.
  - A two-storey 'incongruous development' does not maintain the important cross-valley views identified in the Colchester Borough Landscape Assessment, nor does it conserve the open character of the floodplain.
  - The former coal yard is not considered to be an eyesore and the proposal is not considered to be a better alternative. The former coal yard is a rather pleasing green space from a landscape and amenity perspective.
  - No site levels provided so the skyline and views of the development from a distance cannot be accurately verified.
  - The submitted LVIA wrongly concludes that the visual influence of the proposed development is limited to the footpath around the perimeter of the site and to the footpath immediately south of the mill complex.
  - The Colne Valley is an important rural amenity asset and any development should be carefully considered due to the risk of degrading it. The proposed development would set an unfortunate precedent.
  - Would the trees listed as B1 value be protected by tree preservation orders? And would trees on the river bank be protected?
- Heritage:
  - In 2014, a ruling by the Court of Appeal (Barnwell Manor Wind Energy Ltd v East Northants District Council, English Heritage and the National Trust) made it clear decision makers must give considerable importance and weight to the desirability of preserving the setting of listed buildings (and by implication other heritage assets) when carrying out the balancing exercise of judging harm against other planning considerations, as required under the National Planning Policy Framework.
  - The proposals for the coach house are ugly and unsympathetic to its heritage.

- The Mill House (owned by the applicant) has deteriorated and no new development should be allowed until works to repair and maintain Mill House have been carried out.
- The proposed development would have an impact on the Conservation Area. The application does not consider the impact of the development on views from the conservation area to the east, along the lane, and from footpath 152\_27.
- The proposal will impact on the setting of a listed building. Mills traditionally are relatively isolated and, by building two-storey buildings closer to the river is introducing buildings that interfere with the isolated mill context and would 'crowd' the existing listed buildings. As Public Right of Way 126\_7 commands an elevated position, it is evident that the view of the relatively isolated mill complex would be seriously prejudiced by the introduction of an 'alien, elongated two storey semi as a backdrop'. The proposed buildings would be visible above existing rooflines, blotting out views of the separating vegetation beyond, creating the appearance that the mill is part of a much larger urban complex which destroys the ability to read its historical setting.
- The conversion of the coach house displaces existing vehicle garaging/parking provision and should not be seen as a justification for constructing further garaging on site. The proposed 4-bay shared garage looks to be orientated the wrong way round and would be impractical with the entrances facing north rather than south. The garaging is incongruous and the design appears more suited to a modern housing estate than the setting of a listed building.
- The coach house already has a viable use and therefore its conversion cannot be justified on the basis of circumstances listed in paragraph 79 of the NPPF. The proposal is not considered to be the optimal use of the building; the coach house has been used as a utility/boiler room, storage and garaging to the Mill House and there is no reason why this could not continue.
- The enclosures created by fencing off different areas are inappropriate. The coach house should not be seen as a separate entity to the remainder of the existing buildings. There is not considered to be any justification for the loss of the Mill House garden.
- The applicant has not adequately addressed the potential archaeological interest of the site given that there may have been a mill on site since 1066.
- There are not considered to be any public benefits arising from the proposal in order to justify the harm of altering the proportions, fenestration, and sub-division of space of the coach house.
- The application suggests that the redundant modern storage buildings to the north of the coach house and the raised ground level is causing harm to the fabric and setting of the building, but there is no technical/structural survey to support this. There is no evidence to suggest that the future of the building would be at risk if the proposal does go ahead.
- Ecology:
  - The proposal is contrary to policy ENV1 as it does not 'protect habitats and species and conserve and enhance the biodiversity of the Borough'.
- Flood Matters:

- There is insufficient information on SUDs. The former coal yard now provides a semi-permeable surface (as former hard surfaces have weathered and broken down). It is not known what materials would be used to create driveways etc.
- The Mill and the lane regularly flood (most recent serious flooding being in 2013/2014).

10.3 During the course of the application both revised and additional information was submitted in order to address specific heritage and landscape matters. It was not considered necessary to carry out further public consultation as the proposed changes were not significant given that they covered views already expressed in the objections previously received. Nonetheless, further comments were received from two local residents. One resident commented that the further information did not address their original comments around the impact on views, listed buildings, or materials. The other representation received was more extensive and is summarised as follows:

- No extension of time has been agreed.
- A new public consultation period should be undertaken as new applicant material has been received.
- There is a claim that the site is outside a Conservation Area, but part of the site is within the Conservation Area.
- The landscape information does not include a view from Observatory Cottage and Public Right of Way 126\_7. The photos and views submitted are highly selective and do not show the impact of the proposal.
- The approximate ridgeline of the proposal in the supporting information submitted does not look correct.
- The picture viewpoints submitted do not show the bulk of the new dwellings or the impact of hard surfacing.
- Inadequate information regarding proposed materials.
- New documentation makes reference to the untidy site; development of the site is not necessary for it to be tidy.

10.4 The matters raised in the local representations will be addressed in the main body of this report.

## 10.0 Parking Provision

11.1 A total of 14 no. car parking spaces are proposed. There is ample space at each plot for cycle parking.

11.2 The EPOA Vehicle Parking Standards set requirements for parking for residential dwellings as follows:

	Car Parking (minimum)	Cycle Parking (minimum)	PTW (minimum)	Disabled (minimum)
2+ bedroom	2 spaces per dwelling	1 secure covered space per dwelling (none if garage or	N/A	N/A if parking is in curtilage of dwelling.

		secure area is provided within curtilage of dwelling)		
Visitor/unallocated	0.25 spaces per dwelling (rounded up to whole number).	If no garage or secure area is provided within curtilage of dwelling then 1 covered and secure space per dwelling in a communal area for residents plus 1 space per 8 dwellings for visitors.	1 space + 1 per 20 car spaces (for 1 <sup>st</sup> 100 car spaces), then 1 space per 30 car spaces (over 100 car spaces).	3 bays or 6% of total capacity, whichever is greater.

