

Planning Committee Meeting

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

Thursday, 26 May 2016 at 18:00

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

Audio Recording, Mobile phones and other devices

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Councillors are permitted to use devices to receive messages and to access papers and information via the internet and viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, 21 Trinity Square, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A water dispenser is available on the first floor and a vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Library and Community Hub, Colchester Central Library, 21 Trinity Square,
Colchester, CO1 1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call
e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

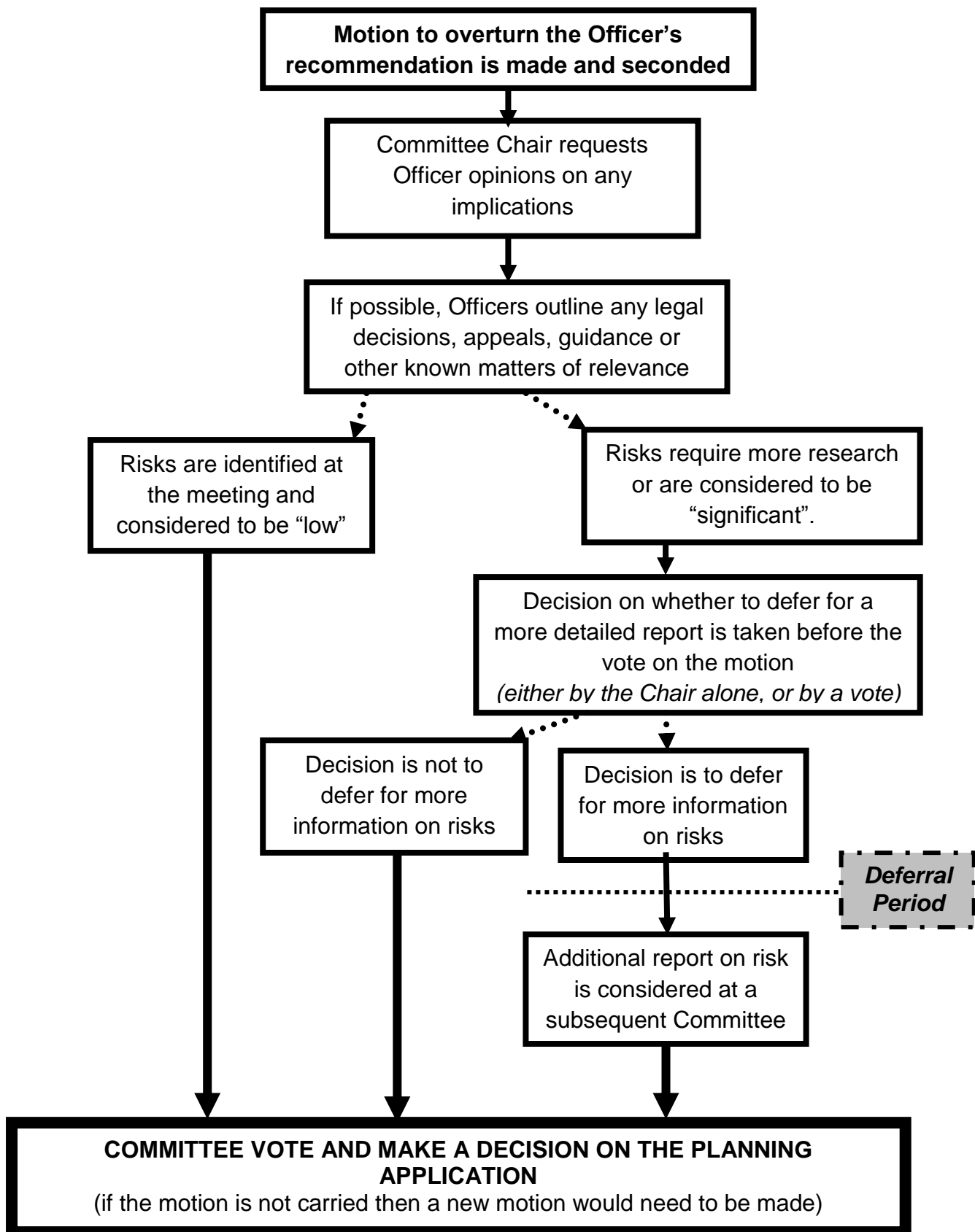
Interpretation of Class C4

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 26 May 2016 at 18:00

Member:

Members of the Committee, the Chairman and Deputy Chairman to be appointed at the Annual meeting.

The following members of the Council have met the criteria to attend planning training during the previous two years and may act as members or substitute members at this Committee meeting:-

Councillors Christopher Arnold, Lyn Barton, Tina Bourne, Roger Buston, Karen Chaplin, Nigel Chapman, Peter Chillingworth, Helen Chuah, Phil Coleman, Nick Cope, Robert Davidson, Beverly Davies, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dominic Graham, Dave Harris, Pauline Hazell, Theresa Higgins, Brian Jarvis, Darius Laws, Cyril Liddy, Mike Lilley, Sue Lissimore, Fiona Maclean, Jackie Maclean, Patricia Moore, Gerard Oxford, Philip Oxford, Chris Pearson, Lee Scordis, Rosalind Scott, Jessica Scott-Boutell, Lesley Scott-Boutell, Paul Smith, Martyn Warnes, Dennis Willetts, Julie Young and Tim Young.

