



Application No: 152493

Location: 6-7, Hawks Road, Colchester, Essex, CO2 8JX

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **15th September 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: **Bradly Heffer**

MAJOR

Site: 6-7, Hawkins Road, Colchester, Essex, CO2 8JX

Application No: 152493

Date Received: 11 November 2015

Applicant: Ms Natalie Winspear, Robinson & Hall LLP

Development: Outline planning application for 37 apartments, 2 office units and associated layout, access and parking with all other matters reserved

Ward: Greenstead

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Introduction

1.1 **Members will recall that this application was originally reported to Committee at the meeting held on 4th August 2016. At the meeting Members resolved to invoke the Deferral and Recommendation Overturn Procedure (DROP). In voting to follow the DROP Members identified that a subsequent report be produced that considers the possible implications of refusing the planning application on the grounds of lack of parking/amenity space, excessive density of development and the potential conflict with existing commercial uses in the area. The following extract is taken from the agreed Minute of the 4th August meeting:**

‘RESOLVED (NINE voted FOR and ONE ABSTAINED) that the Deferral and Recommendation Overturn Procedure be invoked and a further report be submitted to the Committee giving details of the possible implications of refusing the application together with potential reasons to refuse should the Committee determine to do so on grounds including lack of parking and amenity

space, excessive density of development and the potential conflict with existing commercial uses in the area.'

1.2 Members are advised that these issues will be considered at the end of this report.

1.3 The previous report presented to Committee is included below for information.

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major application that has generated objections and is recommended for approval, subject to the imposition of conditions. Additionally an approval of planning permission would also require the completion of a S.106 agreement and Members' authorisation is required to enable the Council as Local Planning Authority to enter into such an agreement with a developer.

2.0 Synopsis

2.1 The key issues explored below are the principle of the development taking place on the identified site, bearing in mind the land use allocation in the Local Plan, the various impacts that would arise from the development and how these could be mitigated.

2.2 With regard to the first of these issues it is noted that the application site is located in a predominantly residential area as allocated in the adopted Local Plan and therefore the principle of the development taking place is considered to be acceptable. Secondly it is considered that the various impacts of, and on, the proposed development can be appropriately controlled by way of condition and the completion of a S.106 agreement.

3.0 Site Description and Context

3.1 The site for this proposal (which has a given area of 0.26 hectares) is a rectangular-shaped area of land that is located on the western side of Hawkins Road – between the road and the River Colne. This site is currently used as a storage/distribution and sales base for Silverton Aggregates Ltd. The majority of the site is given over to open aggregate storage areas, with ancillary vehicular manoeuvring and parking facilities. Two single storey buildings are located on site – one on the northern boundary which contains a sales area and ancillary storage and a second located in the south-eastern corner which is also used for storage.

3.2 The site has a noticeable rise from east to west – levelling where it meets the river wall. To the north and west of the site are established commercial sites while to the south is a relatively new residential development that forms part of a larger overall development located on the former Jewson site. The wider area consists of a mix of residential, commercial and industrial uses.

3.3 Within the adopted Local Plan the site is located within a predominantly residential area. It is also located within the East Colchester Special Policy Area. The Council's mapping system also shows the site within a flood zone (Flood Zone 3), and adjacent to the route of a riverside walk. It is also noted that the edge of a defined conservation area is shown as running through the centre of the river course to the west of the site.

4.0 Description of the Proposal

- 4.1 This is an outline planning application with all matters reserved for approval *with the exception of* the means of vehicular access to the site and also the proposed layout of the development. Plans submitted with the application show the proposed access to the site, off Hawkins Road, leading to an area of open and under-croft parking courts that would serve the proposed residential development and the offices. In total 52 spaces are shown.
- 4.2 The arrangement of the blocks is such that the bulk of residential development would be located in an apartment block (identified on plan as Block A) adjacent to the river to the west of the site. Two smaller blocks would be located on the Hawkins Road frontage of the site, either side of the proposed access point. The block to the north of the access would contain two offices whereas the southern block would contain residential development. In total it is proposed that 37 no. apartments are developed on the site. It should be noted that 20% of the units (which equates to 7 no. units) would be affordable tenure. The main building is shown as being up to 6 storeys high (including the parking spaces at ground level). The office building to the north of the access would be three storeys high (including ground level parking) and the smaller apartment building to the south would be four storeys high, including the ground level parking).
- 4.3 The planning application submission is accompanied by a Planning, Design and Access Statement in support of the scheme. The following extracts are included for Members' information:

'...The surrounding area is in a state of considerable change. Immediately to the south is the Weston Homes 'Hawkins Wharf' development on the former Jewson site...It is proposed to erect 37 residential apartments and 2 office units complete with associated access, parking and landscaping, on the 0.26 ha site...The site is currently occupied by Silverton Aggregates as a commercial premises. However, Silverton Aggregates are now relocating to alternative premises within Colchester Borough better suited to their business needs... The proposed mixed use development comprises three separate 'blocks' of development, two located either side of the existing access on the site's eastern boundary and one bordering the site to the west and facing on to the Colne River. This arrangement creates an internal 'courtyard' at ground floor level, to be used for parking...This layout reflects a similar design used in the neighbouring development on the former Jewson's site and allows for parking areas to be largely screened from public view behind buildings as required by policy TA5...Block A, the largest block facing west onto the River Colne, is proposed to comprise 24 two bedroom apartments over 4 storeys (above the ground floor parking level) with a further 2 three bedroom penthouse apartments on the sixth floor...The building has been designed...to accord with the neighbouring development (on the former Jewson's site) which steps down to three floors at its northern boundary (with the application site). However, this development also reaches six floors towards its centre. The proposed development therefore intends to echo this rise and fall in height and scale already demonstrated by similar development fronting the Colne...'

The full document is available to view on the Council's website.

5.0 Land Use Allocation

- 5.1 The site for this proposal is located in a predominantly residential area, within the East Colchester Special Policy area, as allocated in the adopted Local Development Framework.