## 11.0 Accessibility

12.1 An explanation of access is set out in the submitted Design and Access Statement.

12.2 In terms of accessibility and the Equality Act, the proposal is not considered discriminate against disability, either directly or indirectly. The proposals are designed so as to provide both living areas and bedroom space at ground floor level (the Coach House) or have flexibility for adaptation (Plot 1 and Plot 2).

## 13.0 Open Space Provisions

13.1 The proposed development provides garden space in excess of the 100sqm space required for 4-bed dwellings in the Local Plan (Policy DP16).

13.2 The meadow area on the eastern side of the site, at just under 900sqm, equates to 10% of the site area and therefore public open space is provided in accordance with DP16.

## 14.0 Air Quality

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

## 15.0 Planning Obligations

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

## **16.0 Report**

- 16.1 The main issues in this case are: principle of development; landscape impact; heritage matters, design, and layout; contamination; ecology; highway matters; drainage and flood risk; and amenity.

### **16.2 Principle of development**

In terms of the principle of development, Core Strategy Policy SD1 seeks to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy (Colchester Town and Stanway being at the top of that hierarchy, extending down to District Settlements of Tiptree, West Mersea, and Wivenhoe; with other villages in the Borough being identified as ‘Rural Communities’) and a sequential approach that gives priority to accessible locations and previously developed land (PDL). The requirements of TA1 are relevant such that development needs to be focused on highly accessible locations to reduce the need to travel.

- 16.3 Core Strategy Policy ENV2 expands upon the requirements for development within rural communities, confirming that the Borough Council will enhance the vitality of rural communities by supporting appropriate development of infill sites and PDL within the settlement development boundaries of villages.

- 16.4 It is relevant to consider that Government guidance acknowledges that rural housing is essential to ensuring the viable use of local facilities such as schools, local shops, cultural venues, public houses, and places of worship. Paragraph 78 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Indeed, where there are groups of smaller settlements, development in one village may support services in a village nearby. Paragraph 84 states that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist, although Paragraph 79 makes it clear that Planning policies and decisions should avoid the development of isolated homes in the countryside unless specified circumstances apply.

- 16.5 The application site is not located within a village settlement boundary so falls outside the settlement hierarchy of policy SD1 and the provisions of policy ENV2. It is noted however that both policy SD1 and the NPPF seek to focus development to Previously Developed Land (PDL) and the site, having formally been a coal yard, falls within this category.

- 16.6 The development of PDL is encouraged so this weighs in favour of the development. In terms of sustainability and accessibility, Chappel and Wakes Colne have a number of facilities and services that are in reasonable proximity to the site. To the north and east of the site is the village hall, Post Office Store, Public House, and Primary school, all of which are within desirable walking distance of

500m (as per guidance in The Institute of Highways and Transportation Guidelines for Providing Journeys on Foot). There is also a bus stop at the Post Office Store which provides public transport further afield to Halstead and Colchester. The Chappel and Wakes Colne Train Station is approximately 850m to the north of the site, and the Wakes Hall Business Park is approximately 970m to the north-west, which is again an acceptable walking distance for commuting should residents choose to walk. It is accepted that the safest walking route to these facilities would be along the PROW and that, at times of inclement weather this would be less appealing to pedestrians, although it is considered that in poor weather people would generally choose to drive to facilities rather than walk in any case. Given the proximity of the site to a number of services and facilities (without the need to travel by private car), the proposal is not considered to be 'isolated' and is sustainable. The proposed development would support these local services and facilities and help to maintain their vitality in accordance with the NPPF.

- 16.7 The accessibility to services and facilities without the need for private car is also considered to meet the principles of policy TA1, bearing in mind paragraph 84 of the NPPF which states that it should be recognised that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
- 16.8 In terms of housing density and diversity, Core Strategy policies H2 and H3 require developments to make efficient use of land and relate to their context. A range of housing types and tenures across the Borough is sought in order to create inclusive and sustainable communities. The policies go on to state that new developments must enhance local character and optimise the capacity of accessible locations. The proposed development is for dwellings served by large plots with off-road parking. This is considered to be contextually appropriate given the similar nature of surrounding development.
- 16.9 It is important to note that Core Strategy Policy ENV1 does not apply to the principle of development in this case. This policy states that unallocated greenfield land outside of settlement boundaries will be protected; whilst the site is unallocated it is previously developed land so is not greenfield land that is protected by the policy.
- 16.10 In conclusion, the proposal would result in the redevelopment of previously developed land which is encouraged in both national and local planning policy; it is not considered to be 'isolated' in NPPF terms; would be in a reasonable accessible location in terms of having access to facilities and services without the need to travel by private car; and the proposal is considered to be of a suitable density given its location. Further material planning considerations are necessary, and the planning balance will need to be considered in order to make a final conclusion on the acceptability of the proposal.
- 16.11 Landscape Impact (including trees)

Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.