AGENDA - Part A

(open to the public including the press)

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

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

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for

microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched to silent;
- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6	Minutes of 28 April 2016	17 - 24
	To confirm as a correct record the minutes of the meeting held on 28 April 2016.	
7	Planning Applications	
	In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.	
7.1	152730 Land west of Brook Street, Colchester	25 - 72
	Hybrid planning application comprising of an outline planning permission (with appearance and landscaping reserved) for the development of 61 residential dwellings (27 x 1 bedroom, 34 x 2 bedroom) together with associated car and cycle parking, landscaping and open space access and servicing arrangements and full planning permission for the change of the former Rectory building to C3 (residential) to provide 5 residential dwellings (5 x 2 bedroom) together with associated car parking, access and servicing arrangement.	
7.2	160192 Footbridge, Balkerne Hill, Colchester	73 - 82
	Remove the existing 1.8m wide footbridge and replace with a similar style bridge 3.0m wide. This is to provide a shared facility for both cyclists and pedestrians to have access via this bridge into Colchester Town Centre.	
7.3	160687 Waitrose Food Store, St Andrews Avenue, Colchester	83 - 92
	Variation of condition 15 (Permitted delivery times) of planning permission 080900. (Use of existing retail premises as a food store including ancillary coffee shop and customer toilets together with works of refurbishment and associated alterations, reconfiguration of car park and service arrangements, reconstruction of retaining wall and erection of new delivery bay, entrance lobby and mezzanine).	
7.4	160379 Clarendon Way, Colchester	93 - 104
	Application to remove/vary conditions 2 and 17 of planning permission 145356. (Erection of 18 residential apartments, access	

and car parking).

- | | | |
|-----|--|--------------|
| 7.5 | 160502 Town Hall, High Street, Colchester | 105 -
112 |
| | Installation of a new bench on raised platform in front of the existing bench in the council chamber, including new access ramp to provide wheelchair access and associated repositioning of adjacent fixed seating and benches. The works are desired to be fully reversible so that the chamber can be returned to its existing configuration. | |
| 7.6 | 161060 Holly Cottage, Straight Road, Boxted | 113 -
118 |
| | Proposed replacement of three window frames. | |
| 8 | Changes to Scheme of Delegation | 119 -
120 |
| | See report by the Head of Professional Services. | |
| 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, 28 April 2016

Attendees: Councillor Peter Chillingworth (Group Spokesperson), Councillor Helen Chuah (Member), Councillor Jo Hayes (Member), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Jackie Maclean (Member), Councillor Jon Manning (Chairman), Councillor Rosalind Scott (Group Spokesperson), Councillor Jessica Scott-Boutell (Deputy Chairman)

Substitutes: Councillor Tina Bourne (for Councillor Michael Lilley), Councillor John Elliott (for Councillor Patricia Moore)

307 Site Visits

Councillors Chillingworth, Chuah, Elliott, Hayes, Hazell, Jarvis, Manning, Scott and Scott-Boutell attended the site visits.

308 Minutes of the meeting on 17 March 2016

The minutes of the meeting held on 17 March 2016 were confirmed as a correct record.

309 Minutes of meeting on 31 March 2016

The minutes of the meeting held on 31 March 2016 were confirmed as a correct record.

310 160423 Hunters Rough, 18 Chitts Hill, Colchester

The Committee considered an application for the variation of condition 2 of planning permission 131538 to allow for provision of access to neighbouring field for maintenance purposes at Hunter's Rough, 18 Chitts Hill, Colchester. The application had been referred to the Committee because it was a major application with a linking agreement and objections had been received. The Committee had before it a report in which all the information was set out.

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

311 160262 Land to the rear of Lancaster Toyota, Axial Way, Colchester

The Committee considered an application for the erection of a foul drainage pumping station at land to the rear of Lancaster Toyota, Axial Way, Colchester. The application had been referred back to the Committee because Colchester Borough Council was the applicant and Councillor Goss had called it in. The Committee had before it a report in which all the 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.

James Ryan, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Robert Johnstone addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to paragraph 75 of the National Planning Policy Framework (NPPF) which provided for the protection and enhancement of public rights of way and access. However, he was concerned that the implementation of this national policy was not being adequately adhered to as he was aware of many dozens of rights of way in Colchester which were being neither protected nor enhanced as a consequence of development. The NPPF also went on to state that opportunities should be sought to create links to rights of way and he considered these opportunities were also not being taken. As examples he referred to Footpaths 27 West Bergholt, 69 Myland, 199 and 198 Colchester and 10, 13 and 14 Peldon.

The Principal Planning Officer explained that there were various provisions contained in the NPPF the merits and requirements of which needed to be weighed up in relation to each application under consideration. The Planning system also required use of conditions in order to make an application acceptable. As such, it may be considered unreasonable to seek significant improvements to public rights in respect of small scale applications.

Members of the Committee referred to the proposal within the application to divert the definitive footpath affected to a route closer to the field boundary and were of the view that this demonstrated an improvement to the current situation.

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

312 160021 19 Oxford Road, Colchester

The Committee considered an application for the construction of a detached garage to complement the existing property, access via Keble Close by making an opening in the existing red brick wall which is unsafe and requires rebuilding from ground level upwards at 19 Oxford Road, Colchester. The application had been referred to the Committee because Councillor Hardy had called it in. The Committee had before it a report and an amendment sheet in which all the 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, Planning Officer, presented the report and, together with the Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations. It was explained that paragraph 1.1 of the report had referred to the neighbouring garage owner as being of 21 Oxford Road and should have more correctly refer to 17 Oxford Road.

William Maltby addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was addressing the Committee on behalf of a number of residents of Keble Close, all of whom were opposed to the proposal. He did not consider that the design of the proposed garage would complement the dwelling it served due to the zinc rather than a slate roof. He did not consider it necessary for an opening to be made in the boundary wall, a side access already existed and there was therefore no need to use Keble Close for access. The unsafe condition of the wall had been caused following the recent building works to the house which had included the creation of an inspection hole in the wall. He questioned the length of time it would take for the replacement hornbeam trees to reach the height depicted in the architectural drawings and speculated about the use of the garage for one vehicle plus storage and the proposed parking arrangements for other vehicles in the applicant's ownership. He was of the view that the application had entirely failed to consider the needs of the neighbouring residents.

Ian Newman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that 19 Oxford Road had been in his ownership for two years during which time he had undertaken a full restoration of the property with a contemporary feel. The construction of a garage was to provide a secure location for a camper van as well as for storage. Consideration had been given to locating the garage to the front of the property but this option had been rejected due to location of a pine tree and the difficulties of reversing across the frontage and onto Oxford Road. A number of discussions had taken place with the Conservation Officer and the Tree Officer as a result of which suggestions had been made regarding the removal of lime trees to the rear and their replacement with hornbeams. Many of the comments made in response to the application were in relation to highway safety issues and the potential danger to school children in the vicinity. He referred to the comments of the Highway Authority which had disagreed with these concerns. He acknowledged that Oxford Road and Keble Close did become very busy at certain times of the day due to school children being dropped off and picked up but this was an existing parking problem not a planning issue.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. She referred to the location of the proposal within a Conservation Area and the need for an application to be treated in a different way because of this designation.

