

# Planning Committee Meeting

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

**Thursday, 03 January 2019 at 18:00**

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

If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

# Information for Members of the Public

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You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

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

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

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**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 03 January 2019 at 18:00**

**The Planning Committee Members are:**

Councillor Pauline Hazell	Chairman
Councillor Brian Jarvis	Deputy Chairman
Councillor Lyn Barton	
Councillor Vic Flores	
Councillor Theresa Higgins	
Councillor Cyril Liddy	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

**The Planning Committee Substitute Members are:**

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

**Councillors:**

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Helen Chuah	Nick Cope
Simon Crow	Robert Davidson	Paul Dundas	John Elliott
Andrew Ellis	Adam Fox	Dave Harris	Darius Laws
Mike Lilley	Sue Lissimore	Patricia Moore	Beverley Oxford
Gerard Oxford	Lee Scordis	Lesley Scott-Boutell	Martyn Warnes
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

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

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

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

**1 Welcome and Announcements**

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

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

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

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

## 3 **Substitutions**

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

## 4 **Urgent Items**

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

## 5 **Declarations of Interest**

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

## 6 **Minutes of 22 November 2018**

7 - 12

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 22 November 2018.

## 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 **181382 Tollgate Centre Shopping Park, Tollgate West, Stanway, Colchester**

13 - 28

Application for external alterations to front elevations of the units, along with the continued use for class A1 retail of the units along the main retail terrace.

### 7.2 **182480 ESNEFT, Colchester General Hospital, Turner Road, Colchester**

29 - 52

Single storey extension to the Emergency Department and two storey extension to the front of the Hospital to provide healthcare use, ground floor commercial use, a staff and visitor café, all to be used in association with the wider Hospital use.

### 7.3 **182627 32 Wren Close, Stanway, Colchester**

53 - 60

Additional floor space is to be added into the roof creating two more bedrooms, skylight and dormer windows will provide natural light to the space. Fitting new roof structure and preparing fire damage. Repair fire damage to the garage.

- 8      **Amendment to Condition 14 and Section 106 Agreement for Stane Park Phase 2, Colchester, Application Ref: 172935**      61 - 66

Report by the Assistant Director Policy and Corporate concerning a proposed amendment to Condition 14 and the Section 106 Agreement in relation to the requirement for a pedestrian crossing on London Road.

**Planning Committee Information Pages v2**      67 - 78

- 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, 22 November 2018**

**Attendees:** Councillor Lyn Barton, Councillor Vic Flores, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Philip Oxford

**Substitutes:** Councillor Roger Buston (for Councillor Jackie Maclean), Councillor Adam Fox (for Councillor Chris Pearson)

**Also Present:**

### **638 Site Visits**

Councillors Barton, Flores, Hazell, Higgins, Jarvis, Liddy and Loveland attended the site visit.

### **639 Minutes**

There were no minutes for confirmation at this meeting.

### **640 180886 International House, Moss Road, Stanway, Colchester**

The Committee considered an outline planning application for the residential use of former car park to international house following change of use from B1a (offices) to C3 (dwellings) of international house (resubmission of planning permission 170259) at International House, Moss Road, Stanway, Colchester. The application had been referred to the Committee because it had been called in by Councillor Scott-Boutell. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Eleanor Moss, Senior Planning Officer, presented the report and, Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Councillor Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She welcomed the Committee's visit to the site and explained that concerns had been expressed regarding the parking provision and whether this would lead to greater congestion and problems with deliveries. It was also considered that the area was unsuitable for residential development and there may be a negative impact on the residents of International House. As such she considered that it was in the public interest to bring the application to the Committee for determination.

The Senior Planning Officer confirmed that attempts had been made previously to refuse an application but the grounds for dismissal at appeal had now been fully addressed. This Appeal had determined that the parking provision was acceptable and also the impact on the residents of International House would not be significant. In response to a request for clarification of the total number of units to be delivered at the application site and International House, she confirmed that there would be a total of 26 units of accommodation with up to 31 car parking spaces. In addition the area was very sustainable and, as such, a lower number parking spaces could be found to be acceptable.

Members of the Committee referred to the status of the area not restricting the inclusion of residential development and that an application for residential development of the building located opposite International House was anticipated. Clarification was sought in relation to the reserved matters application and whether it would need to be brought back to the Committee for determination in order to ensure adequate provision in each unit would be made for opening windows, given the requirement on noise grounds for non-opening windows to the rear. Clarification was also sought in relation to the provision of cycle parking.

The Senior Planning Officer confirmed that the area was designated as a District Centre (CE2) which encouraged vibrancy and did not restrict residential development. She also commented that shops were located in the area which contributed to its sustainable nature. She further confirmed that a condition had been proposed to provide for cycle parking.

The Development Manager confirmed that the reserved matters application could be brought back to the Committee for determination but he advised that an additional informative to provide for opening windows should adequately secure the Committee's desired outcome.

*RESOLVED* (UNANIMOUSLY) that, subject to the addition of an informative requiring the provision of opening windows in each unit where appropriate, the application be approved subject to the conditions set out in the report and arrangements be made for the reserved matters application to be brought to the Committee for determination.

**641      180789 Land adjacent to Heath Lodge, 11 Heath Road, Colchester**

**Councillor Buston (by reason of his employers having acted on behalf of the executors of the estate which included the property the subject of the application) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination immediately after he had made representations as a visiting ward councillor.**



The Committee considered a planning application for the erection of one dwelling at land adjacent to Heath Lodge, 11 Heath Road, Colchester. The application had been referred to the Committee because it had been called in by Councillor Buston. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Eleanor Moss, Senior Planning Officer, presented the report and, Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Julie Jones addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was speaking on behalf of her parents who lived at 9 Heath Road who considered they were most directly affected by the application. She explained that the plans did not reflect the true picture on the ground as the plot was a narrow strip of land. Her parents' property was only 10 metres away and the height of the proposed dwelling would be overbearing and would overlook their property. She was of the view that there would be a window which had not been mentioned in the planning officer's report and this latest development would mean that their property would be permanently overlooked on all four sides. She asked the Committee members to refuse the application.

Peter Le Grys addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the application had been the result of 2 ½ years of discussions with the planning officers and numerous amendments had been made to the design. His clients were conscious of the character and nature of the area and the original scheme had been amended to address comments made by the Civic Society. Care had been taken in relation to the positioning of windows in relation to neighbouring properties and he believed all the matters of concern expressed by the Council had been addressed.

Councillor Buston attended and, with the consent of the Chairman, addressed the Committee. He explained that he had called in the application at the request of several neighbours. He commented on the planning history of the site and that an application for the construction of three houses had previously been refused. Following the erection of two houses to the rear of the site it now seemed like a third dwelling was being squeezed onto the site. He was of the view that the planning history was quite complicated and the division of the site into separate plots had meant that neighbouring residents had found it difficult to know what was going on. As such neighbours were unclear whether conditions had been breached and were left with a perception that matters had been overlooked. He congratulated the case officer in her attention to addressing the concerns and confusion expressed by residents.

The Senior Planning Officer confirmed that comments by neighbours needed to be made

in relation to the application currently being considered. She explained that the proximity of the proposed dwelling was considered sufficiently distant from neighbouring properties, especially given the location of the access in between. She confirmed that the front facing windows looked out to the road, whilst the rear facing ones were bedroom windows and therefore not considered to be harmful. In terms of concerns regarding overlooking, the site was in an urban location and, as such, mutual overlooking was to be expected and was considered acceptable.

Members of the Committee acknowledged the confusion expressed by residents but commented that the previous refused application had been for three substantial dwellings and the current construction of two dwellings had left adequate space for a third. Comment was made on the growing need for housing in the borough and the considerable efforts made to design a cart-lodge type dwelling in-keeping with the original house. Reference was also made to the size of the site being adequate for the proposal and the screening which would be provided from the proposed planting on site. Clarification was sought in relation to comments about errors in drawings.

The Senior Planning Officer was not aware of the errors being referred to but confirmed that a condition would ensure the compliance of the development with approved drawings. She also clarified that the proposal included two roof lights in the side elevation which were not considered harmful to neighbouring properties.

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

#### **642 181794 St Augustine Mews, Colchester**

The Committee considered a planning application for the replacement of existing dilapidated brick wall along the rear of the car park with a timber fence and steel posts at St Augustine Mews, Colchester. The application had been referred to the Committee because it was contrary to the Communal Parking Courts section in the Essex Design Guide. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Eleanor Moss, Senior Planning Officer, presented the report and, Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Sue Moodie addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She regretted she was unable to circulate photographs to the Committee members. She explained that she had received no consultation on the application despite living in a bungalow on the other side of the wall in question. She considered it to be a significant health and safety issue as the wall which had replaced the original had not been constructed properly. She explained that

seeds and trees had grown in the wall which had contributed to the wall becoming unsafe and falling over. She considered the area to be unsafe especially given the close proximity of a footpath and children playing nearby. She asked the Committee members to refuse the application on the grounds that she had not been consulted and voiced her opinion that it would be preferable for a wall to be constructed set further back.

Roy Holt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he was willing to work with the nearby residents to rectify the current situation fully. He considered the proposal to use steel posts and a wooden fence would be a much stronger solution than a brick wall. He also confirmed that the Highway Authority had not objected to the proposal.

The Senior Planning Officer referred to the health and safety concerns expressed by the residents and confirmed that it would be reasonable to propose an additional condition to provide for a kerb or barrier as an added level of protection for the fence to prevent its damage by vehicles. She also commented that consideration could be given to the use of wooden rather than steel kneelers as a cheaper option for residents who would be liable to cover the costs.

Members of the Committee whole-heartedly supported the proposal to provide for a kerb or barrier as added protection and on health and safety grounds in addition to the use of steel posts for the fence.

One member of the Committee speculated on the need for a restriction to be placed on cars parking in a forward direction towards the fence, in response to which the Development Manager, acknowledged the principle of the concern but advised that such a condition could not be adequately enforced.