6.0 Relevant Planning History

- 6.1 Prior to the submission of this application there have been no planning applications submitted on the identified site that are considered to be of relevance to the consideration of this proposal.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
CE1 - Centres and Employment Classification and Hierarchy
CE2a - Town Centre
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA4 - Roads and Traffic
TA5 - Parking
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities

DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP25 Renewable Energy

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

SA CE1 Mixed Use Sites
SA H1 Housing Allocations
SA EC1 Residential development in East Colchester
SA EC2 Development in East Colchester
SA EC6 Area 4: Hawkins Road
SA EC8 Transportation in East Colchester

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

Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Cycling Delivery Strategy
Colne Harbour Masterplan

8.0 Consultations

- 8.1 The Highway Authority's original consultation response advised that it had no objection to the proposal, subject to the imposition of conditions and inclusion of informatives on a grant of planning permission. However, this recommendation was made on the basis that the submitted plans were provided for illustrative purposes only. Although this submission is an outline proposal, the applicant has asked that the means of access and the layout are considered at this stage. In order to address this issue, the applicant's agent has amended the submitted plans, to achieve the Highway Authority's conditional requirements in relation to an appropriate visibility splay being achieved at the site access and sufficient space being shown for a required footway and cycleway extension along the site's frontage with the river. The Highway Authority has advised that the revised plans are acceptable.
- 8.2 The Contaminated Land Officer has commented as follows, on the basis of land contamination information submitted with the application:

'I note the [information that] has been submitted in support of this application. This is satisfactory for Environmental Protection purposes and has identified some potential sources of contamination which will require further characterisation and risk

assessment and, where necessary, remediation and validation. However, based on the information provided, it would appear that the site could be made suitable for the proposed use.'

It is also recommended that the 'suite' of land decontamination conditions is imposed on a grant of planning permission.

- 8.3 The Environmental Control Officer recommends that conditions be attached to a grant of planning permission to control inter alia construction methods, hours of work during the demolition and construction period and also noise mitigation measures – bearing in mind the location of the development in relation to established commercial uses.
- 8.4 The Council's Archaeological Adviser has advised that a condition could be imposed to require a desk top evaluation of the site prior to development taking place.
- 8.5 The Environment Agency originally objected to the development proposal on the basis that the Flood Risk Assessment (FRA) that was submitted with the application did not include sufficient information, specifically in relation to fluvial flood risk. Since that time additional information has been submitted in order to address the Agency's concerns. The Environment Agency has subsequently confirmed that it does not have an objection to the proposal. The following comment has also been made:
- 'We received additional information in support of the application on 29 February 2016. We are satisfied that the Flood Risk Assessment (AMA472, May 2015) – Addendum Rev A 2015 alongside the FRA AMA380 Rev 0 and dated 22 May 2015 provides you with the information necessary to make an informed decision. We are therefore able to remove our objection to the application, providing you are satisfied that the development would be safe for its lifetime and you assess the acceptability of the issues within your remit...'
- 8.6 Essex SUDS team originally objected to the proposal on the grounds of insufficient information being available to determine whether the surface water impacts of the development had been properly considered. Following on from this further ongoing consultation has taken place between the SUDS team and the applicant, brokered by your Officer. It has now been confirmed that ECC SUDS has no objection to the proposal, subject to the imposition of conditions that are included in the relevant section at the end of this report.
- 8.7 Natural England has advised that it has no comment to make on the application but advises inter alia that it is for the local planning authority to determine whether or not the application is consistent with national and local policies on the natural environment.

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

9.0 Parish Council Response

- 9.1 Not applicable as the application site is located in a Town Ward – St. Andrews.

10.0 Representations

10.1 As a result of local notification six representations have been received (two from the same address) in which the following comments are made:

1. The lack of footpaths and street lighting along this part of Hawkins Road is identified. These issues, along with flooding problems, should be addressed.
Officer comment: Hawkins Road does benefit from footpaths and street lighting for its length, albeit that the path is of varying width. Any flooding issues within the highway would be within the remit of the highway authority to address. The location of the site within a defined flood zone is a matter of fact and the development would not include vulnerable uses on the ground floor.
2. The development should not be approved unless a good-quality development has been secured, of heritage-style, which fits in with the area in accordance with the requirements of the NPPF. Unfortunately much of the development that has taken place thus far fails to accord with this requirement.
Officer comment: the design and detailed appearance of the development would be a matter for consideration at reserved matters stage, should outline planning permission be granted.
3. The development site is within a zoned employment area and the proposed development would be contrary to the relevant policies and adopted SPD for this area. It is noted that although the SPD dates from 2008 it has recently been reviewed and priorities confirmed by the board of Hythe Forward. In any event appropriate mitigation and design quality should be secured.
Officer comment: this site is within an area identified as having a predominantly residential use within the adopted Local Development Framework – Submission Proposals Maps document. The status of the SPD is noted but this document in itself does not serve to establish land uses as such. That said, the SPD is a material consideration.
4. The Ramblers Association has advised that it is pleased to see a further section of Public Footpath 234 Colchester (the riverside walkway) being renovated.
5. Any development should take into account that there are students living nearby and noisy development should not take place during exam times.
Officer comment: this point is noted and appropriate control over noise and disturbance resulting from construction work can be exercised by the Council through its statutory Environmental Protection function.

6. The established commercial uses in the vicinity of the application site could give rise to disturbance for occupiers of the proposed residential development. This in turn could impact detrimentally on the businesses themselves as the Council could seek to impose limitations on operations that aren't currently in place through its Environmental Control function.

Officer comment: this point is fully acknowledged and appreciated. The land use allocation for this part of the town means that a defined predominantly residential area abuts a commercial location along Hawkins Road and therefore the potential for amenity conflicts exist. As noted in this report predominantly residential development has taken place on other former commercial sites to the south of the current application site.

7. The proposal does not provide sufficient parking spaces and this will impact detrimentally on the road which is always used for overspill parking.

Officer comment: the issue of parking provision is dealt with elsewhere in this report.