She voiced concerns regarding the removal of the rear wall of the house and its replacement with a zinc opening. She considered this to be creating a new style of development rather than a traditional style and was of the view that it impacted negatively on the street scene for the residents of Keble Close. She regretted that the redevelopment of the house had been given approval under delegated powers and did not consider that it had been appropriate for approval to be given for a design which was not in-keeping with the original style of the dwelling. She referred to the potential loss of four on street parking spaces since the closure of Joyce Brooks House. She questioned whether the Planning Officer's consideration had included visits to the location during the school term when the traffic situation was considerably different and regretted the comments of the Highway Authority which had not concluded that the proposal was unsafe.

The Planning Officer confirmed that the proposed replacement hornbeams were required to heavy set trees although they would take some years to reach maturity. The location of the pine tree at the front of the site in a Conservation Area afforded it protection equivalent to that if it were the subject of a Tree Preservation Order. She explained that the proposed garage would be of contemporary design to complement the contemporary rear aspect of the redeveloped house. This design provided for a low profile which would mean that the majority of the garage structure would not be visible from the public realm, whilst from Keble Close the timber framed door would be mainly visible. The applicant had indicated he did not wish to consider the construction of a garage at the front or side of the site and, as such, this was not an option for the Committee to consider. The Highway Authority's views on the proposal were largely in the context of Keble Close being a cul-de-sac where vehicle speeds were very low. The application did not include the loss of any on-street parking spaces whilst the parking relating problems which currently existed were a matter for the local parking enforcement service. She also confirmed that her consideration of the application had included visits at school drop off and pick up times and photos included in her presentation had been taken during school term times.

The Major Development and Projects Manager explained that the NPPF referred to Locally Listed Buildings as 'undesigned heritage assets' which would be accepted as material considerations in relation to planning applications but would carry less weight than statutory Listed Buildings. He explained that the contemporary refurbishment of 19 Oxford Road, although a very good example of a Victorian Villa, was not considered to have a negative impact and had no material impact on the wider Conservation Area. He considered the proposal to be fully acceptable and the use of zinc for the roof of the garage did not conflict with the appearance in the Conservation Area. Furthermore, the use of zinc had provided for a much lower roof profile than that which would be possible had a pitched slate roof been proposed. It was also explained that guidance in relation to the location of garages provided for their siting to the side or rear of the host dwelling and certainly set back from the frontage of a property.

A number of Committee members were concerned about the use of zinc and the impact of its appearance on the local street scene and were of the view that little seemed to have been done to consider the matter from the point of view of the neighbouring residents. However there was acknowledgement that these concerns did not constitute adequate reason to consider a refusal of the application.

Other members of the Committee referred to the extensive alterations to the rear of the property which had been permitted under delegated powers as well as the paving to the rear garden and the surfacing applied to the drive at the front of the property. A view was also expressed that the construction of the houses in Keble Close had considerably altered the locality from its original character whilst the option to create a garage with access from Keble Close could be considered understandable given the busy nature of Oxford Road. It was also acknowledged that the contemporary element to the proposal would complement the refurbishment to the rear of the house, even though it was not of a traditional design.

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

313 160379 Clarendon Way, Colchester

The Committee considered an application to remove / vary conditions 2 and 17 of planning permission 145356 (erection of 18 residential apartments, access and car parking) at Clarendon Way, Colchester. The application had been referred to the Committee because it was a major application and an objection had been received. The Committee had before it a report and an amendment sheet in which all the information was set out.

Mark Russell, Principal Planning Officer, presented the report and, together with the Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations. It was explained that paragraph 15.8 of the report should have more correctly stated 'There are no new windows proposed facing Bloyes Mews.' Discussions had also taken place with the applicant since the report had been written and agreement had been reached for the proposed balconies to the eastern elevations of flat numbers 8 and 13 to be replaced by Juliet balconies in order to prevent potential lateral overlooking. It was further clarified that the proposal included a planting scheme for the replacement of trees which had been removed during clearance work and the relaxation of parking standards to provide the approved number of spaces but of a smaller dimension, equal to the minimum possible.

Jon Crisp addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that his company had taken over the project from the original architects, following which they had sought minor

alterations to improve the layout including parking, windows and landscaping. He explained that the removal of a tree had been unfortunate but subsequent liaison with the Tree Officer had resulted in a landscape scheme which had met with approval from both parties. Recent discussions had been undertaken in relation to the removal of two balconies which he had been happy to accept in order to protect the amenity of neighbouring properties.

One member of the Committee referred to the removal by workmen of trees on site which had been identified for retention. These trees had been healthy but it now appeared to be accepted that there was insufficient space and light to sustain a replacement tree in this location. It was also considered that the layout of the scheme was overbearing for the residents of Bloyes Mews and the north facing windows would be subject to a further reduction in light levels.

Members of the Committee questioned whether the number of flats included in the proposal was to be reduced from that originally approved, voiced their considerable concern in relation to any reduction in parking space size in order to accommodate the number of spaces contained within the originally approved planning permission and indicated their view that further discussions needed to take place to find a more suitable solution in relation to parking provision and for replacement planting in all the locations where the trees had been removed.

A number of Committee members were of the view that no reduction in the number or size of parking spaces was justified and that the reinstatement of trees of an appropriate species should be sought.

The Principal Planning Officer confirmed that the 18 flats within the proposal remained as previously approved but due to a drafting error it had been found that it was not possible to accommodate the approved 24 parking spaces of the dimensions originally approved. It was likely that, if the originally approved dimension were used the spaces would need to reduce to 20. He further explained that in sustainable locations such as this one, the Committee had discretion to accept parking spaces of smaller dimensions.