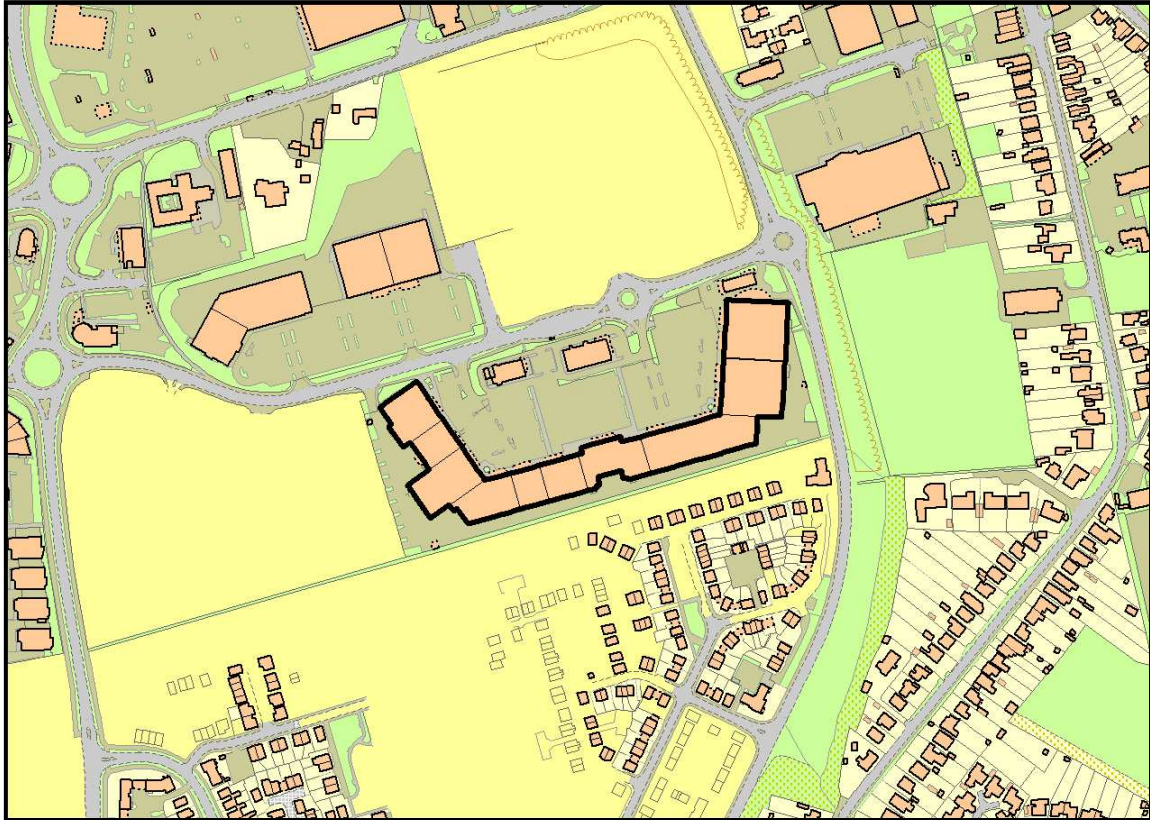
*RESOLVED* (NINE voted FOR and ONE ABSTAINED) that, subject to an additional condition to require the provision of a protective safety barrier or kerb to prevent damage to the fence and to be approved by the Local Planning Authority, the application be approved subject to the conditions set out in the report.

**643      182421 Wood Cottage, Station Road, Wakes Colne, Colchester**

The Committee considered a planning application for the proposed single storey front and rear side extension plus cladding to existing building at Wood Cottage, Station Road, Wakes Colne, Colchester. The application had been referred to the Committee because the applicant was related to an employee of Colchester Borough Council. The Committee had before it a report in which all information was set out.

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





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**Item No:** 7.1

**Application:** 181382

**Applicant:** British land Retail Warehouses Ltd

**Agent:** Montagu Evans

**Proposal:** Application for external alterations to front elevations of the units, along with the continued use for class A1 retail of the units along the main retail terrace.

**Location:** Tollgate Centre Shopping Park, Tollgate West, Stanway, Colchester

**Ward:** Stanway

**Officer:** Lucy Mondon

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because it constitutes a major planning application where an objection has been received and the recommendation is to approve.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of development, highway impact, parking and design.
- 2.2 The report describes the site and its setting, the proposal and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

## **3.0 Site Description and Context**

- 3.1 The Tollgate Centre is an existing shopping centre that was originally granted planning permission in the late 1980s. The retail units are occupied by bulky goods retailers in the main (furniture and carpets stores), although the uses have diversified in recent years to include sports goods, toys, catalogue goods, and a small food store.
- 3.2 The units are arranged in a horseshoe terrace facing onto an open car park that is accessed via Tollgate West that connects to Tollgate Road to the east and the Stanway Western Bypass to the west. Since the site was first developed a coffee shop (Costa), pharmacy (Boots) and fast-food restaurant (McDonalds) have been added to the frontage of the site.
- 3.3 The site is allocated as an Urban District Centre and is located in Stanway Ward, immediately adjacent to Marks Tey and Layer Ward to the south.

## **4.0 Description of the Proposal**

- 4.1 The application seeks planning permission for external alterations to the front elevations, as well as use of the units as A1. The proposal relates to the terraced units at the Tollgate Centre (units 1, 1a, 2a, 2b, 3, 3a, 4a, 4b, 5a, 5b, 6, 7, and 8). Currently the units are used for retail, but there are restrictions on the types of goods that can be sold so the application is seeking to relax this restriction to allow for open A1 use (within certain parameters concerning food and drink sales).
- 4.2 The application is accompanied by existing and proposed floor plans and elevations, as well as a Covering Letter (taking the form of a concise 'Planning Statement') and Transport Statement.

## **5.0 Land Use Allocation**

### **5.1 Urban District Centre.**

## **6.0 Relevant Planning History**

- 6.1 The Tollgate Centre was granted planning permission in 1987 (ref: 86/0097). The permission was for a total of 8 No. units and was subject to conditions, of most relevance being condition 6 which limited the sales of goods as follows:

“6. The retail units shall be retained as not more than 8 separate units and only used for the sale of furniture, carpets, electrical white goods, home improvement products, D.I.Y goods and materials, garden and associated products or such other similar goods as may be agreed by the Local Planning Authority in writing that are of a weight and bulk which would impose inconvenience to the public if located in conventional centres and which would not represent a threat to the viability of such centres and for no other purpose including any other purpose in Class A1 of the schedule to the Town and Country Planning (use Classes) Order 1987.

Reason: For avoidance of doubt as to the scope of this permission. Unrestricted retail use would not be appropriate on this site.”

- 6.2 There have since been a number of permissions that have allowed for extensions to the units, mezzanine floors, and the sub-division of units. Permissions of note are:

- 91/0360 (sub-division of units to 10 No. units in total);
- 91/1709 (sub-division of unit 2 to form 2 No. units); and
- 102476 (sub-division of Unit 3 to create 3 No. units), the implementation of which has resulted in the Tollgate Centre now having a total of 13 No. units.

- 6.3 Up until 2011, the planning permissions maintained the limitation to the sales of goods to that set out in the 1987 decision. Since 2011 the types of goods permitted to be sold at individual units has been expanded to include:

- Unit 1A: the sale of home textiles, soft and hard furnishings and accessories;
- Unit 1B/2A: the sale of home textiles, soft and hard furnishings and accessories, with no more than 1,195sqm of net sales area being for the sale of clothing, footwear and fashion accessories;
- Unit 3A: the sale of pets and pet products;
- Unit 3B: the sale of arts and craft and hobby products;
- Unit 8: permitted to be used as a catalogue showroom retailer (subject to this being non-food goods, the goods being fully packaged, at least 50% of the gross floor area of the building to be used for storage and not open to the public, and the sale of jewelry and watches to be limited to display areas of no greater than 50sqm).

- 6.4 In addition, there have been permissions relating to improvements to the public realm, and the addition of a coffee shop, pharmacy unit and fast food unit (refs: 102478; 90/0512; and F/COL/06/0511 respectively).

6.5 Recent decisions of particular relevance in the vicinity of the application site include:

- Tollgate Village (150239): Outline Planning Permission granted on appeal for a mixed use development comprising leisure uses (use class D2) including cinema and retail (use classes A1, A2, A3, A4 and A5) with associated parking including multi-storey car park, public realm improvements, access, highways, landscaping and associated works.
- Stane Park Phase 1 (146486 and 162005): Planning Permission granted on appeal for one pub/restaurant (with ancillary residential accommodation) and two restaurant units, with associated car parking, landscaping and 'cart lodge'; and one restaurant unit and two drive-through restaurant/cafe units (which will also facilitate the consumption of food and drink on the premises), with associated car parking, landscaping, access and servicing.

6.6 Proposed development at Stane Park Phase 2 (172935) for the erection of a retail unit with an external yard and retail space (A1), a retail terrace comprising six units with mezzanine cover (A1); two supermarkets (A1) and restaurant units (A1/A3/A5), with associated parking and landscaping was resolved for approval by the Planning Committee in August 2018. S106 matters are currently being finalised prior to a decision being issued.

## **7.0 Principal Policies**

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

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

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
CE1 - Centres and Employment Classification and Hierarchy  
CE2b - District Centres  
UR2 - Built Design and Character  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking



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

DP1 Design and Amenity  
DP17 Accessibility and Access  
DP19 Parking Standards

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

SA STA1 Appropriate Uses within the Stanway Growth Area  
SA STA3 Employment and Retail Uses in Stanway Growth Area  
SA STA4 Transportation in Stanway Growth Area

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Sustainable Construction  
Air Quality Management Guidance Note, Areas & Order  
Stanway Joint Design Statement and Parish Plan

- 7.6 Submission Colchester Borough Local Plan 2017-2033  
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

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

## **8.0 Consultations**

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

### **8.2 Highway Authority:**

No objection from a highway and transportation perspective subject to a condition to require a Construction Method Statement to be submitted and approved by the Local Planning Authority.

Following consideration of the comments received as a result of public consultation, the Highway Authority maintained a recommendation of no objection and commented as follows:

- The trip rates and percentage of linked trips used in the Transport Statement are considered to be reasonable;
- The traffic flows are higher than those used in Intermodel's Tollgate Village Transport Assessment and, as such the assessment seems robust. The development flows are indicated to add 44 additional trips eastbound (i.e. towards Tollgate Road) and 45 westbound (i.e. towards Stanway bypass) in the busier Saturday peak period. The equates to approximately one new trip every 80 seconds. The additional traffic will have a negligible impact on the performance of the site access roundabout;
- Most traffic will disperse onto local roads rather than the A12 junction;
- In terms of parking, the site will be busy on a Saturday, but there is only one 15 minute period where parking exceeds 100% (101%). It is therefore likely that a handful of vehicles will be in the process of accessing/egressing the site and it is estimated that 5% will also be circulating traffic. Consequently, although busy, parking provision does not appear to raise significant concerns.

### **8.3 Planning Policy:**

No objections given that the site lies within an area classified as an Urban District Centre in both the adopted and emerging Local Plans. Advice regarding a consistent approach to uses across the Tollgate area (including Tollgate Village).