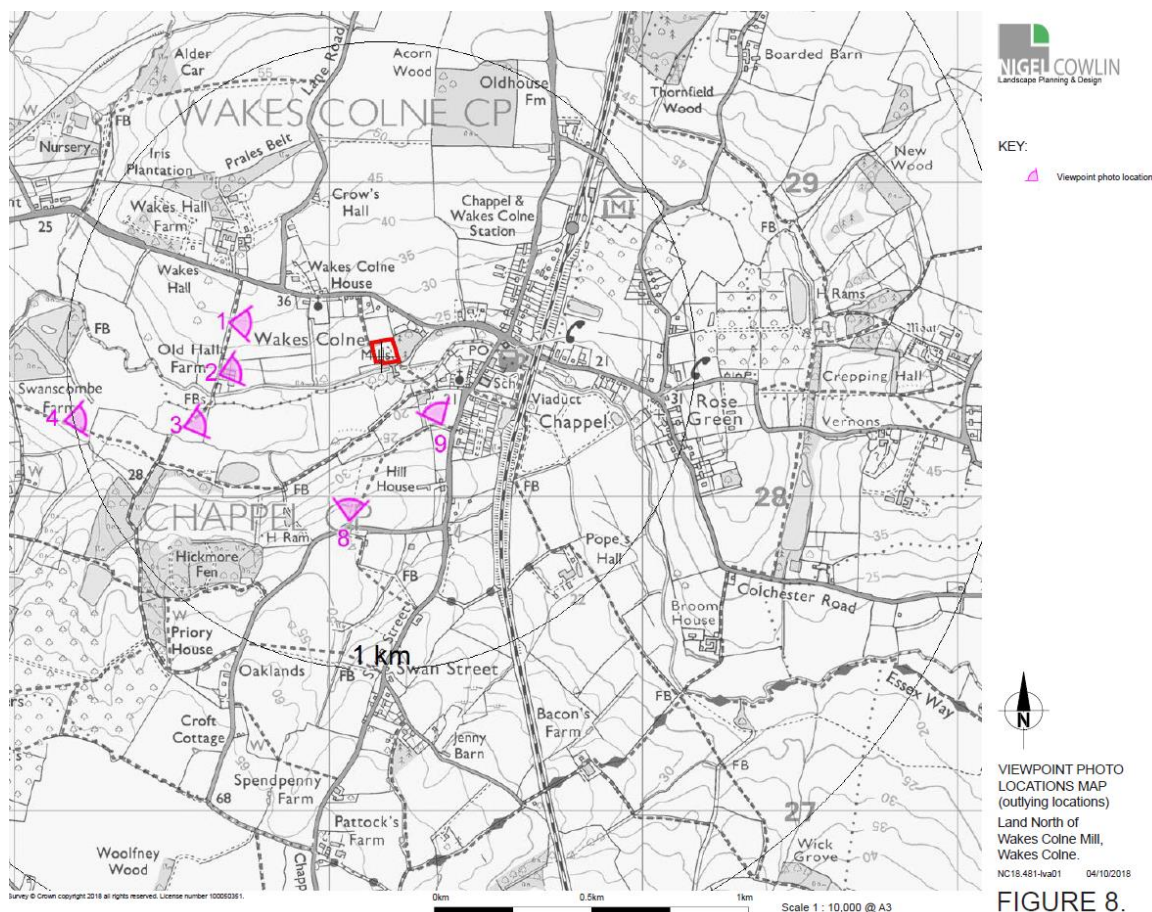
16.12 As identified by the Council's Landscape Officer, the site lies within Colchester Borough Landscape Character Assessment Area A4 (Colne River Valley Floor), which describes the character of the landscape in detail and sets a landscape strategy objective to '*conserve and restore*' the landscape character of the Area. Within the overall charter description for the Area it is identified that '*several bridges, mills and weirs scattered along the river corridor are evidence of the importance of the Colne as an area of settlement and industry*' and specially that '*an interesting weather-boarded – late Georgian example of a three-storey mill is located adjacent to a small church with a little spire at Chappel*'. It is therefore considered that the visual dominance of the mill complex is maintained in the interests of the landscape character of the area.

16.13 Further information was submitted in respect of the Landscape and Visual Appraisal to include winter views of the site, additional viewpoints, as well as more accurate outlines of the proposed development in the landscape context. Whilst local objection has referred to the appraisal omitting view from footpath 152\_27, this is not the case as viewpoints 8 and 9 are both from this footpath. Local objection has also queried the accuracy of the viewpoint photographs, but there are no concerns in this regard given that the viewpoints have been gathered by a professional Landscape Consultant in accordance with industry standards; viewpoints have been established by establishing zones of theoretical visibility (ZTV) and these viewpoints have been verified by the Council Landscape Officer. In contrast, the photographs provided by some of the objectors are 'zoomed' in photographs from locations away from public rights of way (where the general public do not have a legal right of access) so could not be used as evidence in an assessment of landscape impact. For clarity, the viewpoints used in the Landscape and Visual Appraisal are shown in the following figures:





FIGURE 7.



16.14 Following receipt of the additional information in respect of viewpoints, the Council's Landscape Officer has concluded that the level of information is satisfactory. It is considered that the information demonstrates that the mill complex would remain entirely legible in the landscape and would not be dominated or diminished by the new build proposed.

16.15 The landscaping of the site can be achieved in an acceptable manner. Landscaping to the boundaries of the site would, as shown on the proposed site layout drawing (2818-0106 Rev P04), be informal with hedge planting. There is some more formal planting within the shared drive between the coach house and proposed new build. Detailed landscape proposals can be approved and secured via condition. Local representations have criticised the proposal by stating that there is insufficient information with which to assess landscape proposals. This is not considered to be the case as the proposed layout submitted with the application indicates a landscape concept to a similar level of detail that would be seen in any number of planning applications for residential development. It is entirely acceptable for detailed proposals to be secured via condition once the general landscape concept has been agreed.

16.16 In terms of trees, the B category trees along the boundaries of the site would be retained and protected during the course of the development. There are some trees in the centre of the site that would be removed in order to make way for the development, but their loss is not considered to be significant given their category (C Class or unclassified) and the retention of more prominent trees along the boundary. The Council Arboricultural Officer is satisfied with the information

provided with the application, subject to its content being secured by condition; the condition will ensure adequate tree protection and appropriate construction techniques.

- 16.17 On the basis of the above, the proposal is considered to accord with both policy ENV1 and DP1 in respect of landscape impact.