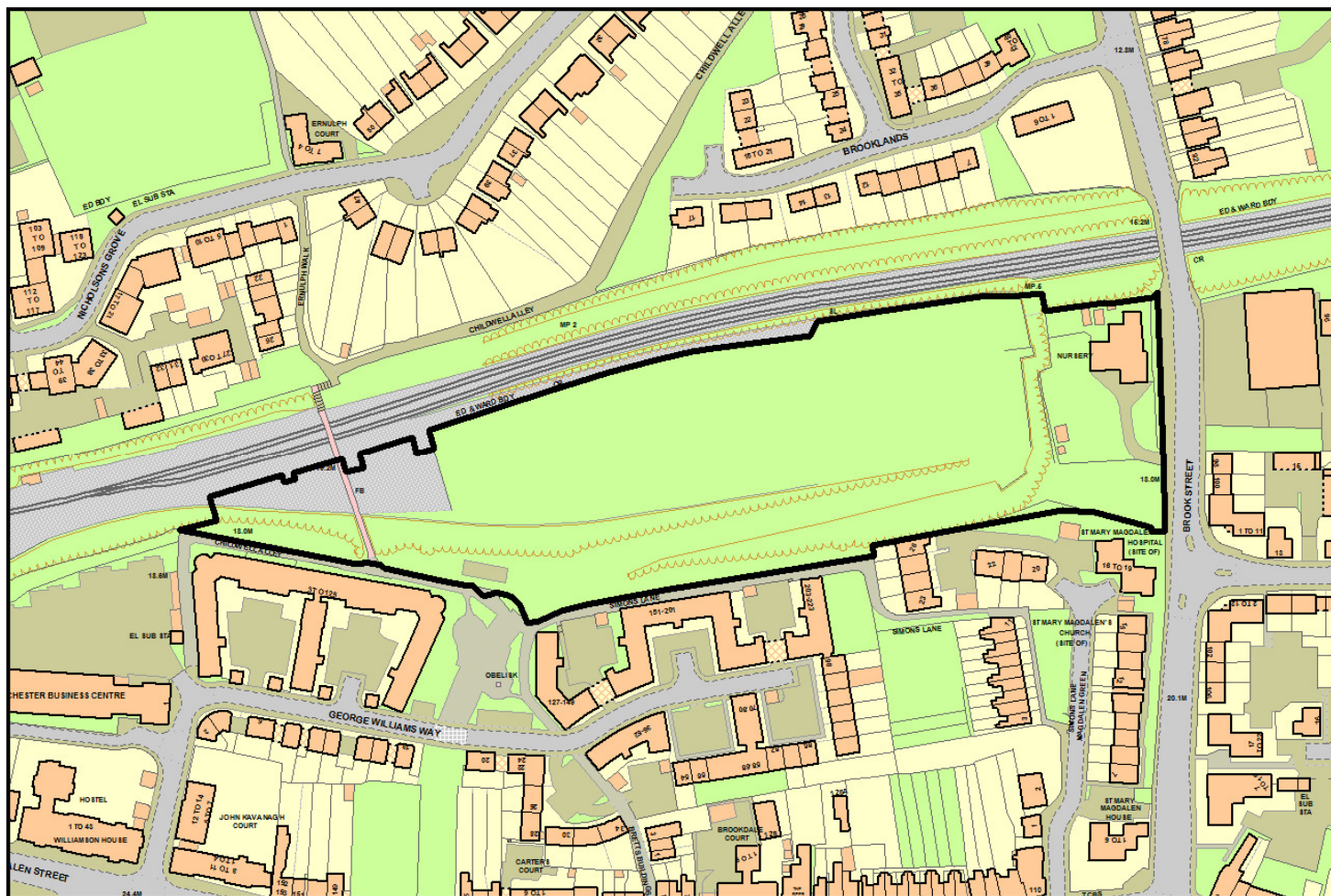
RESOLVED (UNANIMOUSLY) that the application be deferred for further discussions with the applicant with a view to securing a more suitable solution to deliver parking provision in accordance with adopted dimensions and standards, a landscape scheme to include more suitable replacement planting in all locations where trees had been removed and consideration of the provision of charging points for low emission vehicles and a report on the outcome of these discussions be submitted to a future meeting of the Committee.

314 160605 New Potts Farm, Lower Road, Peldon

The Committee considered an application for a new grain store to store grain to four

metres at New Potts, Lower Road, Peldon, Colchester. The application had been referred to the Committee because the applicant is a Borough Councillor. The Committee had before it a report in which all the information was set out.

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



Application No: 152730

Location: Land West of, Brook Street, Colchester

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015



Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **26th May 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Sue Jackson Due Date: 30/06/2016

MAJOR

Site: Land west of Brook Street, Colchester

Application No: 152730

Date Received: 14 December 2015

Agent: Mr David Symonds

Applicant: Inland Homes

Development: Hybrid planning application comprising of an outline planning permission for the development of 61 residential dwellings (27 x 1 bedroom, 34 x 2 bedroom) together with associated car and cycle parking, landscaping and open space access and servicing arrangements & full planning permission for the change of the former Rectory building to C3 (residential) to provide 5 residential dwellings (5 x 2 bedroom) together with associated car parking, access and servicing arrangement.

Ward: New Town and Christ Church

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement6

1.0 Reason for Referral to the Planning Committee

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

- 1.2 The application has been called in to committee by Councillor Theresa Higgins for the following reasons:-

"I object on the grounds that the road onto Brook Street is unnecessary. The last application for a new junction in Brook St was refused on air quality issues. These have not changed significantly to warrant a new junction and it poses a risk to the area. New Town needs more houses with three bedrooms, this proposal does not have any. There is an access from Magdalen Street that has not been in use but it does exist. This is the correct access for this application.

I also object on the grounds that a restricted level of parking is being suggested. The present New Town Ward does not have enough parking space. It may be situated near the town centre but this should not be the reason why the correct amount of parking should not be provided. The town station has NO trains on a Sunday."