## **9.0 Parish Council Response**

9.1 Stanway Parish Council have confirmed that they have no objections to the proposal.

## **10.0 Representations from Notified Parties**

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

## 10.2 Comments from Barton Willmore on behalf of the Tollgate Partnership Limited (TPL)

- In respect of the submitted Transport Statement:
  - The traffic flows/trip generation calculations have been underestimated;
  - The trip linkage assessment is overly optimistic and differs from that proposed at the recent Tollgate Village appeal inquiry;
  - A different junction geometry is used to that agreed with Essex County Council and used at the recent Tollgate Village appeal inquiry;
  - The car park usage is underestimated;
- In respect of retail matters:
  - The application proposes conditions to be broadly in line with the restrictions that were imposed on the Tollgate Village (TV) permission, but neglects additional restrictions that control the TV development. Additional restrictions should be imposed as follows:
    - Control over the uses classes and floorspace (Condition 9 of the TV permission);
    - Control over the net sales area of the units (Condition 10 of the TV permission);
    - Control over the maximum and minimum unit sizes (Condition 13 of the TV permission);
    - Control over the provision of mezzanine floorspace within the units (Condition 14 of the TV permission); and
    - Control over dual representation/no poaching of town centre retailers (Condition 35 of the TV permission).

Without these additional controls, rather than operating from a 'level playing field' the Tollgate Centre will benefit from a distinct commercial advantage.

## 10.3 A holding objection was received from G L Hearn on behalf of M&G Real Estate (owners of Culver Square) on the following basis:

- Concerns that the proposal may be counter to the role and function of the District Centre, especially in the context of the recent quantum of retail floorspace granted at Tollgate Village and elsewhere in the Borough.

No further comment had been received at the time of drafting this report.

## 11.0 Parking Provision

### 11.1 There is currently a total of 446 car parking spaces (including 24 allocated for accessible parking, and 33 for parents with children) on site and 18 Sheffield type bicycle stands providing for 36 No. bicycles. There are approximately 40 car parking spaces for staff within the rear service yard.

11.2 The parking standards for A1 (retail) development is set out in the Vehicle Parking Standards SPD as follows:

Use	Vehicle	Cycle	PTW	Disabled
	Maximum	Minimum	Minimum	Minimum
A1 (excluding food stores)	1 space per 20 sqm	1 space per 400 sqm for staff and	1 space, + 1 per 20 car spaces (for 1 <sup>st</sup> 100 car spaces),	<b>200 vehicle bays or less</b> = 3 bays or 6% of total capacity, whichever is greater,
A1 (Food stores)	1 space per 14 sqm	1 space per 400 sqm for customers	then 1 space per 30 car spaces (over 100 car spaces)	<b>Over 200 vehicle bays</b> = 4 bays plus 4% of total capacity

## 12.0 Open Space Provisions

12.1 Not applicable for this proposal.

## 13.0 Air Quality

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

## 14.0 Planning Obligations

14.1 As a “Major” application, there is a requirement for this proposal to be considered by the Development Team. Having considered the proposal, no planning obligations were requested.

## 15.0 Report

15.1 The main issues in this case are the principle of development, design and impact on the character of the area, and traffic implications.

### Principle of Development:

15.2 The Tollgate Centre lies within an area classified as an Urban District Centre in both the adopted and emerging Local Plans. While the exact weight to be given to centres policies in both documents is subject to debate, appeal decisions involving existing policies are considered to have established the point that while those adopted policies might be out of date, this does not preclude Tollgate in practical terms serving the function of a town centre in terms of the NPPF sequential test.

15.3 Since the Tollgate Centre was constructed in the late 1980s as a bulky goods centre, its composition has gradually evolved to allow a wider range of commercial uses in response to changing market demand. In planning policy terms, the Council in practice has followed a flexible approach to uses which entails consideration of the relaxation of use conditions on a case-by-case basis. This has been accompanied by improvements to the public realm and the addition of a coffee shop, which has addressed the policy aspirations in Core Strategy Policy CE2b to enhance Urban District Centres. As a result of a number of permissions, a total of 13 retail units are permitted at the Retail Park, with a number of variations granted on particular units widening the range of goods that can be sold at the premises.

15.4 The proposal seeks to relax the restrictions of use on the site and allow for open A1 use (with some restrictions for the sale of food and drink). In this case, Core Strategy Policies SD1, CE1, CE2, and TA1 are relevant, along with Site Allocation Policy SA STA3. These policies relate to the following:

- 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).
- CE1, and CE2 deal with centres and employment matters, promoting employment generating developments through the regeneration and intensification of previously developed land and through the allocation of land necessary to support employment growth at sustainable locations. Policy CE1a sets out the centres and employment classification hierarchy which includes the Town Centre at the top of the hierarchy extending down to Edge of Centre Locations, District Centres, and Local Centres.
- TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy for Colchester. A key aspect of this is the improvement of accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. Developments that are car-dependent or promote unsustainable travel behaviour will not be supported.
- SA STA3 covers employment and retail uses in the Stanway Growth Area and provides specific requirements for the types of uses that would be considered to be appropriate (e.g. research and development, light industrial, vehicle repair, indoor sport and conferencing centres, and business incubation space), making clear that new town centre uses will not be permitted within the Stanway Growth Area.

15.5 The Focused Review of the 2008 Core Strategy and 2010 Development Policies, the Inspector's report in connection with that review, and subsequent planning appeal decisions, provides the basis for assigning weight to policies in the adopted Local Plan. In particular, the Stane Park Phase 1 Inspector's decision (paragraph 46) provides guidance by relating weight to consistency with the NPPF. Plan policies that are consistent with the NPPF accordingly should be given full weight. Other policies can be given weight commensurate with their compatibility with the NPPF. In terms of the relevant policies in this case, this approach translates into the following interpretations:

- SD1 and TA1 full weight to be applied;

- CE1, CE2, and STA3 out-of-date and consequently limited weight should be afforded.
- 15.6 In accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan, unless there are material considerations that indicate otherwise. The fact that certain policies have been deemed to be out-of-date with the NPPF is a material planning consideration that needs to be reflected in the weight to be applied to certain policies in decision making.
- 15.7 This interpretation of adopted planning policy means that consideration of sustainable development and accessibility needs to follow the provisions of Core Strategy Policies SD1 and TA1. Given the limited weight of the policies relating to centres and employment, the provisions of the NPPF will be relevant.
- 15.8 The site is located in Stanway, which (along with Colchester Town) is at the top of the settlement hierarchy of policy SD1. The requirements of TA1 are such that development needs to be focussed on highly accessible locations to reduce the need to travel. In this case a retail development (albeit restricted to bulky goods in the main) already exists on site and the proposal to widen the range of goods that can be sold is not considered to have a significant impact on how staff or customers travel to the site and the proposal is supported in broad sustainability terms given the settlement hierarchy.
- 15.9 Whilst the proposals fit with town centre planning policies, the application should be governed in the first instance by the NPPF policies given the limitations on weight to be given to the Council's centres and employment policies. The requirements of paragraphs 86 and 89 of the NPPF for the sequential test and retail impact assessments accordingly need to be considered. They, however, apply only to 'applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan' and to 'applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan'. Given that the proposal lies within a centre where town centre uses can and are located, it is agreed that the applicants were not obliged to submit information further to the sequential test or the retail impact assessment and that the proposal does not fail in this respect.
- 15.10 It is therefore accepted that an open retail use is acceptable in this centre location. In terms of whether any controls are required, the Applicant has proposed the following:
- Only one unit to be used for the primary sale of frozen foods [NB this would allow for the existing Iceland unit]; and
  - A maximum allowance on floorspace to be used for the sale of food and drink 1,117 sq. m [NB: this allowance is in addition to the use of one unit for the sale of frozen foods].
- 15.11 These suggested conditions are considered to be appropriate in order to ensure that a range of uses (i.e. not solely food stores) will be located at the site so that it can maintain its role as a District Centre.

- 15.12 Looking at consistency with surrounding developments, it is not considered necessary to replicate the conditions put in place on the recent Tollgate Village permission. The Tollgate Village site was only partially in a District Centre, the majority of which being out of centre on land allocated for employment and, therefore, additional controls would have been required in terms of floorspace and the range of goods sold in order to justify the permission and mitigate any retail impacts on existing centres, including the Town Centre. It is, however, considered necessary to include conditions that require further planning permission for mezzanine floors so that the Local Planning Authority can assess any impacts arising from increased floorspace such as traffic and car parking. It is also considered necessary to remove permitted development rights under Schedule 2, Part 7, Class A (extensions or alterations) for the same reason.
- 15.13 Subject to conditions the proposal is considered to be in accordance with the provisions of the Development Plan and the NPPF.

Design and Impact on the Surrounding Area:

- 15.14 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.
- 15.15 In terms of design, the proposal retains the general existing appearance of the retail terrace, but introduces some additional double-height glazing. The extent of glazing is not considered to have a detrimental impact on the visual character of the terrace; the appearance of which is what one would normally expect of a modern functional retail terraced frontage. The insertion of additional glazing is considered to 'lift' the appearance of the retail terrace and therefore improve its character in accordance with the aforementioned policies.

Highway Matters:

- 15.16 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).

- 15.17 The application is accompanied by a Transport Statement that has been assessed to be acceptable by the Highway Authority. Certain queries were raised in local representations and these were forwarded to the Highway Authority for further comment, the conclusion being that the Transport Statement is robust and that the proposal would not result in any significant impacts on the highway network [a summary of the Highway Authority response is set out in paragraph 8.2 above].
- 15.18 In terms of car parking, the proposal does not increase any floorspace and would essentially maintain the same use (retail), albeit with a wider range of goods than are currently sold, so it is not considered that there would not be any justification for requiring additional parking. It is important to note that car parking standards, as set out in the Vehicle Parking Standards SPD, are a maximum standard so additional parking would not be considered to be appropriate in any case. With regards to cycle parking and disabled parking, the site offers parking for 36 bicycles and 24 disabled spaces; currently, this provisions is slightly lower than policy standards, being deficient by 11 bicycle spaces and 2 disabled spaces. Any extensions or additional mezzanines would require planning permission where parking requirements can be considered.

Other matters:

- 15.19 The proposal would result in the units being retained in commercial use and no building works (other than alterations to the frontages) would take place, nor would any additional floor space be created. On this basis, there are not considered to be any implications with regards to flood risk or drainage, ecology, or contamination.

## **16.0 Conclusion**

- 16.1 This application site is located in an Urban District Centre where the types of uses proposed would be acceptable in planning policy terms. Having considered other material considerations and the representations that have been received the proposal is considered to be acceptable subject to conditions.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for APPROVAL of planning permission subject to:
- Agreement with the Agent/Applicant to any pre-commencement conditions as required under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and delegated authority to make changes to the wording of these conditions as necessary; and
  - The Permission being subject to the following conditions.