16.18 Heritage

The relevant legislation for the review of the application is the Planning (Listed Buildings and Conservation Areas) Act (1990), where Section 16(2) states that in considering the granting listed building consent special regard should be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 66 (1) requires that the decision to grant planning permission for development which affects a listed building or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same document stresses that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

- 16.19 The National Planning Policy Framework (2019) is an additional consideration. Section 16, Paragraph 192(a) states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 192 (c) states that in determining applications, the desirability of new development making a positive contribution to the local character and distinctiveness should be taken into account. Paragraph 193 determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and paragraph 194 determines that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Whereas paragraph 195 deals with substantial harm to a designated heritage asset, Paragraph 196 states that where a development proposal will lead to less than substantial harm to the asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 16.20 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. This policy is not entirely consistent with the NPPF that requires that less than substantial harm be weighed against the public benefits at paragraph 196.

- 16.21 The planning application involves the construction of 2 No. dwellings on the coal yard site, as well as the conversion of the Coach house into a dwelling. The proposals include lowering the ground level of the coal yard, the removal of the buildings to the north of the Coach House, the addition of a four bay garage to its east, and an one-storey extension to its west side.

- 16.22 In terms of built heritage, The Mill and the adjacent House are listed at Grade II (UID 1224981), with the following description “*Watermill circa 1840, brick walls in Flemish bond, 3 storeys and range of 4 windows, doors centrally on first and second floors with jettied sack-hoist over. Roof hipped and gambrelled, slate clad with lead flashings. Windows all 6-pane fixed. Half doors central to ground storey. Inside 3 pairs of millstones underdriven mounted on a hearse. Two storey ranges to south and east. Two storey gault brick office or house on north-east corner circa 1820, two window range of marginally glazed sashes at first floor, angled bay window below.*” The Mill complex was converted into dwellings in the 1970s when the industrial use of the site ceased.
- 16.23 The site also includes the 19<sup>th</sup> c. Coach House, to the north of the Mill. The Coach House appears in the Tithe Maps from 1841 and the consequent OS maps.
- 16.24 Since the 1940s, the land north to the Coach House was used as a coal yard. The ground level of the yard has been filled in, while a group of outbuildings were added to the north side of the Coach House in the 1980s, to serve the coal business. After this business ceased, the buildings that abut its north elevation, and the former coal yard became redundant. The coal yard site part of the wider setting of the mill complex. It does not make a particular contribution to the significance of the listed building beyond the fact that it is vacant.
- 16.25 Part of the application site is also situated within the designated Chappel Conservation Area (its boundaries include the Coach House, but not the coal yard to the north).
- 16.26 The site’s interest from a heritage perspective is therefore considerable, since the proposals involves the conversion of the Coach House which has listed status as curtilage building of the Mill Complex. Additionally, the proposed development will impact the setting of the designated heritage asset, while the scheme will also affect the character and appearance of the Conservation Area.
- 16.27 The review of the proposals from a heritage perspective involves two issues: firstly, the conversion of the Coach House and the direct impact of the proposed works on the historic asset itself and secondly, the proposed development on the coal yard and its effect on the setting of the designated Mill complex and the Chappel Conservation Area.
- 16.28 The Council Historic Buildings and Areas Officer has commented that the proposal to convert the redundant Coach House into a dwelling is in principle welcome, as the NPPF encourages the introduction of new viable uses to heritage assets, as long as it is consistent with their conservation. The Coach House is preserved in a fairly good state and would lend itself well to the conversion. Although its southern elevation is in a good condition, the northern one shows the signs of the adjacent use of the coal yard and its subsequent redundancy: the 1980s structures obscure its north elevation, while the fenestration has been altered and the wall suffers from rising damp due to the built up of the coal yard to its exterior. At the site visit, significant cracks were evident along the northern wall of the coach house as well as signs of pressure from the raised ground levels externally.

- 16.29 The removal of the modern structures and the restoration of the ground level are expected to have a positive impact on the historic building, as they will reveal its north elevation and improve the condition of the north wall.
- 16.30 Other considerations regarding the impact of the conversion on the character of the building include the addition of the sun room: its addition is not in principle an issue, as it is understood that the extension seeks to counterbalance the lack of views to the river from the Coach Houses' main space due to the existing height of the south windows, which are preserved in their original form.
- 16.31 The revised proposals (drawings 2818-A-0311 REV P04, 2818-A-0312 REV P03 and 2818 - A-0313 REV P03) have addressed the concerns in regard to the conversion of the Coach House. The relevant comments covered:
- the treatment of the north elevation (including the proposal to deepen the arched openings and convert one of them into a door)
  - the articulation of the proposed 'Sun room' to the existing building
  - the roof of the proposed garage
- 16.32 The amended proposals provide satisfactory solutions to the above issues according the Council's recommendations. Therefore and on the basis of these drawings, there are no objections to the proposals on heritage grounds.
- 16.33 The addition of the new dwellings on the Coal Yard will alter the setting of the listed Mill complex and will affect the views from and towards the historic asset in so far as it would add built form. The proposal would also result in changes that affect the Conservation Area. The treatment of the boundaries and the landscaping of the open spaces are important factors in order to protect the public amenity (public pathway) and ensure further mitigation of the impact on the setting of the historic complex.
- 16.34 The form and layout of the new dwellings references rural utilitarian and agricultural buildings and the choice of materials attributes an industrial character that suits the setting of the Coal Yard. Moreover, according to the Site Sections, the ridge of the new dwellings sits lower than the Mill's roof line and almost at the same height with the Coach House's ridge. As assessment of the landscape impact has concluded that the proposal would retain the dominance of the mill complex from public views.
- 16.35 The decision to include the conversion of the Coach House and remove the redundant buildings from its north elevation represents an important improvement regarding the scheme's heritage impact. The conversion of the curtilage building, in a manner that is consistent to its conservation, complies with NPPF's Paragraph 192 (a). It remains to ensure that the proposed works will cause less-than substantial harm to the building's significance, according to the NPPF's definition, which will be counterbalanced by the expected public benefit of putting the historic building back to viable use, according to NPPF's paragraph 196. Conditions will be necessary to ensure appropriate materials and detailing. A historic building survey could be conditioned to provide a detailed record of the coach house in



order to allow further recording of the curtilage listed structure in the interests of historical understanding.