2.0 Synopsis

- 2.1 The key issues explored below are land use allocation and adopted policies and guidance, the development proposal, planning history, air quality and access and parking provision. The viability of the scheme will also be addressed in so far as it relates to necessary planning contributions towards infrastructure. The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended, subject to the completion of a legal agreement.

3.0 Site Description and Context

- 3.1 The site is 1.84 hectares and can be divided into two elements; Brook Street and the Former Sidings.

Brook Street

- 3.2 This part of the site has a frontage of approx. 75metres onto Brook Street. It includes land previously owned by British Rail with a narrow frontage to the road and land which until recently was owned by Essex County Council. The Essex County Council part contains a former rectory, a locally listed building, last used as a day care nursery and community resource centre. It includes vehicular access leading to a parking area. There are a number of trees on the site particularly along the boundaries and a mature Holme Oak close to the car park. The land is elevated above road level. The British Rail part of the site is overgrown and has a wall along the front and side boundary the latter abuts residential property on the site of the former St Mary Magdalen Church.
- 3.3 The rear boundary of this area abuts land known as the "Former Sidings" which comprises the second part of the site and is described below.

The Former Sidings

- 3.4 As the name suggests this land was former railway sidings and the Hythe to Colchester Town railway line forms the north boundary of the site. The south and west boundaries abut residential development, known as South Central, along George Williams Way. The east boundary abuts the Brook Street part of the site described above and at this point there is a steep bank down to the sidings land.
- 3.5 When the land was formerly used as rail sidings it was accessed from Magdalen Street. The internal road is still visible and extends close to the south boundary and then turns through 360 to serve land which is at a lower level. The access from the site to Magdalen Street is in the applicants' ownership but it does not form part of the application site. Since use of the sidings ceased the residential development known as South Central has been constructed around the sidings road forms an amenity area to this development but has been reserved should it be required to provide an access.
- 3.6 Topographically, the land is split into two comprising an elevated upper level to the south, west and east and a lower section to the north.
- 3.7 A public right of way extends along the south and west boundaries and connects to a footpath at Simons Lane leading to Magdalen Street and a pedestrian foot bridge over the railway line connecting to Priory Street and the town centre. The footbridge is elevated above the site.
- 3.8 The site is overgrown and includes small areas of woodland, grass, scrub and small ponds.
- 3.9 The application site is in a sustainable location owing to its proximity to Colchester Town Centre: the town station is a walk time of approx. 5 minutes to the bus station approx. 7 minutes and 10 minutes to Culver Square.

4.0 Description of the Proposal

- 4.1 This planning application comprises two elements; full planning permission is sought for the Brook Street part of the site and outline planning permission for The Sidings. Whilst this hybrid type of application is not common; it is nevertheless an acceptable form of application particularly as in this case a change of use of an existing building is involved (it is not possible to have an outline change of use).

Full Application

- 4.2 The full application involves the change of use of the former rectory to 5 No. 2-bed flats and the erection of a new building comprising 3 no. units with a 1-bed and a 2-bed on the 1st floor and a 2-bed unit on the 2nd floor. Parking for 9 cars is provided on the ground floor for the residents of both buildings. Four visitor parking spaces are provided along the new access road; a temporary location for these spaces is also indicated (if required). Nine cycle racks are indicated
- 4.3 The buildings will be located either side of a new access road which will be cut into the site to deal with the change in ground levels.

Outline Application

- 4.4 The outline application proposes the erection of 58 residential units. This element comprises 26 no. 1-bed and 32 no. 2-bed flats. A linear development is proposed with a series of buildings fronting onto the new road. The proposed buildings are 3-4 storeys in height with parking courts between. Whilst the application is in outline, the details of the access, layout and scale form part of this application. Appearance and landscaping will be the subject of the reserved matters application. A 12m buffer zone is indicated parallel to the railway line.
- 4.5 Eighty one parking spaces are proposed and 64 spaces for cycle parking.
- 4.6 A footpath/cycleway is proposed through the site linking to Brook Street and Magdalen Street via George Williams Way. Public open space, landscaped areas together with new landscaping and ecology enhancements are proposed.
- 4.7 The following documents are submitted with the application:
- Planning Statement
 - Design and Access Statement
 - Statement of Community Involvement
 - Archaeology Assessment
 - Ecological Appraisal
 - Air Quality Assessment
 - Noise Assessment
 - Heritage Statement
 - Geo-Environmental Assessment
 - Landscape Design Statement, Arboricultural Impact Assessment and Method Statement and Landscape Masterplan
 - Flood Risk Assessment
 - Transport Assessment
 - Sustainability and Energy Assessment

5.0 Land Use Allocation

- 5.1 East Colchester Special Policy Area: The site is allocated for redevelopment comprising residential development with site access improvements
The Magdalen Street Rail Sidings Development Brief Adopted August 2014 (an extension to the Adopted Magdalen Street Brief February 2014)

6.0 Relevant Planning History

- 6.1 112446 Application for a new planning permission to replace extant planning permission 081794 for new vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. Resubmission of 11157 Refuse - 07/03/2012

- 6.2 111570- Application for a new planning permission to replace extant planning permission 081794 for new vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. Withdrawn - 17/10/2011 as the application was not accompanied by an air quality assessment or an arboricultural assessment.
- 6.3 081794 New Vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. Approve Conditional - 22/12/2008
- 6.4 O/COL/05/0241 Provision of new road/pedestrian junction to Brook Street for future access to residential development at the former railway sidings. Approve Conditional - 12/10/2005
- 6.5 152705 Erection of 4no.1 bedroom flats and 2no.1 bedroom maisonettes and associated parking; land between", 145a-151 Magdalen Street, Colchester. Application approved 4th February 2016.