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

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

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

### **2. ZAM - Development to Accord With Approved Plans**

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

AL(00)001 Rev A	Location Plan
AL(00)010 Rev C	Proposed Ground Floor Plan
AL(00)011 Rev B	Proposed Front Elevations

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

### **3. Non Standard Condition - Removal of Permitted Development Rights**

Notwithstanding the provisions of Schedule 2, Part 7, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and in order to assess the impacts of any such development that would result in an intensification of use at the site.

### **4. Non Standard Condition - Sale of frozen food**

No more than one unit of the development hereby approved shall be used for the primary sale of frozen food.

Reason: In order to maintain the function of the site as an Urban District Centre by ensuring an adequate mix of uses on the site.

### **5. Non Standard Condition - Floorspace for the sale of food and drink**

Other than the unit used for the sale of frozen food, no more than 1,117sqm of floorspace shall be used for the sale of food and drink.

Reason: In order to maintain the function of the site as an Urban District Centre by ensuring an adequate mix of uses on the site.

### **6. Restriction on Mezzanine Floor Space**

Notwithstanding the definition of 'development', the creation of any mezzanine level or intermediate floorspace within any building or part of a building within the development hereby approved is not permitted without the further grant of planning permission for the expansion of floorspace from the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of the permission and because the impacts of the proposal, along with necessary forms and levels of mitigation, have been assessed on this basis.

## 7. Non Standard Condition - Construction Method Statement

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities
- v. the means or method of protecting the travelling public within the highway whilst working from height above and adjacent to the footway.

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

## 18.0 Informatives

18.1 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. Highway Informative

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

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





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## Item No: 7.2

**Application:** 182480

**Applicant:** Mr J. Fulcher, ESNEFT (Colchester Hospital)

**Agent:** Mr Robert Keeble, KLH Architects Ltd

**Proposal:** Single storey extension to the Emergency Department and two storey extension to the front of the Hospital to provide healthcare use, ground floor commercial use, a staff and visitor cafe, all to be used in associations with the wider Hospital use.

**Location:** ESNEFT, Colchester General Hospital, Turner Road, Colchester, CO4 5JL

**Ward:** Mile End

**Officer:** Lucy Mondon

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because it constitutes a major application where an objection has been received and the recommendation is for approval.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are:
- Principle of Development
  - Contamination
  - Archaeology and Heritage Matters
  - Flood Risk and Drainage
  - Highway Matters
  - Impact on Landscape and Trees
  - Ecology and Biodiversity
  - Layout and Design
  - Amenity
- 2.2 The report sets out the assessment of the proposal, considering planning policy in light of material planning matters. The comments from consultees and local representations are also considered. The application is subsequently recommended for approval subject to conditions.

## **3.0 Site Description and Context**

- 3.1 The site lies within a large established hospital site located within north Colchester. Access to the hospital is from both Via Urbis Romanae (to the west) and Turner Road (to the east), although the main access/egress and public car parks are at the Turner Road entrance. The hospital has been developed and expanded over a number of years so that there is now a complex of buildings on site, although these are not overly visible from public vantage points along the Via Urbis Romanae and Turner Road given changes in levels and landscaping.
- 3.2 The site is located at the front of the main hospital building which faces east towards an open landscaped area, with visitor car parking beyond towards the boundary with Turner Road.
- 3.3 The hospital site is located within the Colchester Northern Growth Area. The site is not allocated for development within the current Colchester Borough Council Local Plan, but is identified as being a 'large job generator' within the growth area.
- 3.4 There are no records of any constraints covering the site, although it should be noted that a Public Right of Way runs through the site from Turner Road west towards Hakewill Way (and beyond).

## **4.0 Description of the Proposal**

4.1 The application seeks planning permission for extensions to the front (eastern side) of the main hospital building. The proposal includes the following:

- A single-storey extension to the Emergency Department to provide additional consulting rooms and relatives waiting area;
- A two-storey extension to the front of the hospital to provide new main entrance and commercial uses at ground floor and new staff canteen and administrative offices at first-floor; and
- Alterations to vehicular routes at the front entrance to the hospital building; including vehicular drop off areas, ambulance bays, and bus route with replacement bus stops, together with a wetland garden (in lieu of part of the existing pond) and pedestrian plaza with widened footpath to replace the existing bridge access.

4.2 The application is supported by the following:

- Drawings (site plan, proposed site plan, existing and proposed floor plans and elevations, details of tree removal, sections, and 3D visuals);
- Arboricultural Survey
- Design and Access Statement
- Desk Study and Phase 1 Geoenvironmental Risk Assessment
- Lake Sediment Survey
- Ecological Appraisal
- Ecological Mitigation and Enhancement Report
- Screening Exercise for Health Impact Assessment
- SUDs Report (plus further clarification note)
- Transport Statement

## **5.0 Land Use Allocation**

5.1 The application site is part of an established hospital site.

## **6.0 Relevant Planning History**

6.1 Given the growth and evolution of the hospital site, there is a great deal of planning history. As a result, the hospital has expanded in a piecemeal fashion and there have been subsequent planning permissions to reconfigure certain elements of the hospital. Relevant planning permission within the last ten years include the following:

- 182361 - Erection of a new cancer care day unit (first-floor extension over an existing single-storey building and two-storey infill).
- 171633 - Erection of a single-storey extension to create a new emergency department pedestrian entrance, primary care streaming suite and a minor injury suite, together with the removal of the existing portacabin facility.

- 162147 - Erection of Multi-Modality Diagnostic Imaging Centre (MMDIC), landscaping, parking, and ancillary works.
- 150013 - Extension of recycling and waste facilities.
- 145926 - Extension to main car park off Turner Road. Including a new filter land within the hospital site and improvements to the ambulance and disabled parking in front of A&E.
- 145296 - Reconfiguration of Colchester General Hospital's Outpatient Department to include the infilling of an existing courtyard with single-storey accommodation to provide for a new Outpatient Reception and Waiting Area.
- 131060 - Reconfiguration of the Emergency Department including the infilling of an existing internal courtyard with single-storey accommodation to increase Major Injuries cubicle capacity; the alteration of ambulance arrivals to improve emergency patient admissions.
- 091530 - Two-storey building with links to adjoining buildings, containing ward, outpatient and other clinical accommodation.

## **7.0 Principal Policies**

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

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

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
UR1 - Regeneration Areas  
UR2 - Built Design and Character  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment  
ER1 - Energy, Resources, Waste, Water and Recycling



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

DP1 Design and Amenity  
DP2 Health Assessments  
DP17 Accessibility and Access  
DP18 Transport Infrastructure Proposals  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

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

SA NGA1 Appropriate Uses within the North Growth Area

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Community Facilities  
Sustainable Construction  
Cycling Delivery Strategy  
Sustainable Drainage Systems Design Guide

- 7.6 Submission Colchester Borough Local Plan 2017-2033  
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

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

## **8.0 Consultations**

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

### **8.2 Archaeological Adviser**

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

### **8.3 Arboricultural Officer**

The proposal requires the removal of three 'B' category trees. Given the position of these trees and the proposed landscape scheme, the proposal is considered to be acceptable. Recommended condition to secure tree protection for retained trees.

### **8.4 Building Control**

No comments received.

### **8.5 Contaminated Land Officer**

Further details and clarification required as follows:

- Details of the partial infilling of the pond required (nature of the fill to demonstrate that it is suitable for use).
- Clarification required in respect of Design and Access Statement section 13 that states that results of contamination assessment will be shared with the authority post-validation.
- Lake sediment survey submitted as draft; a final version is required.

### **8.6 Environmental Protection**

No objections. Recommended informative regarding the control of pollution during demolition and construction works.

### **8.7 Essex County Fire and Rescue**

No comments received.

### **8.8 Forestry Commission**

No comments received.

### **8.9 Highway Authority**

No objection from a highway and transportation perspective subject to conditions for a Travel Plan and details of cycle parking to be submitted and approved.

The Highway Authority also provide the following comment:

'Clearly there is an overriding public interest and need to provide the new and updated facilities without any further delay, however, the applicants should be requested to consider and plan for the long term requirements for visitors and staff parking within and or off site to mitigate these proposals which can be delivered alongside and together with these scheduled future developments.'

8.10 Landscape Officer

No objections subject to the Arboricultural Officer having no objections regarding the removal and replacement of Category B trees, and that it is confirmed that all proposed trees within hardscape areas will be planted out in individual soft landscape planting bed a minimum 1.5m wide, rather than specialist tree pits. The latter is required in order to maximise favourable conditions for tree establishment and given the ambiguous nature of the submitted plans. Subject to these points being addressed, recommended conditions to secure a landscape management plan and detailed landscape proposals to be agreed.

8.11 Natural England

No objection. The proposed development will not have significant adverse impacts on statutorily protected sites or landscapes.

8.12 SUDs

No objection subject to conditions requiring approval of a detailed surface water drainage scheme for the site, a drainage maintenance and management plan; and that no development to commence until any pipes that would be used to convey surface water are cleared of any blockage and restored to a fully working condition.

8.13 The Woodland Trust

No comments received.

8.14 Transport and Sustainability

Colchester Hospital has put in a significant commitment to improving its Travel Plan over the past couple of years to reduce the high number of staff (81% at the last survey) and visitors driving to the hospital. This includes both interventions and infrastructure improvements to act as a disincentive to driving to the hospital and incentivise and support staff to choose sustainable travel modes. We welcome this planning application which includes benefits for travel and accessibility to the site including pedestrianising the area in front of the hospital and improving the route in and out of the hospital for buses.

In order to ensure that the current positive momentum continues and that change is sustained and commitment confirmed, we recommend the following is required in order to be granted planning permission:

- Update of the Travel Plan to reflect the efforts made to date and the future commitments made to further develop the Travel Plan. This should include:
  - An action plan with timescales
  - Modal split targets and a monitoring schedule.
  - Confirmation of the number of cycle parking spaces, both covered and secure available for staff and visitors
  - Details of cycle route and route and cycle parking signage improvements being introduced as part of this development
- Clear senior executive level commitment to the Travel Plan for the next 5 years
- Commitment to providing a dedicated staff resource who has time and responsibility to continually market and develop the Travel Plan and implement the action plan.

- Commitment to Colchester Travel Plan Club membership for the next 5 Years, so ESNEFT have the local help and support to drive their Travel Plan forward

In addition, although a swept path analysis has been undertaken as part of the Transport Assessment, consultation with bus operators leads to the suggestion that it is necessary to ensure that the loop is adequate to turn a bus in one movement. Clear signage to the bus stops and Real Time Information (RTI) boards should be provided within the hospital foyer/waiting areas and to the front of the hospital building. Bus stops should be upgraded to be in keeping with the design and modern look of the development including shelters, seating and RTI.