16.36 In terms of below ground archaeology, the Council's Archaeological Adviser has confirmed that ground works associated with the proposed development would cause ground disturbance that has the potential to damage archaeological deposits, should there be any. The professional advice of the Archaeological Adviser is that there are no grounds to consider refusal on this basis as suitable conditions will secure archaeological investigation that would record and advance the understanding of the significance of archaeological deposits, which should be preserved in situ. The proposal is therefore considered to be in accordance with policies ENV1 and DP14 subject to these conditions.

16.37 Layout and Design

In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.

16.38 Development Plan Policy DP12 requires high standards for design, construction, and layout. In considering proposals for new residential development, the following needs to be taken into consideration:

- i. The avoidance of adverse overshadowing between buildings or over neighbouring land uses, and of other adverse microclimatic effects resulting from medium and high rise buildings at a high density;
- ii. Acceptable levels of daylight to all habitable rooms and no single aspect north-facing homes;
- iii. Acceptable levels of privacy for rear-facing habitable rooms and sitting-out areas;
- iv. A management and maintenance plan to be prepared for multioccupancy buildings and implemented via planning conditions to ensure the future maintenance of the building and external spaces;
- v. Flexibility in the internal layout of dwellings to allow adaptability to different lifestyles;
- vi. Vehicle parking (including secure cycle and motorcycle parking) to an appropriate standard, as set by Essex County Council and policy DP19, and provided in a visually acceptable manner. In the case of flats, secure cycle storage should be incorporated into flat blocks and readily located at the building entrances, and;
- vii. An accessible bin and recycling storage area, and external drying areas.

16.39 As set out above, the design and layout of the proposal is considered to be appropriate in terms of landscape and heritage impact. The conversion of the coach house has been found to be acceptable in listed building terms. The design of the new build is such that it reflects the more industrial nature of the former coal yard and this is considered to be an appropriate design response given this context. The proposals are considered to meet the relevant requirements of Policy DP12 as there would be no adverse overshadowing, adequate daylight to habitable rooms, acceptable levels of privacy. Matters of parking and flexibility of internal layouts have been addressed within the main body of this report. The requirements relating to multi-occupancy buildings is not relevant in this case.

- 16.40 Local representations have stated that there is insufficient information with regards to the design and materials proposed, but this is not considered to be the case. Details have been provided to show indicative sketches of the proposals, as well as more detailed drawings and examples of the detailing proposed. These details accord with the design approach being put forward and are considered to be acceptable. Precise details can reasonably be secured by condition.
- 16.41 Given the current state of the site, with the former coal yard buildings visibly deteriorating and the site being overgrown with a great deal of coal waste and various items associated with the former use being strewn across the site and imbedded in the bunds on the boundaries, the proposal is considered to enhance the site. This is not limited to clearing and tidying the site, but with enhanced landscaping.
- 16.42 Local representation has expressed concern with the garden of Mill House being compromised as a result of the development. Although the garden to Mill House (which currently consists of a grass area to the front of the building and two areas of land either side of the river) would be altered, the proposals still allow for ample garden space; the Mill House would still have the garden space to the south of the river which it currently enjoys. Further consideration of amenity and garden space is considered in the Amenity heading below.
- 16.43 The proposal is therefore considered to be acceptable in design terms, subject to conditions, in accordance with the aforementioned policies.
- 16.44 Contamination  
Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.
- 16.45 Given the history of the site as a coal yard and the proposed vulnerable use (residential), it was necessary for the application to be supported by a contaminated land assessment. The submitted assessment identified some potential sources of unacceptable contamination which require further investigation in order to characterize the risks. The Council Contaminated Land Officer considers this to be acceptable subject to conditions for site characterisation; remediation, reporting of unexpected contamination; and validation of remediation. The proposal is therefore considered to comply with policy DP1 in respect of contamination.
- 16.46 Ecology  
Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.

- 16.47 The application was supported by a Preliminary Ecology Appraisal. The appraisal concluded that the site is of moderate ecological value, based upon the presence of low numbers of roosting bats and reptiles and the location of the site being adjacent to the River Colne. Mitigation measures would enable the proposed development to proceed with negligible risk of harm to protected species and without any significant negative impact upon habitats or any local wildlife population. The appraisal identified that additional bat surveys (for roosting bats) and reptile surveys would be required. Recommendations were made in respect of reducing any risk of harm or disturbance to Water Voles, nesting birds, and Hedgehogs and Common Toads, along with general precautions in respect of badgers. Biodiversity enhancements, such as bat and bird boxes, native tree and shrub planting, and habitat piles are also recommended.
- 16.48 The additional Bat and Reptile Survey concluded that there were very low numbers of bats found to be using the site and, as such, mitigation measures were appropriate. The recommended mitigation measures include the timing of demolition/construction (not between sunset and sunrise between April and September), as well as sensitive lighting. In terms of reptiles, the appraisal found that, without mitigation, the proposed development would result in direct loss of suitable reptile habitat and potentially kill and/or injure Common Lizards, Slow Worms and/or Grass Snakes. The provision of an area of habitat of approximately 0.12ha was considered by the appraisal to be sufficient to support the small population of Common Lizard, Slow Worms, and Grass Snakes recorded on site. Translocation of reptiles would be necessary, with reptile fencing being erected around the development area in order to prevent animals returning following translocation; full details of the mitigation measures are detailed in the appraisal.
- 16.49 The proposal includes a meadow and an ecology zone on site. The ecology zone in particular would provide the habitat required for mitigation as identified in the appraisal. Subject to conditions to ensure that the mitigation measures are carried out and maintained, the proposal is considered to comply with relevant policy.
- 16.50 Consultation has also been undertaken to assess whether the proposal would have an impact on an SSSI Impact Risk Zone. Details provided by Defra confirm that there is no requirement to consult Natural England as development is under 100 dwellings.
- 16.51 Natural England have, however, confirmed that the development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester Borough Council, working together to mitigate the effects arising from new residential development. It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. A Habitats Regulations Assessment (HRA) has been undertaken and this concludes (in accordance with Natural England standing advice) that a contribution towards the RAMS is required in order to mitigate the impacts of the



development upon designated sites. The payment is required before the planning application is determined.