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

11.0 Parking Provision

- 11.1 The submitted plan shows that 50 no. parking spaces would be provided to serve the development which consists of 35 no. 2-bed units and 2 no. 3-bed units. Each space would have dimensions of 2.9 metres width and 5.5 metres width.

- 11.2 The adopted parking standards for residential development are as follows:

- For a 2 or more bedroom unit a minimum provision of 2 spaces per dwelling
- For B1 offices a maximum provision of 1 space per 30 square metres

On the basis of the above a residential development of 37 no. 2 and 3-bed units would normally generate a minimum provision of 74 no. parking spaces.

- 11.3 In addition if the full, maximum parking provision standard was applied to the proposed office element of the development this would generate a need for 9 no. spaces (based on a given gross internal floor space measurement of 276 square metres).

- 11.4 Further comment on the overall parking provision for the proposed development can be found in the main report section below.

12.0 Open Space Provisions

- 12.1 With regard to open space provision to serve the new residential development proposed, the Planning, Design and Access statement advises as follows:

'...Policy DP16 requires the provision of 25 square metres of amenity space per proposed flat, which can include space provided on balconies. The proposed development, with its 37 apartments, is therefore required to provide 925 square metres of amenity space. Each apartment has been designed with its own balcony;

which in total provide a total of provide 495 square metres of private amenity space. A further 178 square metres of communal amenity space is provided at ground floor level; these areas also serve as areas of landscaping integral to the scheme. However, in addition, it is proposed to provide communal roof gardens for each of the three blocks, providing an additional 490 square metres outside amenity space. In total, the proposed development therefore incorporates 1 163 square metres of both private and communal amenity space, well in excess of the space required by policy DP16...'

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

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

- £73 032 to provide primary school places to serve the development
- 20% affordable housing provision

- 14.2 As part of the Development Team considerations the Highway Authority identified that the required extension to the riverside walk would be secured by a s.278/s.38 agreement. As an adjunct to this an agreement to undertake the repair and ongoing maintenance of the section of the river wall that runs contiguous with the western boundary of the site would need to be established. Infact a 'River Wall Agreement' was secured as part of the permission for the residential development immediately to the south of the application site and, in equity, a similar agreement would need to be in place for this adjacent site.
- 14.3 Essex County Council did also request the provision of travel packs. Members are advised that the riverside walk extension and the travel packs requirement can be dealt with by way of condition.
- 14.4 Members are advised that the applicant's agent has advised their client's agreement in principle to enter into an agreement as described above.

15.0 Report

- 15.1 As stated previously in this report, this planning application is submitted in outline, with all matters reserved, except for the proposed access to the site and the layout of the buildings. With regard to the first of these issues it is noted that the Highway Authority does not object to the proposal, subject to conditions, including inter alia one to secure the required vision splay for the access.

Principle of the Development

15.2 The site for this proposal is located within a predominantly residential area as allocated in the adopted Local Plan, and on this basis it is considered that the principle of the development taking place is acceptable (including the ancillary office development). Furthermore specific site allocations p policies for the East Colchester area identify the acceptability of residential development taking place. For example, policy SA EC1 identifies land in Hawkins Road as one of 15 no. locations that would deliver residential development. Additionally, policy SA EC6 Area 4: Hawkins Road states inter alia that 'To the west of Hawkins Road housing areas will be extended and consolidated and other small-scale uses will be encouraged provided they are compatible with the overall housing and regeneration proposals...New development should incorporate public realm enhancements focused on improved pedestrian and cycle routes.'

15.3 Leading on from this the extant SPD for the Hythe area titled the 'Colne Harbour East Colchester Master Plan' January 2008 includes a section that specifically relates to Hawkins Road. This section advises inter alia as follows:

'Hawkins Road is a key route in Colne Harbour...Opportunities for redevelopment in this area, including the introduction of new housing along the River Colne...may extend times during which the area is populated...'

Design, Layout and Amenity Provision

15.4 The outline nature of the development proposal means that the detailed design of the development is not proposed at this stage and therefore the overall impact of the development cannot be judged. That said, the supporting information does identify the appearance of the adjacent and nearby residential development to the south of the site. The proposed development would follow the principles of development established by this earlier development, in terms of storey heights, arrangement of built form to relate to the river and Hawkins Road, and the intention to utilise an architectural approach similar to that found in the area. As such it is felt that the layout as shown on the submitted plans would be compatible with other residential developments in the area. In any event, the detailed design of the development would be adequately addressed during the reserved matters submission stage.

15.5 As layout is a matter to be considered at this outline planning application stage, the provision of amenity space to serve the occupiers of the proposed residential element of the development can be considered at this point. To this end it is noted that the information submitted in support of the application advises that each of the flats would be served by a balcony, in addition to areas of shared amenity space at ground floor level and also at roof level. The Council's adopted spatial standards for communal space provision for flatted development is a minimum of 25 square metres per flat. Balconies can count towards that provision, for units above ground level, as long as the dimensions of the balcony afford a minimum of 5 square metres of useable space. It is noted that the proposal would not include any residential accommodation at ground floor level. Furthermore the submission advises that the combined area of balcony provision to serve the development would equate to 495 square metres – which gives an average balcony area, per flat, of approximately 13 square metres. This size is comfortably in excess of the Council's minimum size standard. Given that

the detailed design of the development would be a reserved matter, the minimum size of balcony could be secured by way of a condition attached at this outline application stage. The submission also advises of the availability of a landscaped area at ground level that could also be utilised for communal amenity space, together with the provision of communal roof gardens for each of the three proposed blocks. In the case of space shown at ground floor level its location and design would mean that its practical purpose would be for landscaping, as opposed to useable private amenity space for the occupiers of the flats. However, the use of roof areas to provide amenity space would make a further contribution. Again the design of the roof garden areas would be addressed at reserved matters stage.