#### 8.15 Urban Designer

Supportive of the scheme. Comments on some matters of detail:

- Frontage appearance is good subject to the use of good materials and details (which should be conditioned);
- Concerned by lack of outlook and daylighting for some new rooms and existing rooms. Ideally the gap between the proposed development and existing frontage should be widened and windows added; and
- The Travel Centre, Wellness Centre, and associated plaza links should be omitted from the submitted plans as they do not form part of the proposal.

### 9.0 **Parish Council Response**

9.1 Myland Community Council have no objections to the proposal.

### 10.0 **Representations from Notified Parties**

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

10.2 Councillor David King writes to **support** the application on the basis that 'the hospital is in urgent need of change and renewal... This area, like others, is tired, inefficient, and not what it could be'. The proposal is acceptable on its own merits and is helpful to functionality and the patient/visitor experience that will help the hospital manage rising demand more efficiently.

10.3 Two representations of **support** have been received, summarised as follows:

- Much needed and useful addition to the hospital entrance and A&E, as this requires a good upgrade;
- The proposal would enhance the hospital by making it more user friendly, subject to measures being put in place to stop cars from parking in the bus turning area and at the bus stops;
- Pleased that the pond will be retained;
- Would like to see the league of hospital friends shop retained, the provision of a children's crafts and play area, and an enhanced pharmacy, as well as a tree planting schedule to replace the trees being removed.

10.4 One **objection** has been received, summarised as follows:

- Loss of disabled parking spaces near to the main entrance of the hospital. Although the spaces would be relocated in the main car park the distance to the entrance of the hospital will cause some disabled people a 'great deal of misery, distress, vexation and upset', particularly so in inclement weather;
- Suggest drop-off points near the norther entrance be allocated for disabled visitors.

## **11.0 Parking Provision**

11.1 The adopted parking standards for D1 (medical centres) is: a maximum of one car parking space per full time equivalent staff and three spaces per consulting room; a minimum of one cycle space per four staff plus one space per consulting room; a minimum of one PTW space plus one space per twenty car parking spaces (for 1<sup>st</sup> 100 car spaces) then one space per thirty car parking spaces (over 100 car parking spaces). Under the Vehicle Parking Standards SPD the requirement for disabled parking is dependent upon the development proposed.

11.2 In order to comply with the parking standards, the proposal would need to include the following:

- Cycle Parking: a minimum of one space per four staff plus one space per consulting room; and
- PTW: a minimum of one space.

11.3 The proposal involves reconfiguring the vehicle route that currently passes the main hospital building access. The existing 8 No. drop off/disabled spaces to the front of the building would be replaced by 10 No. vehicle drop off points in close proximity to the main entrance. Additional disabled parking (4 No. spaces) would be provided in the main visitor carpark a short distance to the north of the building entrance. No further parking is proposed.

## **12.0 Open Space Provisions**

12.1 Not applicable for this proposal.

## **13.0 Air Quality**

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

## **14.0 Planning Obligations**

14.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. It was considered necessary to secure the Hospital's commitment to the Colchester Travel Plan Club (CTPC) for the following reason:

'The hospital has a big impact on the local highway due to high levels of vehicular traffic from staff, patients, visitors, and deliveries (last survey 81% of

staff drove to work). A robust and active Travel Plan is essential to manage the traffic and encourage sustainable travel modes.

14.2 Membership of the CTPC will provide the practical help and support to ensure the Travel Plan continues to be active in the longer term. ‘

14.3 A s106 agreement is required to secure commitment to membership of the Travel Plan Club, as opposed to a planning condition, because it ties the Applicant to pay a monetary fee. Further discussions with the Hospital reveal that, whilst they readily confirm their commitment to the Travel Plan Club, they do not wish to use a s106 agreement to secure this given the necessary legal work that would be likely to delay the project.

14.4 In this instance, it is considered that the fundamental requirement in order to mitigate the impact of the proposed development is to update and implement a robust and active Travel Plan. This can be secured via a condition of planning permission. Membership of the Travel Plan Club would provide the necessary support to ensure that the Travel Plan succeeds and there is confidence in the fact that the Hospital is already a long-standing member (since 2004) and can provide formal written agreement that they commit to membership for at least 5 more years. On this basis, a s106 is not required subject to a condition requiring an up-to-date Travel Plan and written confirmation from the Hospital that they commit to Travel Plan Club membership for at least 5 years.

## **15.0 Report**

15.1 The application site is part of established hospital grounds, located within the settlement boundary of Colchester and an identified growth area. Core Strategy Policy SD1 seeks to focus development in a number of areas within Colchester Town, including the North Growth Area and the expansion of Colchester General Hospital is identified in Core Strategy Policy SD3 as a key community facility with which to support the Sustainable Community Strategy and to develop Colchester as a prestigious regional centre. Given this context, the proposed development is considered to be acceptable in principle subject to material planning considerations as follows:

- Contamination
- Archaeology and Heritage Matters
- Flood Risk and Drainage
- Highway Matters
- Impact on Landscape and Trees
- Ecology and Biodiversity
- Layout and Design
- Amenity

### Contamination

15.2 Development Plan Policy DP1 requires all development to undertake appropriate remediation of contaminated land, with the NPPF requiring planning decisions to take account of ground conditions and any risks arising from land instability and contamination.

- 15.3 Following submission of a Desk Study and Phase 1 Geoenvironmental Risk Assessment, comments are being sought from the Council's Contaminated Land Officer. The outcome of this consultation (requests for further information and/or conditions) will need to be actioned so that the proposal complies with policy DP1 and the NPPF.

#### Archaeology and Heritage Matters

- 15.4 The preservation and enhancement of the Borough's historic character and heritage as a requirement of development is set out in a number of policies within the Local Plan, primarily Core Strategy Policy UR2 and Development Plan Policies DP1 and DP14.
- 15.5 The proposal is not in close proximity to, or within the setting of, any heritage assets and the Council's Archaeological Adviser has confirmed that there would not be any harm to the significance of below-ground archaeological remains as a result of the development. The proposal is not, therefore, considered to have a negative impact on heritage and is in accordance with policies UR2, DP1, and DP14.

#### Flood Risk and Drainage

- 15.6 The site is located within a flood zone 1 where the risk of flooding from rivers or the sea is low. The proposed development is not, therefore, considered to be at risk of flooding.
- 15.7 Development Plan Policy DP20 requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the use of SUDs for managing surface water runoff within the overall design and layout of the site. The application is supported by a SUDs Report that explains that surface water catchment from roofs and hardstanding will continue to discharge into the ponds to the front of the building as per existing, although the area will be remodelled to achieve a better level of control of the retained water. Following the receipt of some further points of clarification, Essex County Council, as Lead Local Flood Authority, have confirmed that they have no objections to the proposal subject to conditions that require the approval of a detailed surface water drainage scheme for the site, a drainage maintenance and management plan; and that no development to commence until any pipes that would be used to convey surface water are cleared of any blockage and restored to a fully working condition. On this basis, the proposal is considered to comply with policy DP20.

#### Highway Matters

- 15.8 Core Strategy Policies TA1 and TA2, seek to reduce the reliance on private car journeys by encouraging sustainable modes of transport.

- 15.9 The Hospital is a member of the Travel Plan Club, which promotes active and sustainable travel to and from places of work and businesses. As part of their membership, opportunities to increase sustainable modes of transport will be an ongoing project. Essential to this aim is the development and implementation of an up-to-date travel plan and this can be conditioned as part of this development. On the basis of there being an ongoing commitment to the Travel Plan Club, supported by an updated travel plan, the proposal is considered to conform to the provisions of policies TA1 and TA2.
- 15.10 In terms of impacts, the submitted Transport Statement concludes that the extension to the Emergency Department would result in an additional 3 two-way vehicle trips during the weekday AM and PM peak hours, with the impact from the commercial units being considered to be negligible as they are ancillary to the hospital and trips will be linked. The Highway Authority have considered the proposal and the supporting Transport Statement and have concluded that the proposal is acceptable in terms of highway and transportation impacts, subject to conditions; one of which requiring an up-to-date Travel Plan as discussed above. The Highway Authority have made it a point to comment that the Hospital will need to plan for the long-term requirements for visitors and staff; the current planning application needs to be considered on its own merits so it would be unreasonable to object to the proposal on the basis of the impacts of as yet unknown future development, but the advice can be included in the decision by way of an informative.
- 15.11 In considering parking, any increases in staff numbers and/or consulting rooms is relevant. Details included in the application confirm that the development would result in 30 FTE employees, with the extension to the Emergency Department resulting in 4 additional consulting rooms. In terms of the policy requirements for parking, the increase in staff numbers and consulting rooms would generate the need for 12 cycle spaces and one PTW space. There is no requirement for car parking as the adopted policy standard is a maximum requirement, with requirements for disabled parking being determined on a case-by-case basis.
- 15.12 The proposal involves reconfiguring the vehicle route that currently passes the front of the main hospital building. Cycle parking is not currently shown as part of the proposals, but the requirements for cycle parking can be conditioned as per the Highway Authority recommendation. Subject to the provision of cycle parking, the proposal would be deficient in one PTW space, but this is not considered to be a significant deficiency so as to justify refusal. The proposal is considered to be satisfactory in terms of parking provision in accordance with Development Policy DP19 and the Vehicle Parking Standards SPD.



- 15.13 In terms of car parking, the existing 8 No. drop off/disabled spaces to the front of the building would be removed and replaced by 10 No. vehicle drop off points in close proximity to the main entrance. Additional disabled parking (4 No. spaces) would be provided in the main visitor carpark, a short distance to the north of the building entrance (a route of approximately 85 metres). Although some concerns have been received in local representations regarding the loss of parking at the front of the site it is considered that the proposed reconfiguring of this part of the site would present a marked improvement to the patient and visitor experience in terms of safety and convenience. Currently, the proximity of ambulance parking, drop-off points, disabled parking, bus stops, and pedestrian crossings at the front of the building causes significant congestion to the front of the site. During a number of visits to the hospital, the Case Officer has witnessed several occasions where cars were parked in drop off areas, blocking the routes of ambulances, and causing ambulances to reverse into the path of pedestrians using the crossing to the main entrance; the proposals would pedestrianise the front of the hospital and create dedicated drop off and ambulance areas, thereby removing these conflicts.
- 15.14 Concerns regarding the relocation of disabled parking to the main car park are noted and understood. In considering this point, it is noted that, in addition to the disabled spaces in the car park, the proposal includes a vehicle drop-off area for 10 cars (more than the 3/4 spaces currently offered) and this would provide an alternative option for patients and visitors so that they can be dropped off close to the entrance if needed. In addition to this, as part of the reconfiguration the existing bridge that provides access from the main car park to the hospital building would be replaced with a wider footway that would provide more convenient access from this part of the site. A larger wheelchair store is also proposed as part of the scheme so wheelchairs would be available for those visitors who would require additional assistance.
- 15.15 The proposal is considered to be acceptable in terms of sustainability, highway and transport impacts, and car parking. Concerns regarding the relocation of disabled parking are appreciated, although it is considered that this is sufficiently addressed in the proposal.