16.52 Highway Matters

Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).

16.53 The Highway Authority has considered the proposals from a highway and transportation perspective and do not object to the proposal subject to conditions. Local representations have expressed concern regarding additional vehicular traffic using the existing lane and the potential impact on pedestrians using the Public Right of Way that crosses the lane and this matter has been explored further with the Highway Authority. Further consultation with the Public Rights of Way team confirms that there is no objection to the proposal in terms of how it may impact upon the public right of way.

16.54 Paragraph 109 of the NPPF makes it clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The considerations of the Highway Authority confirm that there would be no such impact, subject to conditions.

16.55 Local representations have made several comments regarding highway and traffic impacts and further comment can be provided in response to these below:

- No Transport Assessment or Transport Statement has been submitted with the application. The requirement for the provision of a Transport Assessment (TA) is 50 dwellings and for a Transport Statement (TS) 25 dwellings. The proposal is for 3 No. dwellings falls far below the threshold for when these studies are required.
- In terms of the increase in traffic movements and the safety implications for users of the public footpath and access to/from the A1124, the PROW Officer has confirmed that there are no conflicts that would be considered 'severe' and additional signage has been recommended via condition to alert those using the footpath and construction workers of each others presence. Increase in traffic from the development of 3 dwellings is considered to be minimal, especially as vehicle speeds would be slow along the access track. The Highway Authority has considered this aspect.
- The access track adjoins Colchester Road and local residents have expressed concerns regarding safety. This part of Colchester Road is a 30mph limit and as such drivers should be travelling at this speed; the planning system cannot control drivers who choose to exceed the speed limit. In any case, accident data on this part of the road has been explored. The accident data shows 10 recorded incidents between December 2013 to November 2018. None of the

incidents were attributed to those joining Colchester Road or turning into the access road. The majority of incidents were due to weather conditions or reckless driving.

- Parking spaces are considered to be excessive in the local representations. The parking proposed meets policy requirements. At least 2 car parking spaces are provided per dwelling, with the remainder allowing provision for visitor spaces in accordance with policy (which would require 1 car parking space, 2 motorbike spaces, and 3 disabled spaces for visitors to this development).
- The safety of pedestrians looking to access the bus stop and train station has been considered. As set out in the previous sections of this report, there is a walking route along the PROW. The Highway Authority has confirmed that the proposal is not of a scale to reasonably require additional footways. The accessibility of the site to other services and facilities is considered to be acceptable.
- Although the application form does not refer to new or altered vehicular access being proposed, the description of development, along with the submitted drawings clearly show these proposals so there is not considered to be any ambiguity.
- With regards to visibility splays, the purpose of a visibility splay is to ensure that there is adequate **intervisibility** between those using the access and those already within the highway particularly between motorised traffic. Advice from the Highway Authority is that the location of the proposed access does not indicate the need for a greater visibility splay is required. Even if it could be provided, due to the low traffic movements and expected traffic speed it would be unnecessary. It is noted that the visibility at the connection to Colchester Road is not impeded.

16.56 Ultimately, given the above considerations, the proposal is considered to be acceptable in terms of highway implications subject to conditions.

#### 16.57 Flood Risk and Drainage

Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.

16.58 A Flood Risk Assessment (FRA) was submitted with the application given the site location within a flood risk 2 and 3. The FRA confirms that the southern edge of the site (essentially the coach house and access lane) lies within a Flood Zone 2 (defined as 'medium risk') and Flood Zone 3 (defined as 'high risk'); this is a risk of fluvial flooding associated with the River Colne. The remainder of the site lies within a Flood Zone 1 which is of low risk.

16.59 The FRA considers the NPPF exception test in respect of development and flood risk.

- **4.5.3 Part a) Wider Sustainability to the Community**

The redevelopment is considered sustainable in that it provides use of a higher density and variety than its present (Pre-development) usage. The land is

currently unoccupied and 'redundant' and therefore not considered to be in 'sustainable' use. Therefore the development in terms of its sustainability to the community is considered to pass this part of the Exception Test.

- **4.5.3 Part b) Redevelopment of Previously Developed Land**

The area will benefit from sustainable new residential development with an element of 'green spaces' to create an attractive environment where people aspire to live compared to its current status in this respect. The proposed development is proposed to be located on previously/already developed redundant land and is anticipated to comprise removal of the existing structures. Therefore this part of the Exception Test is considered to have been passed.

- **4.5.3 Part c) Safe from Flood Risk**

The site is already under partial residential development and there is no readily available alternative in the surrounding area for the proposed development. As can be seen from the proposed layout compared to the current layout of the site there is a significant reduction in hard cover in the post-development state of the site. In accordance with NPPF Technical Guidance and the SFRA and mitigation of potential impacts of flooding through design and employment of flood resilient construction techniques the proposed development is not considered to increase flood risk either on or off site. On that basis, the Exception Test is considered to be satisfied.

16.60 Flood defence measures have previously been implemented following a flooding event in 1947. The maximum flood depths with respect to the site are experienced in close proximity to the River Colne where between 0.8m and 1.1m depth is present to the southern fringe of the site in some localised areas during the 1 in 100 year climate change scenario and 1:1000 year event respectively. The majority of the site would not be impacted by flood waters at this depth and topographic levels on land to the south of the site continue to reduce and therefore they would escape to the south of the site across the wider valley before impacting the site.