Scale, Height and Massing

- 15.6 The scale of recent residential development to the south of and adjacent to the application site is substantial, consisting in the main of flatted blocks of several storeys in height. For example, the flatted block that runs parallel to the river on the former Jewson site to the south of the application site reaches 6 storeys at its highest point. The indicative plans that accompany this outline application show the main proposed block, facing the river, as having an equivalent height, albeit that the sixth storey penthouse level of the development would not extend across the entire floor. The proposed blocks that would front Hawkins Road would be a maximum of four storeys high (including the ground floor parking level). In each case it is considered that the scale, height and mass of the development would be similar to that found in residential developments elsewhere in the vicinity. This density and form of development i.e. blocks of flats is identified in the Colne Harbour SPD as being appropriate for the regenerated East Colchester area.

Impact on the Surrounding Area

- 15.7 On the basis that the overall proposed scale of the development is considered to be appropriate in this location it is felt that its impact on the surrounding area is not fundamentally unacceptable. That said, much of the impact will be derived from the detailed design of the proposed buildings – an issue to be addressed at the reserved matters stage.

Impacts on Neighbouring Properties

- 15.8 The location of the application site is immediately adjacent to a relatively recent residential development located to the south. It is important therefore that the proposed redevelopment does not have an adverse impact on the amenity of the occupiers of the adjacent dwellings. The proposed layout of the development would mean that the main accommodation block would be positioned adjacent to the proposed riverside walk area. As such it would be located in a similar position to the corresponding block on the adjacent site. A similar situation exists with the proposed blocks that would face on to Hawkins Road. As the development would be due north of the existing residential development it is the case that the proposal is not anticipated to give rise to unacceptable levels of overshadowing etc. Additionally as the scale of development is similar to that existing on the adjacent site it is considered that it would not appear overbearing in relation to that development. Clearly at the reserved matters stage issues such as positions of openings etc. can be fully considered in order that private amenity areas of adjacent properties is not unacceptably overlooked.

15.9 As noted previously, the application site is bounded to the north and east (on the opposite side of Hawkins Road) by commercial uses. On this basis, it is considered that the proposed development would not unacceptably impinge on the amenity of these sites. That said, it is noted that a concern has been raised by the operator of one of these sites that his use could, potentially, give rise to complaints from the future occupiers of the proposed development – primarily from noise nuisance generated by lorry movements at unsociable hours of the day.

15.10 It is fair to say that occupiers of the proposed dwellings will be aware of the proximity of commercial and industrial uses and therefore the potential for disturbance that could arise. That said, Members will note that, in order to address this issue, the recommended conditions include a requirement to establish background noise levels and designing the proposed residential units to incorporate appropriate mitigation measures. Furthermore a specific condition would require that, as far as is practicable, only non-habitable rooms (i.e. bathrooms, toilets, corridors, landing areas, cupboards etc.) of the proposed dwellings should face on to Hawkins Road. Further comment has been received from the applicant's agent on this particular issue as follows:

'The concerns raised by Hamblion are understood and acknowledged, however we would point out that at this stage it is pure speculation that the proposed development would give rise to complaints resulting in the limitation of operating hour for Hamblion Transport. In particular it is noted that this business has continued to operate under its current licencing arrangement despite the redevelopment of the former Jewson's site for residential. In fact, part of the Hamblion site is located directly opposite a row of residential townhouses fronting Hawkins Road.

Furthermore the proposed development has been arranged to locate proposed business units fronting onto Hawkins Road with only a few of the proposed residential units facing this direction. The vast majority of the proposed residential units are located to the rear of the site facing the river. This layout has been deliberately designed to limit the impact of any potential conflict between existing commercial uses along Hawkins Road and the regeneration of sites fronting the river.

We would also point out once again that this site is within the Council's identified regeneration area and redevelopment of the site for both office and residential use will meet these regeneration objectives. It is acknowledged that during the process of regeneration it is inevitable that some proximity between commercial and residential uses will occur. This has been the case across the Hythe area as land has come available for redevelopment.

I trust these comments will be given due consideration.'

15.11 Additional comment has also been sought from the Environmental Control officer following a meeting on site with the operator of the commercial use opposite the application site (also attended by the planning officer), and subsequent receipt of their letter of objection. The following comments have been received:

'In response to this, I would like to assure Hamblion Transport that with the conditions Environmental Protection have outlined on the planning application 152493 I am satisfied that the proposed residential will not be adversely affected by any noise emanating from their operational site- trusting that the developer complies with the conditions in place. If however Colchester Borough Council was to receive a noise complaint from the proposed site, Environmental Protection has a statutory duty to

investigate the complaint further. The team would work closely with Hamblion in resolving this issue informally, with enforcement action being a last resort.'

- 15.12 Environmental Control has also advised that in a two year period from January 2013 to the time that this report was written 6 noise complaints have been received from Hawkins Road, all of which relate to noise generated from a residential use and which have impacted on another residential use.

As a planning judgement it is considered that the imposition of controls to mitigate the impacts of noise generated by commercial uses would address the concerns that were raised regarding this point.

Highway and Parking Issues

- 15.13 Members will note that the Highway Authority does not object to the proposal subject to the imposition of conditions. One of its recommended conditions relates to the provision of a sight splay at the proposed entrance to the application site. In order that the sight splay is protected it would be necessary for double yellow lines to be provided in the carriageway (secured through a Traffic Regulation Order) to stop parked vehicles from blocking visibility. This has occurred elsewhere along Hawkins Road where residential developments have taken place. As a result the amount of on-street parking in Hawkins Road has reduced.
- 15.14 With regard to the proposed parking provision for the site it is considered that the number of spaces that would be provided is acceptable, given the location of the development which benefits from established public transportation links, as well as expanding cycling and walking networks, including proximity to a pedestrian bridge across the River Colne. Additionally, the site is within comfortable walking distance to Hythe railway station and also the bus routes that run along Hythe Station Road. Indeed the development of this site would add to the local cycling and walking network through the provision of an additional area of riverside walk. This improvement in the 'usability' of the riverside frontage for residents and visitors is an ongoing regeneration aim in East Colchester.
- 15.15 Members will also be aware that the Council's adopted parking standards do recognise that a lesser number of spaces may be acceptable in appropriate locations as follows:
- '...For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment...' (para. 2.5.1 – Parking Standards Design and Good Practice September 2009 *Essex Planning Officers Association*).
- 15.16 In the view of your officers this planning application site is within such a location. As well as access to alternative transportation modes the area is, for example, served by food shopping facilities such as the Tesco superstore to the northeast in Greenstead Road. Additionally, the established residential developments to the south of this planning application site have been approved with similar levels of parking provision to that proposed under this planning application. For example, the development immediately adjacent to the site (on the former Jewson site) has a total of 237 no.

spaces to serve 221 no. apartments. This equates to a 107% parking provision. In comparison, this current proposal has a parking provision that would equate to 135% (recognising that the proposed development does also include a commercial element).