#### Impact on Landscape and Trees

- 15.16 Core Strategy Policy UR2 and Development Plan Policy DP1 seek to promote and secure high quality and inclusive design in all developments. This includes landscape setting.
- 15.17 The proposal would involve significant changes to the hard and soft landscaping to the front of the main hospital building. The existing pond would be partially turned over to a 'wetland' garden, and a pedestrianised plaza would be created including the replacement of the existing bridge with a widened footpath; the introduction of a drop-off point to the north of the entrance would necessitate the loss of some existing trees, as would the relocation of two bus stops to the south of the entrance.

- 15.18 The proposals would result in the loss of three 'B' category trees, although in consideration of the overall proposal and replacement planting, the Council's Arboricultural Officer has no objections.
- 15.19 Similarly, the Council's Landscape Officer has not objections to the proposal, subject to trees within hard landscaped areas being planted in planting beds rather than tree pits; a requirement that can be conditioned along with necessary conditions for detailed landscape proposals.
- 15.20 The proposal is therefore considered to be satisfactory in terms of the requirements of policies UR2 and DP1.

#### Ecology and Biodiversity

- 15.21 Core Strategy Policy ENV1 sets out the Council's commitment to conserving and enhancing Colchester's natural and historic environment, countryside, and coastline. Development plan Policy DP21 states that development proposals will only be supported where acceptable ecological surveys are carried out and any necessary means of mitigation, restoration, or enhancement are incorporated into the proposals.
- 15.22 The proposal would involve the loss of some existing trees on site, as well as the partial infill of an existing pond and creation of a wetland garden. The application is supported by a Preliminary Ecological Appraisal, as well as an Ecological Mitigation and Enhancement Report.
- 15.23 The Ecological Appraisal concludes that the proposal would not adversely affect any statutory or non-statutory protected sites; a point that is confirmed in the Natural England consultation response.
- 15.24 There are suitable habitat features (trees, scrub, shrubs and the pond) within the application site that may provide habitat for protected species such as roosting bats, birds, and frogs and toads. The pond is not considered to be a suitable habitat for great crested newts given its use as a duck pond. The features identified would be affected as part of the proposed development. As a result, the Ecological Appraisal makes the following recommendations:
- Any trees to be retained should be protected during the works in accordance with BS 5837:2012 'Trees in relation to design, demolition and construction';
  - Replacement planting should be a similar native species;
  - The wetland garden should be designed to enhance the biodiversity of the pond and increase suitability for amphibians with the enhancement mitigating the reduction in the size of the pond;
  - Should any of the trees identified as having bat roost potential be removed (they are currently shown as being retained), an arboriculturalist should check for evidence of bats and undertake any precautionary measures during felling or pruning as necessary;
  - Any lighting should be directed away from the trees with roost potential and the pond to ensure that light does not spill onto these habitats;
  - Any clearance of vegetation or demolition works should be undertaken outside the bird nesting season (March to August inclusive). If this is not

possible, a suitably qualified ecologist should be employed to determine if nesting birds are using the site prior to works commencing to avoid negative impact on protected species. Any active nests that are found would need to be provided with a 10 metre buffer which would have to be left until the young had fledged, (typically four weeks from eggs being laid for the garden and woodland species likely to be present). Clearance works within the area can recommence only once the nest is no longer in use.

- The works to the northern section of the pond should be undertaken when amphibians are less likely to be breeding (between July and February). Measures should be employed to protect amphibians during site clearance of the pond and surrounding habitats. For example, these areas could be searched/netted, moving any amphibians found to a place of safety away from the works prior to infill/draw down. A mesh should be fixed over a low powered pump when removing water from the pond.

15.25 A number of biodiversity enhancement opportunities are identified in the Ecological Assessment and Ecological and Mitigation Report as follows:

- Any plants considered within the final development should be native and considered beneficial to wildlife;
- Bird boxes could be installed on trees to provide enhanced nesting opportunity;
- Log piles created for invertebrates; and
- An area of rough grassland could be included within the wetland garden to provide habitat for amphibians.

15.26 Provided the works, mitigation measures, and enhancement works are carried out as per the details submitted in the Ecological Appraisal and Ecological Mitigation and Enhancement Report, the proposal is considered to be acceptable in terms of ecology and biodiversity. These measures will improve the overall biodiversity of the site, thereby meeting the requirements of policies ENV1 and DP21.

#### Layout and Design

15.27 Core Strategy Policy UR2 seeks to promote and secure high quality and inclusive design in all developments to create places that are locally distinctive, people-friendly, provide natural surveillance to design out crime, and which enhance the built character and public realm of the area. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported. Development Policy DP1 states that development proposals should respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape and/or landscape setting, and detailed design features.

- 15.28 The proposal would significantly alter the front of the hospital building and its immediate surroundings. The development would not be visible from outside the Hospital site so would only be experienced by patients, visitors and staff to the Hospital itself. The proposal is not, therefore, considered to have an impact on the surrounding area.
- 15.29 In terms of layout, the pedestrianisation of the frontage is considered to significantly improve the visitor experience, especially given the congestion that takes place currently. Whilst some existing soft landscaping would be lost with the infilling of the pond and relocated bus stops, there would be compensatory planting that would provide an attractive space. The layout is considered to be people friendly and an enhancement of the public realm in accordance with policy UR2.
- 15.30 The built design is distinctly modern in its appearance, given its modular form and construction, that reflects the predominant form and scale of the existing main Hospital building which is generally two-storey in height with flat roofs. The proposal is considered to respect and enhance the character of the site in accordance with policy DP1.
- 15.31 The Urban Designer has expressed concerns regarding the lack of outlook and daylight for some rooms, but examination of the floor plans show that these rooms would be, for the most part, uses that require privacy (such as consulting rooms or recovery rooms) so the windows serving these rooms would generally have restricted opening and be covered with privacy film so outlook and daylight would already be limited. The staff room would have windows that face the proposed extension, but loss of daylight and outlook from this room is not considered to be of significant detriment given that the room would be used for short periods of time and there are alternative spaces for staff to use such as the proposed staff café/canteen in the new extensions, as well as the landscaped grounds. There would be six administrative offices on the first-floor of the existing building that would have limited outlook, but these are identified for future use for high dependency clinical accommodation and this would require a much more secure environment rather than open windows.
- 15.32 Subject to conditions to secure high quality materials and detailing, the proposal is considered to be acceptable in design terms.

#### Amenity

- 15.33 Development Plan Policy DP1 requires all development to protect existing public and residential amenity.
- 15.34 The application site is not in close proximity to any residential properties and therefore the proposal is considered to be acceptable in terms of public amenity.

## Other Matters

- 15.35 Development Plan Policy DP2 states that all development should be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health. Health Impact Assessments (HIA) are required for all non-residential development in excess of 1,000 square metres in order to identify the potential health consequences of the proposal and to maximise the positive health benefits. This assessment is necessary in policy terms, although may seem somewhat perverse given that the proposal is for a public Hospital. The Applicant has submitted an HIA Screening note that is considered to be acceptable in this case. The screening points out that the proposed development is important in terms of the functioning of a large hospital and that the proposal delivers landscape and public space contributions. The screening goes on to conclude that there would be no negative impacts in terms of air quality, energy consumption, and use of natural resources subject to the preparation of a construction method statement to ensure the control of dust, noise, and vehicle movements during construction, and the preparation of an energy use report. These matters can be conditioned.

## **16.0 Conclusion**

- 16.1 The proposal is considered to have a positive impact on the functionality and public experience of this busy Hospital. The proposed development would satisfactorily meet planning policy objectives and is considered to be acceptable in terms of material planning considerations, subject to necessary planning conditions. Matters of contamination are currently outstanding, awaiting comments from the Council's Contaminated Land Officer; it is considered that this matter can be dealt with via negotiation and conditions if necessary.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to:

- Any amendments, further information, and/or conditions required by the Council's Contaminated Land Officer;
- Agreement with the Agent/Applicant to the pre-commencement conditions under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and delegated authority to make changes to the wording of these conditions as necessary;
- The Permission being subject to the following conditions:

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

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

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

## **2. ZAM - Development to Accord With Approved Plans**

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

3811-0106 Rev P02	Site Location Plan
3811-0105 Revision P04	Proposed Block Plan
3811-0114	Proposed Floor Plans Ground & First Floor with Existing Content
A(300)01	Proposed Elevations
3811-0115 Rev P01	Proposed Tree Removals

For the avoidance of doubt, this permission does not extend to the Travel Centre and Wellness Centre shown on the submitted drawings.

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

## **3. Non Standard Condition - Ecological Mitigation**

The development hereby approved shall be carried out entirely in accordance with Section 6.2 (Recommendations) of the Geosphere Environmental Ltd Preliminary Ecological Appraisal (ref: 3359, EC, AR/PEA/ZK, KL/17-09-18/V1), which shall also be used to inform the landscaping scheme (including planting and lighting) required under condition 6 of this permission.

Reason: In order to safeguard habitats that may be suitable for protected species and in the interests of mitigating the impact of the development on ecology.

## **4. Non Standard Condition - Construction Method Statement**

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

- The parking of vehicles of site operatives and visitors;
- Hours of deliveries and hours of work;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction; and
- A scheme for recycling/disposing of waste resulting from construction works.

Reason: In order to ensure that the construction takes place in a suitable manner in the interests of public health and amenity.

## **5. Non Standard Condition - Tree and Natural Feature Protection: Protected Areas**

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site

and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.  
Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

#### **6. Non Standard Condition - Detailed Landscape Works**

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

- Proposed finished levels or contours.
- Means of enclosure.
- Car parking layouts.
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

All proposed trees that are within hardscape areas shall need to be planted out in individual soft landscape planting beds a minimum of 1.5m wide rather than specialist tree pits.

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

#### **7. Non Standard Condition - Detailed Surface Water Drainage Scheme**

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s) . The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Limiting discharge rates to 20l/s/ha for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change.

- Demonstrate that features have suitable half drain times. If unable then they need to be able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus climate change.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme. This includes cross sections of the pond and wetland and all pollution mitigation devices.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The approved scheme shall be subsequently be implemented prior to occupation.

Reason: The National Planning Policy Framework paragraph 155 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

#### **8. Non Standard Condition - SUDs Maintenance and Management Plan**

No works shall take place until a Maintenance and Management Plan, detailing the maintenance arrangements to include who is responsible for different elements of the surface water drainage system, the maintenance activity/frequency, has been submitted to and agreed, in writing, by the Local Planning Authority. This includes the pollution mitigation devices such as the downstream defenders and the oil separators.