16.61 The primary risk of flooding to this site is considered to be from fluvial flooding. The current risk level while considered 'Low-medium' will be mitigated to a 'safer' (i.e. 'Low') level by the stated extent incorporation of soft landscaping and mitigation measures in the new development, such as ensuring that finished floor levels are above flood water level, and surface water management techniques (providing green space on site, parking areas to be semi-permeable material). This will be mitigated further by the incorporation of soft landscaping as indicated by the proposed scheme layout. The local drainage network is managed to the 1 in 20 year standard.

16.62 The content of the FRA is considered appropriate and the proposal is therefore considered to be acceptable with regards to flood risk subject to conditions that ensure that the flood mitigation measures are fully implemented.

16.63 In terms of surface water flooding, the proposal increases the permeable areas within the site which is currently predominantly concrete. This is an identifiable benefit of the proposed development. The FRA states that the increase in

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permeable area, along with surface water management will reduce the risk of the site flooding, as well as reduce the run off risk and of off-site flooding elsewhere. Such measures can be conditioned; whilst the Essex County Council SUDs team are not a statutory consultee in this case, they have recommended conditions, some of which can be used in order to secure the flood mitigation measures.

16.64 With regards to drainage, Anglian Water have not issued any comments of concern. It is important to note that any matters pertaining to other legislation such as Building Regulations do not constitute a material planning consideration and cannot be taken into account. On this basis the proposal is considered to be acceptable.

16.65 Amenity

Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.

16.66 The new build elements of the proposal would not be in close proximity to existing dwellings and, as such, there are no concerns regarding loss of daylight or sunlight to existing residents.

16.67 The main consideration with regards to amenity is privacy. The mill has previously been subdivided to create 3 No. dwellings which overlook one another in varying degrees. Most notably is the Mill which has a number of rear window that look into and over the garden currently serving Mill House; similarly, the proximity of the Mill House garden to the Mill could result in some overlooking to the rear windows of this property. The proposal to convert the coach house would include the use of part of the existing Mill House garden as a garden for the coach house and there would be mutual overlooking between the two. This arrangement is slightly unconventional, but is no different to the mutual levels of overlooking currently experienced within the mill complex. Given the context, the overlooking between the gardens of the coach house and Mill House (as well as from the Mill and the Old Granary) is considered to be acceptable.

16.68 There are not considered to be any issues of overlooking from the proposed new dwellings within the coal yard part of the site given the degree of separation from existing dwellings.

16.69 Other Matters:

Local representations have been taken into account as part of the assessment of the application. The majority of comments have been addressed in the above assessment, but there are some points that require additional clarification.

16.70 With regards to procedural matters, some of the local representations have objected to the description of the site as a 'former coal yard' as it has been out of use for some time. The use of the site as a coal yard may have ceased some time ago, but that does not change the fact that the site was indeed a 'former coal yard';

it is considered to be appropriate to describe the site in this way and the description does not suggest that there is any acceptance that the site can revert back to its former use.

- 16.71 A comment has been made to state that no extension of time has been agreed for the application (as the original target date for determination has expired). Section 34 of the Town and Country Planning (Development Management Procedure) Order 2015 sets out time periods for decisions and provides that extended periods may be agreed in writing between the applicant and the local planning authority; there is no mandatory requirement to do so. It is likely however that an extension of time will be agreed between parties to allow for the time taken to negotiate on the application and for it to be referred to the Planning Committee.
- 16.72 Comment has been made that no blue line site plan has been submitted as part of the application. There is no requirement under the Town and Country Planning (Development Management Procedure Order) 2015 for the applicant to submit a blue lined site plan (which identifies any land in the applicant's ownership that does not form part of the application).
- 16.73 The level of information provided with the application(s) has been criticised. It is considered, however, that the level of information submitted is acceptable and that the application(s) can be assessed on the basis of this information along with additional research and site visits undertaken by the Case Officer. It is not necessary for the drawing to include specific reference to the materials being used or the landscaping proposed, sufficient information has been provided with which to assess the impacts of the proposal, with precise details being approved via condition. Concerns from local residents that the heritage statement does not adequately describe the setting or significance of the Grade II listed mill complex or the conservation area are not considered valid; the Council's heritage adviser's (Historic Buildings and Areas Officer, and Archaeological Adviser) have not expressed any concerns with this regard.
- 16.74 Certain appeal decisions from Wakes Colne and the surrounding area have been raised in local representations. Whilst these are interesting background, the current planning application must be considered on its own merits. Similarly, should planning permission and listed building consent be granted in this case, it would not necessarily create a precedent for development elsewhere; each site will have its own characteristics, constraints and opportunities that would need to be considered should any proposals be put forward as part of a formal planning process.

## **17.0 Conclusion**

### **17.1 To summarise,**

National policy requires planning to be genuinely plan-led. The proposal does represent a departure from the adopted Local Plan in terms of its location outside of a settlement boundary, but it would involve the development of previously developed land and would not constitute an isolated dwelling.

In considering the planning balance, the NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF identifies three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase and in future residents supporting local facilities and services in accordance with paragraph 78 of the NPPF. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high-quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure the long-term future of a curtilage listed building and would result in the remediation of a contaminated site, enhanced landscaping, and enhanced biodiversity. There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network. Overall it is considered the positive economic, social, and environmental effects of the proposal would weigh in favour of this scheme.

In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts and, as such, Members are recommended to resolve to grant planning permission and listed building consent subject to the conditions set out below.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

183046

- Delegated authority to discuss and agree the pre-commencement conditions with the Applicant in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and make any necessary changes to these conditions as a result; and
- APPROVAL of planning permission subject to receipt of the necessary RAMS payment and the following conditions:

183047

- Approval of listed building consent subject to the following conditions:

### 183046 Planning Permission

#### **1. Time Limit for Full Permissions**

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

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

#### **2. Development to Accord with Approved Plans**

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

Existing Site Plan	15.3297/E101
Site Layout as Proposed	2818-0106 Rev P04
Plot 1 and 2 Floor Plans as Proposed	2818-0301 Rev P07
Plots 1 and 2 Elevations as Proposed	2818-0401 Rev P07
Elevations as Proposed (Coach House)	2818-A-0311 Rev P04
Plans as Proposed (Coach House)	2818-A-0313 P03
Site Sections as Proposed	2818-A-0410 Rev P02

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

### **3. Removal of PD for All Residential Extensions & Outbuildings**

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

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

### **4. Removal of PD for Open Plan Fences/Walls**

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

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

### **5. Tree Protection**

The development hereby approved shall be undertaken in complete accordance with the following:

- Arboricultural Method Statement and Tree Protection Plan ref 180826-1116;
- Tree Survey and Tree Constraints Plan ref 180826-1116; and
- Arboricultural Implication Assessment ref 180826-1116 Rev A.