16.0 Conclusion

- 16.1 In conclusion it is considered that the proposed redevelopment of the identified site for a mixed residential and commercial development accords with the relevant local plan policies in terms of land use and is therefore acceptable in principle. The application is an outline proposal so issues such as detailed appearance and design of the development can be determined at the reserved matters stage. However the application seeks full planning permission at this stage for the means of access to the site and the layout of the development. In the case of the access this element of the scheme has not given rise to an objection from the Highway Authority. As regards the proposed layout of development, it is considered that this is an appropriate response to the characteristics of the area and follows the general form of development found elsewhere in the vicinity with built form addressing both the river and the road, to provide appropriate enclosure.

17.0 Additional Report

- 17.1 **Following consideration of the proposal at Committee, Members raised a number of concerns. These related to the amount of parking and amenity space that would be provided by the development, the perceived excessive density of the development and the also the potential conflict that could arise between the proposed predominantly residential use and the established commercial development that is located opposite the site. The following paragraphs deal with these issues in turn.**

Parking Provision

- 17.2 **It is the case that the application submission does not provide the minimum number of car parking spaces that would be required for residential development per se. If this standard is applied to the development there would be a shortfall of some 24 spaces, as identified in the body of the original report. Additionally the B1 office use would generate a parking demand. However as Members are aware the applicable standard for B1 commercial use is expressed as a maximum, as opposed to a minimum, provision.**
- 17.3 **The residential development that has taken place adjacent to the application site (on the former Spottiswoode Ballantyne and Jewson sites) was built when the previous parking standards (adopted in 2001) were applicable. The 2001 parking standards proposed a *maximum* standard for residential uses. A fundamental change incorporated into the standards adopted in 2009 was that the residential parking standard was re-assessed as a *minimum standard* in recognition of the unmet demand for residential car parking spaces that was apparent in various housing areas. Nevertheless, in both documents it is the case that provision of a lesser number of spaces is acceptable in appropriate locations.**

17.4 Members could resolve to refuse the planning application on the grounds that an inadequate amount of car parking spaces has been provided to serve the number of units proposed. However, as highlighted in the original report the adopted standards document does recognise that a lesser standard may be used in urban areas where there is also access to alternative modes of transport, in order to promote sustainable travel modes. Generally, connectivity has improved in the Hythe area as regeneration has continued, including the provision of riverside walkway improvements, an additional bridge crossing of the river and the redevelopment of the train station at the Hythe that has resulted in an increased capacity. The site is also well-served by regular buses that link the Hythe to the wider area including the town centre.

17.5 It should also be noted that the Colne Harbour Master Plan comments on parking provision for the Hythe area. This recognises that a 100% provision would be appropriate for apartments as follows:

‘Car parking shall be provided for residential development on a flexible basis. For apartments a single space may be appropriate, with two spaces for town houses...An imaginative approach to the design of car parking will be required in order that it is accommodated in a visually unobtrusive way. This will include the use of underground, undercroft or sub-basement parking, either beneath buildings or under areas of private or communal open space...’

17.6 Members will note that the parking provision for the development would be screened by built form, in accordance with the requirements of the Plan, and as is achieved in developments elsewhere in the vicinity. The fact that the site is located within a flood zone means that, in any event, ‘vulnerable’ uses such as residential could not be located at ground level.

17.7 Members are also advised that a refusal of planning permission for development on a site at the Hythe, based on inadequate parking provision, has previously been tested at appeal. Under application 091651 planning permission was sought for the following development:

‘Full application for the erection of new building (known as Building 5) containing 58no. dwellings. Revised application for Building 5a to incorporate raised levels and raised walkway to accord with flood risk assessment/strategy.’

17.8 The planning application was subsequently refused, contrary to the officer recommendation, for the following reason:

‘Within the Adopted Review Colchester Borough Local Plan – 2004 saved policy DC1 – General Development Control Criteria requires inter alia that:-

‘...Developments will be located and designed to provide for ... where relevant, servicing, car and cycle parking to currently adopted standards...’ (criterion c (iii)). Leading on from this, within the Local Development Framework Adopted Core Strategy – adopted December

2008 policy TA5 – Parking sets out the Council’s requirements for parking provision. The policy states inter alia that ‘...Development should manage parking to accord with the accessibility of the location and to ensure people-friendly street environments...’ Furthermore Policy UR2 – Built Design and Character requires inter alia that ‘...High-quality design should also create well-integrated places that are usable, accessible, durable and adaptable...’

Additionally, the Council has formally adopted the vehicle parking standards contained within the Essex County Council publication entitled ‘Parking Standards – Design and Good Practice’ - published September 2009. The proposed development would fail to provide car parking facilities in accordance with the adopted standards. Therefore, if permitted the development is likely to lead to a significant amount of cars being parked in the adjoining and nearby roads causing obstruction to vehicular traffic as well as a hazard that would be potentially harmful to highway safety. Additionally the creation of unmet parking demand and the subsequent likelihood of parking taking place in the adjoining and nearby roads will lead to a detrimental impact on overall visual amenity in this location caused by excessive ad-hoc on-street parking and a failure to ensure a people-friendly street environment, thereby being contrary to the aims of the identified policies.’