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
SD3 - Community Facilities
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

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

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP11 Flat Conversions
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
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 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA H1 Housing Allocations
SA EC1 Residential development in East Colchester
SA EC2 Development in East Colchester
SA EC5 Area 3: Magdalen Street
SA EC8 Transportation in East Colchester

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

Backland and Infill
Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Archaeology and Development Strategy
Sustainable Drainage Systems Design Guide
Street Services
Planning Out Crime
Development and Public Rights of Way
Air Quality Management Guidance

Magdalen Street Rail Sidings Development Brief Adopted August 2014
Adopted Magdalen Street Brief February 2014

8.0 Consultations

- 8.1 Network Rail has submitted a list of detailed comments that the developer needs to adhere to. *Officer comment this will be set out in as an informative*

- 8.2 Landscape Officer It was noted during off-site inspection of the site that tree cover appeared to indicate wet/saturated soil conditions to the lower (sidings) area. This was compounded by sight of a stream to the western end of the site that appeared to be flowing, this further indicating potential high water levels within the site. Given this, moisture loving shrubs & trees need to be agreed as forming the principal cover to the lower lying areas of the site below the escarpment. There are no Planning Projects Team objections to this application on landscape grounds provided it is confirmed that moisture loving shrubs & trees will forming the principal cover to lower lying areas area of the site below the escarpment. Officer comment : moisture loving shrubs and trees relates to the outline part of the application and the landscape condition will make reference to this requirement.
- 8.3 Arboricultural Officer has no objection
- 8.4 Archaeological Officer: Comments "The Desk Based Assessment submitted with the application states that archaeological impacts through construction of the former railway sidings are severe and widespread, removing all archaeological assets across 90% of the site, which required a 4m+ reduction in ground level. However, it does conclude there might be some potential for unknown undesignated archaeological assets in the eastern area of the site, fronting Brook Street – although it also states the potential for the occurrence of assets dated prior to the Post-Medieval/Modern period to be low/nil. While, undoubtedly, there has been significant truncation and terracing of the site, as a result of the construction of the railway siding in the first quarter of the 20th century, a geotechnical borehole undertaken to the west of this site, and in a similar topographic setting, defined deep waterlogged archaeological deposits (at a depth over 4m below the current ground level). The borehole's location is likely to be close to the course of a stream (a minor tributary of the River Colne) shown on John Speed's 1610 map of Colchester, and this may account for the unusual depth of organic material encountered here. Consequently, it should not necessarily be assumed that the terracing will have removed all archaeological assets one the current site and there is still some potential, both for archaeological and palaeoenvironmental deposits, to be preserved.
There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed."
- 8.5 Natural England: Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.
The Wildlife and Countryside Act 1981 (as amended)
The Conservation of Habitats and Species Regulations 2010 (as amended)
Natural England's comments in relation to this application are provided in the following sections.
Statutory nature conservation sites – no objection
Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.
Protected species
We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species.

Impacts to Invertebrates and their Habitats

Natural England has produced standard advice for use by local planning authorities in Essex. This advice can be used to assist your authority and applicants in determining whether the open mosaic s41 habitat and s41 invertebrate species are reasonably likely to be present on, or in the vicinity of, the development site, and how we advise that these are considered in the planning process.

Priority Habitat as identified on Section 41 list of the Natural Environment and Rural Communities (NERC) Act 2006

The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

Green Infrastructure

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

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

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

Landscape enhancements

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

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “Development in or likely to affect a Site of Special Scientific Interest” (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

- 8.6 Environmental Protection has no objection subject to conditions
- 8.7 Contaminated Land Officer This submitted report is acceptable for Environmental Protection purposes. The assessment has identified some potential sources of contamination and has recommended further investigation and assessment (including delineation of hydrocarbon impacted materials and additional ground gas monitoring) and completion of a Remedial Strategy.
However, based on the information provided, it would appear that the site could be made suitable for the proposed use, with the appropriate investigative and remedial actions being dealt with by way of conditions.
- 8.8 Highway Authority From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.
- 8.9 CBC Air Quality Officer: Colchester Borough Council as the relevant planning authority has a duty in decision making to achieve compliance with limit values for pollutants. Currently breaches of the air quality objectives occur at residential receptors near to the proposed development, and the air quality assessment identifies that the development may further extend time to achieve compliance with air quality legislation. However no objection is raised subject to the developer implementing a scheme of mitigation to enable this proposal to be acceptable on air quality grounds the detailed wording of a condition is set out which should be applied.
- 8.10 Urban Design Officer
Outline Application
This is a sensitive site, where the scheme has improved significantly through pre-application dialogue. I would generally support the submitted application, though only subject to conditions and minor amendments
Height and Massing: The building footprints, height and massing appear appropriate for the context, actively framing streets and spaces, and reasonably protecting significant areas of landscape and views from neighbouring development.
Access and Car Parking: There are no ideal options for providing vehicular access needed to regenerate the site, though on a positive note this is one of the last remaining sites in the area. I would support the choice of Brook Street (over George William Way), given this is likely to have significantly less detrimental impact on existing residents and areas of landscaping. Allocated car parking is now predominantly tucked out of public view and well contained with reasonably landscaped parking courts, though at the detailed level this slightly leaks untidily into public view. Visitor parking is appropriately provided on-street within the development. In principle I would back the proposed reduced parking standards, which is consistent with Section 2.5 Urban Areas of the Essex Parking Standards considering proximity to the town centre and the need to encourage more sustainable forms of mobility considering local congestion issues. I understand car parking is a sensitive issue locally, where the George William Way scheme is known to have issues and is often

used to evidence the need for applying (non-urban) default standards. However, George William Way was developed at a parking ratio of 0.6 spaces per dwelling (i.e. approximately half of what is being offered here), excessive parking would conflict with adopted place-making policy and would require further greenfield land to be allocated for housing to offset the linked loss of units. The balance of issues highlights the need for any reduced provision to be more clearly justified and mitigated, e.g. (i) clear evidence of car ownership levels in comparable locations, (ii) a suitable proportion of spaces to be unallocated (catering for average car ownership levels) and, (iii) improved foot and cycle access with the town centre. (see below). Another key outstanding issue is the need to suitably provide a key missing section of the strategic cycle network guaranteed as part of the application and justifying the reduced car parking, i.e. linking Town Station and Brook Street (running through the site and to the east).

8.11 Anglian Water ASSETS

Assets Affected

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted. "Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence."

WASTEWATER SERVICES

Wastewater Treatment

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

Foul Sewerage Network

Development may lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to confirm an agreed pumped rate.