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

#### **9. Non Standard Condition - Surface Water Drainage**

No works shall commence until the pipes within the extent of the site that will be used to convey surface water are cleared of any blockage and are restored to a fully working condition.

Reason: To ensure that the drainage system implemented at the site will adequately function and dispose of surface water from the site.

#### **10. Non Standard Condition - Materials To Be Agreed**

No external facing materials, windows, or doors shall be used in the construction of the development hereby permitted until precise details (and samples as considered necessary) 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.



### **11. Non Standard Condition - Landscape Management Plan**

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

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

### **12. Non Standard Condition - Cycle Parking TBA**

Prior to the development hereby permitted coming in to use, details of the number, location and design of cycle parking facilities (to provide 12 cycle parking spaces) shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

### **13. Non Standard Condition - Travel Plan**

Prior to the development hereby permitted coming in to use, the Developer shall be responsible for the provision and implementation of a new, revised and updated Travel Plan that includes the initial commitments made to date as well as, but not limited to, the following:

- An action plan with timescales;
- Modal split targets and a monitoring schedule;
- Confirmation of the number of cycle parking spaces, both covered and secure available for staff and visitors;
- Details of cycle route and cycle parking signage improvements;
- Commitment to providing a dedicated staff resource (Travel Plan Co-Ordinator) to continually market and development the Travel Plan and the implementation of the action plan. .and amended and supplemented under the provisions of a yearly report.

The proposed travel plan shall be submitted to and agreed in writing by the local planning authority prior to the development hereby permitted coming into use and thereafter implemented in accordance with the approved details.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

#### **14. Non Standard Condition - Bus Stops**

Prior to the development hereby permitted coming in to use, details of the new bus stops to be provided (to include details of directional signage, the installation of Real Time Information (RTI) boards, shelters, and seating) shall be submitted to and approved in writing by the Local Planning Authority. The bus stops shall then be constructed and installed as approved and made available for use prior to the first use of the development.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

#### **15. Non Standard Condition - Ecological Enhancement**

Within 3 months of the development hereby permitted being first used, the ecological enhancement measures set out in the Geosphere Environmental Ltd Ecological Mitigation and Enhancement Letter Report (ref: 3359, EC, AR/LTR 001/ZK, KL/08-10-18/V1) shall be implemented in full and the maintenance measures carried out thereafter.

Reason: In the interests of mitigating the impacts of the development on ecology.

### **18.0 Informatives**

18.1 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. Highway Authority Informative 1**

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

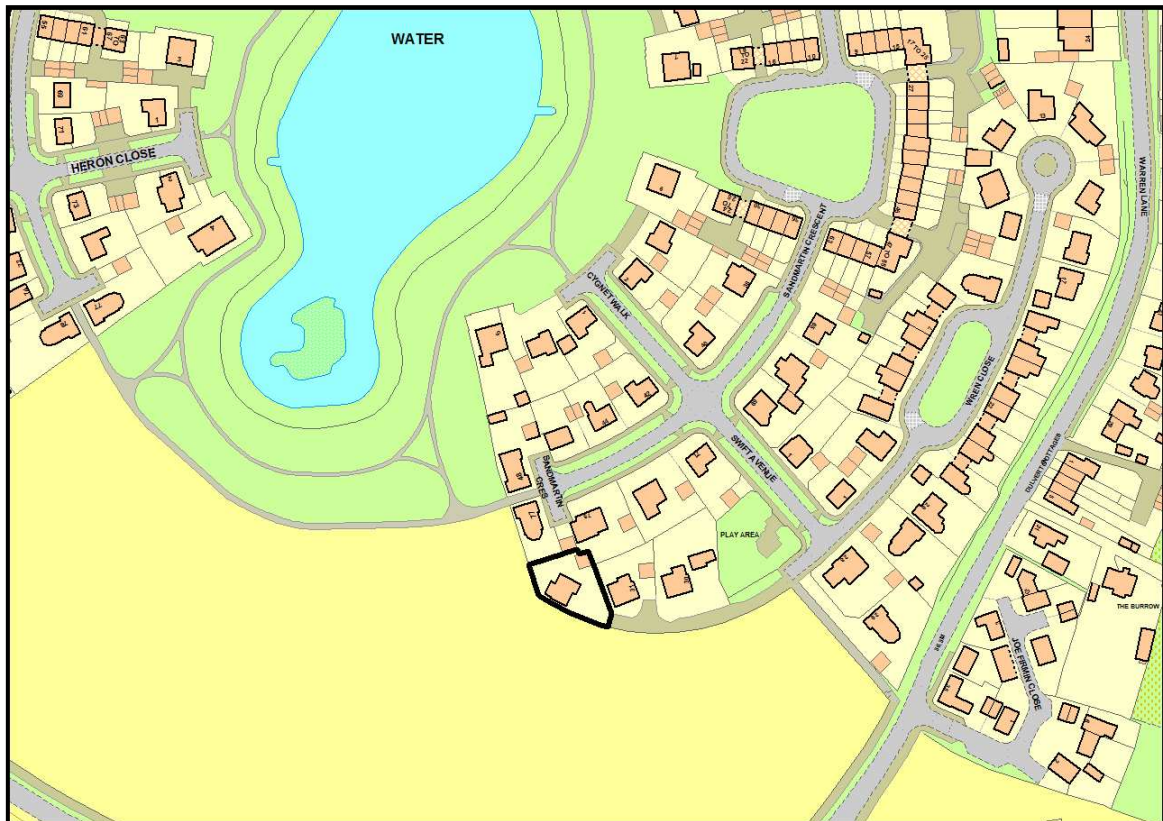
The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

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

#### **5. Highway Authority Informative 2**

The Applicant is advised to consider and plan for the long-term requirements for visitor and staff parking within and/or off site in order to mitigate future development.





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### Item No: 7.3

**Application:** 182627

**Applicant:** Mr Michael Devine

**Agent:** Barker Associates

**Proposal:** Additional floor space is to be added into the roof creating two more bedrooms, skylight and dormer windows will provide natural light to the space. Fitting new roof structure and preparing fire damage. Repair fire damage to the garage.

**Location:** 32 Wren Close, Stanway, Colchester, CO3 8ZB

**Ward:** Stanway

**Officer:** Chris Harden

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because the applicant is a member of staff.

## **2.0 Synopsis**

- 2.1 The existing relatively modern house was struck by lightning and the whole roof is now missing. The garage has also been damaged. The proposal is for repairs and additional works involving additional floor space in the roof, creating two more bedrooms, skylight and dormer windows. The fire damage to the garage would also be repaired.
- 2.2 The design, scale and form of the proposed extension works, including dormer windows and garage repair are in keeping with the character of the existing dwelling and street scene. There would be no significant detriment to neighbouring residential amenity, adequate parking and manoeuvring space would be retained and there would be no impact upon vegetation. The application is subsequently recommended for approval subject to conditions.

## **3.0 Site Description and Context**

- 3.1 The dwelling is a relatively modern two storey property that lies within the settlement limits and within an estate of similarly styled properties. The house was struck by lightning and the whole roof is now missing. The garage has also been damaged.

## **4.0 Description of the Proposal**

- 4.1 The proposal is to raise the roof of the property when replacing it so that the overall height of the building would be 9.2 metres compared to the previous height of 8.5 metres. This would enable the provision of two extra bedrooms and includes the construction of dormer windows and rooflights. The total number of bedrooms would thus be 5. The front gable would also be increased in height from 7.3 metres to 8.1 metres. The fire damage to the garage would also be repaired.

## **5.0 Land Use Allocation**

- 5.1 Settlement Limits.

## **6.0 Relevant Planning History**

### **6.1 F/COL/01/0976**

Phase 2, Churchfields, Church Lane, Stanway Colchester CO3 8LP  
Application to amend condition 03(2) of COL/90/1904 to extend specified time period from five to six years regarding submission of all reserved matters for outline application for mixed use development comprising business/employment 11.3 net acres,  
Approve Conditional - 01/12/2006

### **6.2 121040**

Application for a new planning permission to replace extant planning permission F/COL/01/0976 in order to extend the time limit for implementation.  
Approve Conditional – 04/09/2012

## **7.0 Principal Policies**

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

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

SD1 - Sustainable Development Locations  
UR2 - Built Design and Character

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  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards

7.4 The adopted Site Allocations (adopted 2010) policies are not relevant to the case.

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):  
The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Sustainable Construction  
Managing Archaeology in Development.  
Stanway Joint Design Statement and Parish Plan

7.6 Submission Colchester Borough Local Plan 2017-2033

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

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

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

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

## 8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Environmental Protection have no objections and make the following comments:

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

**NOTE: Demolition and Construction**

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



## **9.0 Parish Council Response**

9.1 The Parish Council have “no objections” to the application.

## **10.0 Representations from Notified Parties**

10.1 No comments received.

## **11.0 Parking Provision**

11.1 At least four are spaces.

## **12.0 Open Space Provisions**

12.1 Not applicable.

## **13.0 Air Quality**

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

## **14.0 Planning Obligations**

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

## **15.0 Report**

15.1 The main issues in this case are:

### The Principle of Development

15.2 The site lies within the settlement limits and the proposal should be judged on its planning merits. The most significant planning issues are the design, scale and form of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy having particular regard to Policy DP1 of the Local Plan. Retained amenity space and parking provision also needs to be considered.

### Design, Scale and Form

15.3 The design, scale and form of the proposed development is considered satisfactory on its own merits. The resultant height and form of the dwelling would visually relate well to the prevailing character of the street scene and would not be out of keeping with the character of the existing dwelling. The dormers are of an appropriate scale to ensure they are not too dominant in the roof. The front wing would also be of a visually appropriate height. The works to the garage would also be in keeping with the street scene.

- 15.4 Accordingly the proposal would comply with Policy DP1 of the Local Plan which provides that development must respect and enhance the character of the site and surroundings in terms of architectural approach, height, size, scale and form. Policy DP13 is also complied with which provides that residential alterations will be supported where they meet other policy requirements.

#### Impact Upon Neighbouring Residential Amenity

- 15.5 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.
- 15.6 The existing dwelling is located on the edge of the estate and is positioned a little way from neighbouring dwellings. Whilst the house has increased in height, the proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and the proposal satisfies this requirement.
- 15.7 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 15.8 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas. Whilst there are dormers and rooflights being added in to the roof, there are already windows at first floor level on these elevations and the new additions do not alter overlooking aspects in any significant way. The proposal also complies with Policy DP1 in this respect as existing amenity is protected, including with regard to overlooking, daylight and sunlight.