- 17.9 Members will note that the decision notice makes reference to the current parking standards (adopted in 2009) that require a *minimum* parking space provision for residential development. In allowing the appeal the Inspector made the following comments that are considered to be pertinent to this current application proposal:**

‘...Parking Standards-Design and Good Practice was published by the County Council in September 2009 and adopted by Colchester Borough Council as a supplementary planning document (SPD) in November 2009 following public consultation during March/April 2009. In essence the refusal of permission is predicated on the new standards which, as reflected in the minutes of the Planning Committee of 15 April 2010, apparently highlighted concerns which members of the Committee had about the Colne View development. The revised standards would require parking provision of 103 spaces (or 137 if the noodle bar is taken into account) compared with the 50 proposed...On both of my visits to the site; firstly during the day and secondly in the late evening, I do not find the situation highlighted in the representation made borne out by my observations. It appears that many of the parking facilities are allocated specifically to numbered apartments.

During the day I saw that a considerable number of these spaces throughout the development as a whole were vacant and that other than in the vicinity of the hair and beauty salon at the base of the rotunda building there was no evidence of any parking stress. In this latter area there were a few cars parked which did appear to be in designated spaces, although the roadways were kept clear. I also noted an odd vehicle parked on the wide paved verge along the Lightship Way frontage. During my visit refuse collection was in progress and general deliveries were being made within the development. Neither activity was impeded by parked vehicles to any noticeable degree.

I found the situation much the same in the evening when although fewer parking spaces were vacant a large number remained unused. I observed a few vehicles not using designated spaces near the front of building 7 and on an unpaved strip of land alongside the road opposite building 2 but my observations did not point to there being an excess of demand over supply of parking provision or that the limited degree of parking in undesignated places is causing any highway dangers. Lightship Way is the subject of long-term parking restrictions and I observed no abuse of those regulations nor did I see other than a few vehicles in the nearby B&Q car park which is not locked.

I have not been provided with and indeed saw little, if any, evidence of parking stress within the Colne View development or in the surrounding roads nor did I form the impression that existing parking provision was undermining the objective of a people friendly street environment within the scheme. The proposed development would comprise small dwellings with a large proportion (28 units) having one-bedroom. I find nothing compelling which leads me to conclude that this would present circumstances, particularly in terms of car ownership and usage, materially different from that presently experienced. If there are difficulties here it seems to me that they may well arise from some parking by people outside the Colne View development and possible by some inflexibility in the management and allocation of parking spaces.'

- 17.10 The Inspector's decision may be viewed in full on the Council's website. Notwithstanding the shortfall of car parking identified by the Council in refusing the planning application, the Inspector did not agree with this view. While it is fully acknowledged that each application must be determined on its merits the DROP requires that relevant appeal decisions are highlighted for Members' information. It is also noted that in the case of this appeal the appellant's claim for costs was also supported.

Amenity Space

- 17.11 The main report previously presented to Members did identify that the provision of amenity space to serve the development does accord with the adopted spatial standards of the Council. Members will be aware that the Essex Design Guide is adopted supplementary planning guidance for the purposes of spatial standards for new residential and mixed use areas. The EDG identifies that communal residents' gardens serving flatted development of two or more bedrooms should achieve a minimum garden area of 25 square metres per flat. The EDG also states:

'...In addition balconies may provide outdoor amenity space in closer proximity to an upper storey dwelling. A balcony or terrace over 5 sq m in extent will count towards the total garden provision for the flats. In an urban situation such a balcony or terrace would be acceptable as the only outdoor amenity space for a flat...'

- 17.12 In the case of the development that is proposed under this planning application it is acknowledged that the proposal is in outline. Nevertheless the floorplans that have been submitted with the application do demonstrate that the provision of 37no. flats on the site can be undertaken in a form whereby amenity provision can take place in accordance with the Council's requirements. Each of the units would benefit from a balcony area that was comfortably in excess of the minimum spatial requirement of 5 square metres. Additionally the information submitted in support of the proposal advises of other shared amenity spaces that would be provided within the development (in the form of roof gardens and landscaped areas at site ground level).
- 17.13 Members will be aware that the provision of higher density development that has taken place on various sites within the Hythe area does include balconies as a design feature and which have been utilised for private amenity space. The current proposal continues that design approach. Given that the scheme proposes the use of an established design feature in the Hythe area and the overall provision of open space to serve the development would accord with the adopted requirements of the Council in this regard it is your officer's view that a refusal of planning permission on the grounds of an insufficient *amount* of amenity space being provided on the site would be difficult to sustain at an appeal and would carry significant risk to the Council. Member did also express concerns regarding the *quality* of the open space provision on this scheme and the whether this would be appropriate for families with small children. Clearly the ideal situation in relation to 'family' accommodation is for on-plot garden space to be provided. However, in the context of higher density, flatted development that characterises much of the riverside development at the Hythe the provision of amenity space takes a different form.
- 17.14 By way of clarification, 35 of the 37no. units that are proposed to be developed would contain two bedrooms, with the remaining 2 units containing three bedrooms.

Development Density

- 17.15 The now defunct Colne Harbour Design Framework (adopted by the Council in 2001) included the design and layout principles that would be followed in the urban regeneration of the Hythe area of the town. A series of 'codes' were established in this document – one of which dealt with the appropriate density of development for this location. The following extracts are taken from the document for Members' information:

'Urban areas are more viable and sustainable if they are built to higher densities...A concentration of people will also generate demand for goods and services (including public transport) and deliver street vitality during the day. But high density is not universally appropriate within the neighbourhood. There must be sufficient variety of density to enable different types of accommodation to be provided...higher buildings and densities are needed close to the river to produce an appropriate urban character and enclosure of space as well as generating a good mix of use and activity..'

17.16 The code that deals with density (Code URB5) states inter alia that:

‘The highest built densities shall be concentrated towards the river frontage and the main streets...Densities can be reduced as one travels away from the river and the main transport corridor, towards the edge of the neighbourhoods. Residential densities should be sufficient to realise good mixed-use along the river frontage and along main streets. A minimum net density of 100 persons per hectare is required in these locations.’