Reason: In order to satisfactorily safeguard and protect trees in the interests of amenity.

### **6. Ecological Mitigation**

The development hereby approved shall be carried out in accordance with the Adonis Ecology Ltd Updated Preliminary Ecological Appraisal (project ref: 1065) and Adonis Ecology Ltd Report for Bat and Reptile Surveys (project ref: 9732).

Reason: In the interests of protecting and enhancing biodiversity.

## **7. Flood Risk Assessment**

The measures contained in the Goldfinch Environmental Ltd Flood Risk Assessment (ref: 0561b/1) shall be fully implemented and in place prior to the first occupation of the development and retained as such thereafter.

Reason: In the interests of mitigating flooding and protecting future residents from flood risk.

## **8. Car Parking**

All off street car parking shall be constructed in semi-permeable materials and be provided prior to occupation of the development hereby approved and shall be maintained free from obstruction and retained as parking thereafter.

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

## **9. 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.

## **10. Programme of 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 that has been submitted to and approved, in writing, by the Local Planning Authority.

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

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.

- f. Nomination of a competent person or persons/organisation to undertake the works.

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and



presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

#### **11. 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.

#### **12. 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.

### **13. 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.

### **14. 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 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, 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 13.

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

### **15. 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 and under body 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.

## **16. Signs of Public Footpath**

No development shall take place, including any ground works or works of demolition, until temporary signs have been erected both sides of the carriageway 10m along and before the Public Footpath No 17 (Wakes Colne) crosses the carriageway (highway access) to the site alerting users of the footpath of construction works, plant and machinery ahead additionally “slow” and “pedestrians in the carriageway” temporary signs 15m either side of where footpath 17 (Wakes Colne) crosses the carriageway which shall remain in situ until all plant and machinery has vacated the development site and all construction and fitting out phases are complete.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way.

## **17. Historic Building Survey**

Prior to the commencement of any works to convert the coach house, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

## **18. Architectural Detailing**

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the lintel and cill, the depth of reveal and dormer features); rooflights to be used; cladding; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: To ensure that the proposed works are of high quality design for the rural location.

## **19. Landscape Works**

No groundworks 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.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. lighting).
- Planting plans.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

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.

## **20. 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.

## **21. 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 13.

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. Bicycle Storage**

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

Reason: To promote the use of sustainable means of transport.

## **19.1 Informatives**

19.1 The following informatives are also recommended:

### **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.

### **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**

DC0901MWeV9.3

**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.

### **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.

### **Informative on Archaeology:**

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

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>

### **Landscape Informative:**

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

Informative1: The shared access to the proposed 4 bay cartlodge should extend to at least 6.0m but ideally 8.0m in width between the front elevation and soft landscaping, to ensure convenient and efficient access manoeuvres can be achieved.

Informative2: The public's rights and ease of passage over Public Footpath No.17 (Wakes Colne) shall be maintained free and unobstructed at all times.

Informative3: 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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

### 183047 Listed Building Consent

#### **1. Time Limit for LBCs**

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

#### **2. Materials To Be Agreed**

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

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

#### **3. Additional Detail on Windows & Doors etc**

No works shall take place until additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Informatives

For the avoidance of doubt, the drawings that form the basis of this consent are as follows:

Removal Plans and Elevations	2818-A-0312 Rev P03
Plans as Proposed	2818-A-0313 Rev P03
Elevations as Proposed	2818-A-0311 Rev P04

9 July 2020

Report of	Assistant Director of Place and Client	Author	Simon Cairns
Title	Applications Determined in Accordance with Officer Scheme of Delegation		
Wards affected	All		

## 1. Executive Summary

- 1.1 This report gives details of the applications which have been determined since the last meeting in accordance with the revised scheme of delegation agreed at the Committee's meeting on 18 June 2020 to provide for the determination of planning applications for the duration of the operation of virtual meetings. This arrangement will be subject to a review by the Committee in December 2020.

## 2. Recommended Decision

- 2.1 To note the applications listed in the attached Appendix which have been determined under the revised scheme of delegation.

## Appendix 1

### Details of Applications determined in accordance with the Scheme of Delegation to the Assistant Director of Place and Client

App. Ref.	Site	Ward	Recommendation	Decision
200839	Scarfe Way	Greenstead	Approval	Approval
200838	Buffet Close	Greenstead	Approval	Approval
192457	University of Essex	Wivenhoe	Approval	Approval
200720	Queens PH, Berechurch Rd	Berechurch	Approval	Approval



## Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

### **Planning Obligations**

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

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

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

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

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

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

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

## **Using Planning Conditions or Refusing Planning Applications**

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

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

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

### **Parking Standards**

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

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

For residential schemes:

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

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



## **Colchester Borough Council Environmental Control**

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

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

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

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

### **Class A1. Shops**

Use for all or any of the following purposes—

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

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

Use for the provision of —

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

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

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

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

### **Class A4. Drinking establishments**

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

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

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

### **Class B1. Business**

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
  - (b) for research and development of products or processes, or
  - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

### **Class B2. General industrial**

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

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

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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



**Sui Generis Uses**

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

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

**Interpretation of Class C3**

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

**Interpretation of Class C4**

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

## **Supreme Court Decision 16 October 2017**

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

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

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

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

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