#### Other issues

- 15.9 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. Adequate parking and manoeuvring space is retained on site, in accordance with Policy DP19 and the adopted Parking Standards which require two vehicular car parking spaces.
- 15.10 Adequate Private amenity space would be retained. Policy DP16 states that for dwellings with 4 or more bedrooms, 100 m<sup>2</sup> should be provided and the site retains over 100 m<sup>2</sup> of such space. No vegetation would be affected and there are no archaeological implications.

## **16.0 Conclusion**

- 16.1 To summarise, the design, scale and form of the proposed extension works, including dormer windows and garage repair, are in keeping with the character of the existing dwelling and street scene. There would be no significant detriment to neighbouring residential amenity, and adequate parking and manoeuvring space would be retained. The proposal is considered to adhere to the provisions of the Local Plan.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

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

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

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

### **2. ZAM- Development To Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: BA/P18-449-002, BA/P18-442\_001, BA/P18-449 300 B, BA/P18-449 301 B, BA/P18-449 302B, BA/P18-449 303 B, BA/P18-449 304 B, BA/P18-449 305 B, BA/P18-449306 B, BA/P18-449 307 B, BA/P18-449 308 B, BA/P18-449 309 B, BA/P18-449 200 B, BA/P18-449 201 B, BA/P18-449 202 B, BA/P18-449 203 B received 29/10/18.

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

### **3. ZBB- Materials as Stated in Application**

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

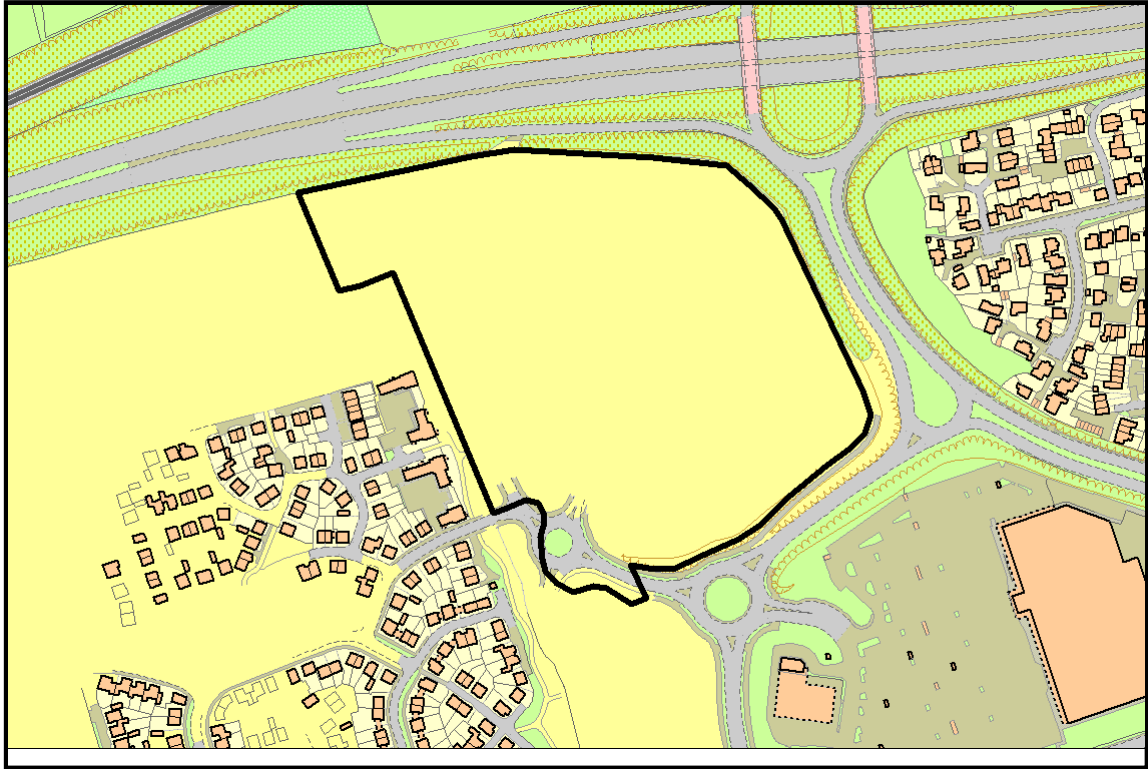
## **18.0 Informatives**

- 18.1 The following informatives are also recommended:

### **ZT0 – Advisory Note on Construction & Demolition**

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





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172935  
Stane Park Site, Essex Yeomany Way, Stanway

# Planning Committee

Item  
**8**

Date 3 January 2019

Report of	Assistant Director – Policy and Corporate	Author	Lucy Mondon 01206 506964
Title	Amendment to Condition 14 and s106 Agreement for Stane Park Phase 2 Application Ref: 172935		
Wards affected	Stanway/Marks Tey & Layer		

**This report concerns a proposed amendment to Condition 14 and the s106 agreement in relation to the requirement for a pedestrian crossing on London Road.**

## 1.0 Decision(s) Required

- 1.1 Members are asked to endorse the proposed amendment to Condition 14 to omit the requirement for a pedestrian crossing on London Road and instead include it as a clause within the s106 agreement, with the requirement that should it not be possible to provide the crossing, a contribution of £25,000 (index-linked) will be paid towards improvements at the Stanway Western Bypass/London Road roundabout (plus a contribution monitoring fee in accordance with Essex County Council guidance).

## 2.0 Reasons for Decision(s)

- 2.1 Following the committee resolution on 23<sup>rd</sup> August 2018, where the provision of a pedestrian crossing on London Road was conditioned in lieu of the contribution requested by Essex County Council Highway Authority for improvements at the Stanway Western Bypass/London Road roundabout, it has become apparent that it may take some time to establish whether a crossing is acceptable in terms of highway safety and traffic flows. So as not to delay the issue of planning permission any further it is considered necessary to include the requirement for the crossing within the s106 agreement; this will also allow for the contribution to be paid should the crossing not be possible.

## 3.0 Alternative Options

- 3.1 The alternative options are:
- Not to agree to the revisions to Condition 14 and the s106. In which case it is likely that the planning permission will be delayed and the Applicant will have the option to appeal non-determination of the application under section 78 of the Town and Country Planning Act 1990. This would result in an appeal (informal hearing or public inquiry).
  - Not to agree to the revisions to Condition 14 and the s106 and issue the decision once the s106 has been finalised. In this instance, the Applicant would need to adhere to the requirements of Condition 14, but could seek to vary the condition under section 73 of the Town and Country Planning Act 1990 should it be shown to be unacceptable in highway terms. If the application were successful, the crossing would not be provided and there would be no recourse to seek the contribution for the improvements to the roundabout.

#### **4.0 Supporting Information**

- 4.1 The Highway Authority have confirmed that they will require a longer period of time to consider the acceptability of the pedestrian crossing and they have recommended the course of action now being put forward to Members in this report.

#### **5.0 Proposals**

- 5.1 It is recommended that reference to the provision of a pedestrian crossing on London Road is omitted from Condition 14 and that the requirement is added as a clause in the s106, along with an alternative provision that should the crossing not be agreed by Essex County Council (either by confirmation that the crossing is unacceptable or in the event that they do not confirm within a stipulated time period) following the submission of details, the contribution of £25,000 index-linked (plus monitoring fee) will be paid towards improvements at the Stanway Western Bypass/London Road roundabout. The s106 will include appropriate triggers for either the crossing to be provided and made available for use, or the payment of the contribution.

#### **6.0 Strategic Plan References**

- 6.1 The development of this site would help meet aims in the Council's Strategic Plan in that it would develop job opportunities, as well as provide economic growth for both the town and borough along with necessary infrastructure. In addition, new routes for walking or cycling to work would be provided as part of the development that would contribute to making the borough more pedestrian-friendly.

#### **7.0 Consultation**

- 7.1 Highway Authority (see section 4 above).

#### **8.0 Publicity Considerations**

- 8.1 None directly arising from this report.

#### **9.0 Financial Implications**

- 9.1 None directly arising from the recommendations of this report. There would be financial implications in the event that the amendments are not agreed and the Applicant takes the application to appeal under non-determination.

#### **10.0 Equality, Diversity and Human Rights Implications**

- 10.1 None directly arising from this report.

#### **11.0 Community Safety Implications**

- 11.1 No risk as a result of this report as safety implications of the pedestrian crossing will need to be considered by the Highway Authority upon receipt of details of the crossing from the Applicant.

## **12.0 Health and Safety Implications**

- 12.1 No risk as a result of this report as safety implications of the pedestrian crossing will need to be considered by the Highway Authority upon receipt of details of the crossing from the Applicant.

## **13.0 Risk Management Implications**

- 13.1 None directly arising from this report.

### **Background Papers**

A. Planning Committee resolution 23<sup>rd</sup> August 2018:  
RESOLVED (SIX voted FOR and FOUR ABSTAINED) that –

(i) The application be approved subject to the conditions and Section 106 Agreement contained in the report and the amendment sheet;

(ii) The Assistant Director Policy and Corporate be authorised to consult the Secretary of State in order to ascertain whether they wished to exercise their call-in powers under section 77 of the Town and Country Planning Act 1990;

(iii) The Assistant Director Policy and Corporate be authorised to determine the application either upon receipt of confirmation from the Secretary of State that they do not wish to 'call-in' the application or following the expiry of 21 days from receipt of the consultation;

(iv) The Assistant Director Policy and Corporate be authorised to negotiate the obligations and clauses of the Section 106 and approve planning permission subject to the conditions and revisions set out in the report and the amendment sheet, together with additional conditions to provide for site safety and security and the disposal and collection of litter, mirroring the condition attached to the Stane Park 1 development, as well as the revision of condition 14 to add a further pedestrian crossing on London Road and the consequent deletion of the £25k contribution for roundabout improvements 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:

\* Mitigation contribution (£150,000 proposed by the Applicant) towards funding the Council's economic development initiatives to improve the commercial attractiveness of Colchester;

\* Employment initiatives to ensure that occupier's seek employees on opening through local agencies (e.g. Job Centre);

\* Provision of an extended footpath/cycleway link between the existing footpath/cycleway which currently terminates south of Essex Yeomanry Way and north of the Sainsbury's building;

\* A £25,000 index-linked contribution towards improvements at the Stanway Western Bypass/London Road roundabout (plus a contribution monitoring fee in accordance with Essex County Council guidance);



\* A Travel Plan monitoring fee.

(v) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application.



## Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

## **Planning Obligations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

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

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

### **Parking Standards**

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

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

For residential schemes:

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

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



## **Colchester Borough Council Environmental Control**

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

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

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

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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



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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

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

Use for the provision of —

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

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

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

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

## **Class A4. Drinking establishments**

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

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

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

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

## **Class B2. General industrial**

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

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

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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

### **Sui Generis Uses**

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

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

### ***Interpretation of Class C3***

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

### ***Interpretation of Class C4***

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

## **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.*