17.17 Leading on from this the extant Colne Harbour Masterplan (2008) also includes requirements in relation to the densities of development appropriate in the Hythe area as follows:

‘Developing at higher densities can maximise the reuse of brownfield land in accordance with national planning policy. Code URB5 of the Colne Harbour Design Framework identifies river frontage sites as being appropriate locations for medium to higher density development in order to realise a good mixed use river frontage. The Urban Place Supplement suggests that minimum densities of between 50 and 75 dwellings per hectare may be appropriate in accessible locations. This range should be applied to much of Colne Harbour...’

17.18 The Masterplan goes on to advise that sites ‘...At King Edward Quay and Coldock consideration will be given to higher residential densities, potentially up to a maximum of 150 to 200 dwellings per hectare...’

17.19 The specific Local Development Framework Core Strategy policy that concerns housing density (policy H2) states inter alia that:

‘The Borough Council will seek housing densities that make efficient use of land and relate to the context...Locations with good access to centres, particularly the Town Centre and the Urban Gateways, are more suited to higher density development, although a flexible approach will be important to ensure that densities are compatible with the surrounding townscape...’

17.20 Members are advised that the density of development proposed under the current application would equate to 142 dwellings per hectare. In comparison the density of developments that have taken place in the vicinity of the application site are as follows:

- Land at former Jewson site (immediately to the south of the application site) – 185 units per hectare
- Land at the former Spottiswood Ballantyne commercial site – 166 units per hectare
- Hardies Point (located at the junction of Hawkins Road with Colne Causeway)– 112 units per hectare
- Former Aim Hire site (extant permission but work yet to be commenced) – 126 units per hectare.

- 17.21 It will be noted that the density of development is within the general range of density that has been approved by the Council in this location previously. Given that the creation of higher density developments is identified as being an appropriate development response in the Hythe area (particularly in relation to development adjacent to the river) it is considered that the density of development that is proposed under this application reflects the general character of development that has been secured elsewhere. Members are therefore advised that a refusal of planning permission on the basis of an excessive density being proposed has a high level of risk attached that would be difficult to sustain successfully at an appeal.

Residential/Commercial relationship

- 17.22 Given the various land use allocations in the Hythe area, including the specific allocation of land for residential development, it is the case that the creation of residential uses adjacent to established commercial development is inevitable. Indeed there are several instances where this has occurred in the recent past – not least adjacent to the application site and further along Hawkins Road to the south. Following on from the deferral of the planning application at the last Committee meeting the comments of the Spatial Policy team have been sought with regard to the allocation of land at the Hythe for residential purposes. The following comment has been received:

'I can confirm that allocation of a site for a particular use in the Local Plan would pre-empt planning policy from raising the principle of that use as a ground for refusal.

The site is allocated for residential development, in Site Allocations Policy SA EC1 (Residential development in East Colchester - Land in Hawkins Road). The explanatory text for the policy notes that 'within the Regeneration Area small and medium sized commercial units will be encouraged to provide employment and local services and facilities for residents'. Policy SAEC2 (Development in East Colchester) provides that 'All developments shall provide for a balanced and integrated mix of uses that are compatible with the comprehensive regeneration of East Colchester'. East Colchester is accordingly expected to contain a mix of commercial and residential uses, reflecting both its historic industrial/port past and its current regeneration to accommodate sustainable growth in Colchester.

Other policies within the plan provide for amenity considerations to be taken into consideration, but in mixed use areas, especially the regeneration areas, new residents would be expected to have an understanding of other uses in the locality. The design and layout of a scheme, along with conditions such as soundproofing, can minimise any potential negative impacts on residential amenity or commercial operation. There are already a number of residential developments within east Colchester that operate alongside commercial developments i.e. Albany Gardens, Caelum Drive and Port Lane.'

- 17.23 Although little weight can be attached to the emerging revised local plan at this stage Members are advised that the Preferred Options document that is currently out to consultation includes a section that specifically deals with the Hythe area of the town. In the preamble to the site specific policy the following comment is made that provides context with regard to the future regeneration aims for this part of the town

‘...The Hythe is an established regeneration area that seeks to deliver sustainable, mixed use neighbourhoods, oriented towards the River Colne, which respects the historic character of the area as the location of the early port. Over the plan period the East Colchester – Hythe Special Policy Area provides capacity to accommodate 600 new dwellings including those already committed...’

It is clear that the future intentions towards the continued regeneration of the Hythe includes the provision of a significant amount of residential development.

- 17.24 Members are advised that further liaison has taken place with the Environmental Control team with regard to noise complaints that have been received from occupiers of residential developments that have previously taken place within the Hythe, and which are adjacent to commercial uses. These were identified as developments at Albany Gardens, Caelum Drive and Port Lane. The Environmental Control team advised that in the last two years the Council received a single complaint regarding a commercial use, and this was in relation to an A4 (drinking establishment) premises. As identified in the Spatial Policy comment, the existence of commercial development in the area means that anyone moving into residential development in this location will be aware of the potential impacts this may have on amenity. Additionally, the recommended conditions that would be attached to a grant of planning permission include mitigation of the noise impacts that may arise from uses in the area – including the unfettered storage and distribution use directly opposite the application site.

Conclusion

- 17.25 Members are advised that the following comment has been received from the applicant’s agent with regard to the deferral of a decision on this planning application:

‘My client has confirmed that he wishes the application to be determined as submitted. As the scheme clearly meets all of the Council’s policy considerations, there is no justification to amend the scheme. Furthermore, the application has now been pending decision for 9 months as of today’s date. This application must now be determined without further delay, and I would be grateful for confirmation when the matter will be considered again by members.’

I understand a further report is to be presented to the Committee concerning the implications of a decision to refuse the application. I must of course advise you that any refusal will proceed to an appeal, with a robust case and likely application for a full award of costs having regard to the material considerations involved and the policy support as set out within the adopted development plan.’