We will request a condition requiring the drainage strategy covering the issue(s) to be agreed.

Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option.

Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer

The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable as the planning application states that infiltration will be used to drain surface water, whereas the FRA states that a connection will be made to the public surface water sewer.. We would therefore recommend that the applicant needs to consult with Anglian Water and the Environment Agency.

We will request that the agreed strategy is reflected in the planning approval

Trade Effluent

Not applicable

Suggested Planning Conditions

Anglian Water would therefore recommend a planning condition if the Local Planning Authority is mindful to grant planning approval.

8.12 ECC SuDS: As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015. In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the resubmitted Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission.

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA and other documents submitted with this application are implemented as stated.

8.13 Environment Agency has confirmed the application falls outside of their remit

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 N/A

10.0 Representations

10.1 numbers of support (2) /objection (16) and issues raised

10.2 Objection comments

1. Residents in 16-19 Magdalen Green loose our privacy and have over-looking in to our gardens. Officer comment: amendments to the Brook Street elevation include the removal of the windows in the side elevation which have the potential to overlook and conditions will prevent new windows being inserted
2. Traffic issues
 - 2.1. The increased traffic generation will have an adverse impact on an already very busy and congested road i.e. Brook Street.
 - 2.2. Magdalen Street and Brook Street do not have the capacity to accommodate further traffic and have been pushed beyond acceptable levels by more recent developments
 - 2.3. A large number of School parents and children walk down the side of the road where the entrance is supposed to be. The site entrance will be close to the other entrances and the entrance to businesses opposite making it even more dangerous for the school run up and down the hill

- 2.4. Existing parking issues within residential streets
3. Lack of amenities Building program over the past 10 years has put an unacceptable level of pressure on health services, education and roads. Colchester cannot support more people without considerable investment in hospital, GP, schools and infrastructure.
4. The development appears to limit the potential for the development of the railway into the Town Centre and would limit it to its current level.
5. Air Quality
 - 5.1. No development should take place in this town centre area until the County Council and Borough Council have put in place measures to reduce air pollution and congestion.
 - 5.2. Air pollution is still above EU maximum.
 - 5.3. More pollution in both Brook Street and Magdalen Street already one of the worst polluted areas in Colchester with the overload of traffic queuing up morning and evening rush hours and most of the time in between. Whilst the site was previously identified with potential for residential development traffic congestion and resulting worsened air quality mean that the risks of public health would be intolerably increased by such a sizeable development. Both Magdalen Street and Brook Street already suffer traffic congestion and poor air quality. Neither has the capacity to be worsened
 - 5.4. This area is struggling under the weight of residential and through traffic already. It is under measures to reduce pollution so how can adding more cars and 90 central heating boilers help with this
 - 5.5. The comment (in the applicants report) that this development will have negligible impact is an insult to the residents who have to breath the air daily Year on year traffic has increased in both directions in Brook Street with queuing now for over 6 hours daily Monday to Saturday.
6. Wildlife - loss of important urban space for wildlife the developer should agree to provide appropriate offsets, including extra space for wildlife sites, maintenance and maybe regular litter-picks of local wildlife sites.
7. Drainage & Flooding (the area proposed to be built on serves as a natural drain and run off. Building on it will increase water run off on to surrounding homes and increase flood risk further down hill).
8. Noise and disturbance from construction resulting in dust and hazardous materials.
9. Development is in contradiction of the local development framework for Colchester: This development jeopardises an area that should be reserved for future transit options (Policy SA EC5 Area 3: Magdalen Street) Building here will further increase risk of localised flooding and increase run-off (instead of absorption) causing further problems downstream/downhill (Policy SA EC2). The need for a pumping station only highlights the unsuitability of this land for building. This development reduces green space - it doesn't increase it. If the argument is to create further open spaces for the local community (referenced throughout the local development framework) then this area should be a park, not a housing estate.
10. Application was cynically submitted the week before most people and businesses closed for Christmas. This application should be stopped until proper consultation has taken place
11. Concern expressed that many residents of George Williams Way will not provide feedback on the proposals as many of the properties are rented; tenants will not be concerned and the landlords will not be unduly concerned as they do not live in their property.

12. Archeological some historical remains exist given the long history of urbanisation since Roman times, notwithstanding construction of the railway.
13. The applicant, has highlighted Asbestos on the site

10.3 Support Proposal

1. It will certainly tidy up a bit of scrub land. It would be nice to see a children's play area included as there is not one in the local vicinity. The site has been left undisturbed since the creation of the George Williams Way site and, therefore, many trees/bushes/plants have been left to flourish - creating a truly natural habitat for various wildlife, including birds. I was relieved to be informed that the proposed development would only encompass 1/3 of the site and that green areas would be retained and that the area of land on the other side of the railway tracks to the proposed development would be left completely untouched. These wild green areas should receive no, or very minimal, interference/maintenance so these areas can continue to provide a much-needed habitat for the wildlife within Colchester town
2. Emphatically support the vehicular access coming from Brook Street (to the west) rather than from George Williams Way. The gravel access path which it was initially proposed by the Council would provide the vehicular access to the proposed development site would not be viable to be used for vehicles. This path leads straight through the central area of the George Williams Way site, which is essentially a focal point for the site, providing a welcome green and open outlook, if this was used it would not be the quiet and safe area it is now. George Williams Way is a particularly narrow road with inadequate allocated parking creating severe difficulties in relation to parking especially as many of those who park down the road during the day are workers/commuters and shoppers. Cars are parked on both sides of the road and despite drivers generally parking with 2 wheels on the pavement, this does not leave sufficient space for lorries and emergency vehicles to access the site at all or without great difficulty, and children in prams have to be pushed in the middle of the road. A residents parking scheme should be considered.

10.4 Colchester Cycling Campaign objects to this proposal in its current form (comments summarised). We are disappointed to see that the Dutch company (Haskoning) engaged for the traffic survey has not been more imaginative in providing high-quality cycle routes to and from this site.