17.26 This additional report has sought to provide additional comments with regard to the issues identified by Members in order to enable Committee to make an informed decision on the submitted planning application. Given the material considerations that are pertinent to this case it is considered that there would be significant risks attached to a refusal of this outline planning application. Specifically, the proposed uses accord with the land use allocation for the site. Furthermore it is felt that the submitted plans demonstrate that amenity space could be provided in accordance with the adopted standards of the Council. The location of the site adjacent to established commercial development is a matter of fact but this relationship exists elsewhere in the Hythe and has not given rise to significant or sustained complaint regarding amenity impacts. Conditions have been recommended on a grant of planning permission that would assist in mitigating potential adverse impacts further. The advice of central government with regard to the use of planning conditions is pertinent in this regard as follows:

‘When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls...’

17.27 As identified in the initial report to Committee and reiterated in this supplementary report the parking provision that is shown for the proposed use is below the minimum standard that would be applied to residential development per se under the adopted standards of the Council. However, the standards do also recognise instances where a lesser number may be used. This approach has been taken elsewhere in the Hythe with new residential developments and, in equity, it is considered reasonable in planning terms that a similar approach may be taken in relation to this current proposal. It is your officer’s view that a refusal of planning permission on the basis of inadequate parking provision would also be very difficult to justify and would again carry significant risk for the Council as Local Planning Authority.

17.28 In conclusion it is your officer’s view that a sustainable reason or reasons for refusal could not be provided to Members in this case for the reasons set out in this report. The original recommendation is included below together with the conditions attached.

18.0 Recommendation

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

- A contribution of £73,032 to be used towards provision of additional primary school places to serve the needs of the development
- 20% affordable housing provision
- Repair and ongoing maintenance of that part of the river wall contiguous with the site's frontage on to the Colne.

18.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

19.0 Conditions

1 - *Time Limit for Outline Permissions Part 1 of 3

No development shall be commenced until plans and particulars of the reserved matters referred to in the below conditions relating to the APPEARANCE, LANDSCAPING AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

2 - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3 - Time Limit for Outline Permissions Part 3 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4 - Non-Standard Condition/Reason

With regard to the aspects of the planning application for which full planning permission is sought at this stage, namely the ACCESS and LAYOUT, the development shall be carried out in full accordance with the details shown on submitted drawings no.s 1113-01 Rev A, 1113-03 Rev A, 1113-04, 1113-05, 1113-06, 1113-07, 1113-08 and 1113-10.

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

5 - Non-Standard Condition/Reason

The reserved matters submission(s) to be made in relation to the outline planning permission hereby granted shall include the following design details:

- Provision of a balcony to serve each residential unit having a minimum area of 13 square metres.
- Provision of communally-accessible roof gardens to serve the occupiers of the development.

Reason: In order to ensure that the future occupiers of the development hereby approved are served by an appropriate level of amenity space, in accordance with the requirements of Core Strategy Policy PR1 and Development Policy DP15, in order to ensure a satisfactory form of development.

6 – Removal of PD – Part 3 of Article 3, Schedule 2 Changes of Use

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the office development hereby approved shall be used as B1 (a) purposes and for no other purpose.

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.

7 – Contaminated Land Part 1 of 4 (Site Characterisation)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

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

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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 8.

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

11 – Validation Certificate

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 7. Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12 - Non-Standard Condition/Reason

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

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works. The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

13 - Non-Standard Condition/Reason

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works. Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

14 - Non-Standard Condition/Reason

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00 Sundays and Bank Holidays: No working

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

15 - Non-Standard Condition/Reason

The residential units shall be designed so that, as far as practicable, only non-habitable rooms are located on the facades of buildings facing Hawkins Road.

Reason: To ensure the development hereby permitted is not affected by the noise arising from the commercial units on Hawkins Road.

16 – External Noise

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

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

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of the relevant residential units on the site and shall be maintained as agreed thereafter. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise.

17 - Non-Standard Condition/Reason

Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Local Planning Authority (in consultation with Environmental Protection). 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.

Reason: In order to protect the amenity of nearby residential properties from potential nuisances that may arise from necessary piling works

18 – Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

19 - Non-Standard Condition/Reason

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

20 - Non-Standard Condition/Reason

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

- a) A bell mouth access off Hawkins Road to provide access to the proposal site to include but not limited to a 70 x 2.4 x 70 metre clear to ground visibility splay
- b) A continuation (minimum 4 metres wide) of the riverside footpath/cyclepath provided by the adjacent former Jewson and Ballantyne Centre sites
- c) Residential Travel Information Packs

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

21 - Non-Standard Condition/Reason

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

- Limiting discharge to 50% of current brownfield rates for the 1 in 1, 1 in 30 and 1 in 100 year events plus climate change.
- Providing sufficient storage to manage water falling on site. This should be based on whichever of the following options provides the greatest storage capacity discharge at the rates required above or 270m³ as stated in the applicant's latest response.
- Provide sufficient treatment for the site based on guidance in the CIRIA SuDS manual C753 and demonstrate that it will be sufficiently maintained.
- Provide means of capturing overland flows from the site in order to minimise run off onto Hawkins Road during the design events.

Reason:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment.

22 - Non-Standard Condition/Reason

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

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

23 - Non-Standard Condition/Reason

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outline in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

20.0 Informatives

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

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

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

(3) Non standard informative

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

(4) Non standard informative

All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.

(5) Non Standard Informative

Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works. Furthermore the applicant is advised that a s.278 (Highways Act 1980) agreement will be required to be secured with the Highway Authority.

(6) Non Standard Informative

All or some of the above conditional requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

(7) Non Standard Informative

The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

(8) Non Standard Informative

Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River. If the applicant believes they need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively they can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk Planning permission does not negate the requirement for consent and full details of the proposed works will be required at least two months before the intended start date.

(9) Non Standard Informative

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

(10) Non Standard Informative

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.

(11) Non Standard Informative

Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

(12) Non Standard Informative

An application to discharge trade effluent to a public sewer must be made to Anglian Water and must be obtained before any discharge of trade effluent can be made to the public sewer.

(13) Non Standard Informative

The applicant is advised that petrol/oil interceptors should be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

21.0 Positivity Statement

- 21.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.