- the report notes that the site is near the Wivenhoe Trail at East Bay ... but how to get there? Should people take their bikes on their cars H? a 94-page document pays lip service to cyclists and pedestrians but has screeds on traffic-light and junction configurations. It notes that there have been no inherent highway safety issues in Brook Street, could it be because all except the most hardened cyclists are scared to use that road because of the speed/traffic levels, and people only walk it if they have to?
- We are disappointed to see no formal response from ECC Highways (from documents on site, Jan 3). We hope that any eventual submission will give due weight to the county's own draft cycling strategy. CCC would like to see the developer come up with a scheme that includes:
 - a) a direct connection using a toucan crossing (separate to the roundabout) to connect with a path to the Wivenhoe Trail via the land to the east of Brook Street (a substandard path has been provided as part of a previous planning application)
 - b) segregated paths, not shared use

- c) a cycle connection to the town centre that passes to the front of the proposed new homes
- d) a connection with Magdalen Street via the land that has been left open for that purpose
- e) an investigation into the feasibility and part-funding of a new cycle/pedestrian railway bridge to connect to Rosebery Avenue, with measures to increase subjective social safety
- f) a deal with one of the locally based car hire firms to provide a car club on the site for residents, to take up 20 of the 80 spaces (car hire, not van hire).

CCC would be happy to work with Haskoning to try to improve this scheme.

11.0 Parking Provision

- 11.1 A total of 94 parking spaces are proposed for 66 units.
- 11.2 The outline application proposes 26 1-bed and 32 2-bed flats and the full application 7 2-bed and 1 1-bed. The adopted parking standards indicate 1 space for a 1 bed dwelling and 2 spaces for a 2 bed.. The visitor parking standard is 0.25 space per dwelling. The cycle parking standard is a covered space per dwelling
- 11.3 The outline proposal requires a total of 105 spaces to satisfy the adopted parking standard 90 for the flats and 15 visitor spaces. Eighty one spaces are proposed 1 per unit and 23 visitor spaces.
- 11.4 To meet the adopted standard the full application requires a total of 17 spaces 15 for the flats and 2 visitor spaces. Thirteen spaces are proposed 1 per unit and 5 visitor spaces.
- 11.5 The parking Standards document also states “Reductions of the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport. The development proposes 1 space for each flat. The visitor parking proposed exceeds the standard, as these spaces will be unallocated they give greater flexibility for parking within the site. It is difficult to imagine a more sustainable location for residential development given its proximity to the town centre with its range of facilities and transport links; a reduction in the parking standard is considered appropriate in this location.
- 11.6 Provision is made for 73 cycle spaces.

12.0 Open Space Provisions

- 12.1 The masterplan submitted with the outline application indicates an area of public amenity space of 600 square metres, native scrub retained on the slopes along south boundary an area equivalent to approximately one third of the total site area.
- 12.2 The flats in the retained building will have a substantial communal amenity area well in excess of the 25 square metre per unit policy requirement and the flats in the new build will each have a private sitting out area well in excess of the 5 square metre balcony requirement

13.0 Air Quality

- 13.1 The site is within the Air Quality Management Area. An Air Quality Assessment has been submitted with the application which has been assessed by Environmental Protection and their specialist, no objection is raised subject to a condition requiring electric charging points

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 the following Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.
- Affordable Housing: 20% on-site provision
 - Education:
 - Open Space, Sport and Recreation
 - Community Facilities
 - Improvements to off-site footpaths/cyclepaths
 - CCTV on the footbridge
- 14.2 Following confirmation of the planning obligations required, the Applicant submitted a Viability Appraisal, which concluded that the development would be unviable should the obligations be met. Paragraph 173 of the NPPF states that ‘pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.’ Therefore, issues surrounding the viability of the scheme need to be assessed and taken into consideration.
- 14.3 The appraisal underwent an Independent Viability Review by the District Valuation Service (DVS) who agreed that the development would be unviable if planning obligations were pursued.
- 14.4 The application has therefore been re-considered by the Development Team and whilst they accept the DVS report it is considered a mechanism for reviewing viability is required as costs could change as and when the site is actually developed leading to a potential surplus over and above the developer’s cited profit of 17.5%. The applicant has agreed to a review mechanism which will be secured in a legal agreement.

15.0 Report

Relevant History and Planning Policy

- 15.1 In 2005 and 2008 planning permission for a new vehicular/pedestrian junction onto Brook Street to provide future access to residential development at the former railway sidings was approved. This involved the land owned by British Rail described in the site description. In 2011 an application reference, 112446, to renew the 2008 planning permission was refused planning permission for the following reason:

Planning Policy Statement (PPS) 23: Planning and Pollution Control advises that '...any consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration, in so far as it arises or may arise from or may affect any land use...' The PPS requires that '...local planning authorities must be satisfied that planning permission can be granted on land use grounds taking full account of environmental impacts...' The PPS highlights the importance of the precautionary principle when considering potential impacts on the environment and requires that '...pollution issues should be taken into account as appropriate in planning decisions (having regard to development plan documents and all material considerations)...Local Planning Authorities must be satisfied that planning permission can be granted on land use grounds taking full account of environmental impacts...' Leading on from this, Policy DP1 of the Local Development Framework Adopted Development Policies (Adopted October 2010) requires inter alia that '...All development must...avoid unacceptable impacts on amenity...Development proposals must demonstrate that they...protect existing public and residential amenity, particularly with regard to...pollution...' Following the previous grant of planning permission for this development in 2008 the application site has been included within an Air Quality Management Area (AQMA)(Area 1) as defined by Colchester Borough Council. The Council considers that to grant planning permission for the proposed road, without the full impact of the development on the land it would serve on the AQMA being known, would be premature and contrary to the requirements of the identified Planning Policy Statement and the relevant Development Policy. The Council is also mindful that the cumulative effects on the AQMA of the approved development on the opposite (east) side of Brook Street are not known at this time.

- 15.2 It is important to note that the refusal reason does not say any development would have an adverse impact on air quality; the issue was that the application related only to an access with no indication of the scale of development it would serve. It was considered that to permit the access in isolation would be premature until the full impact of the associated development could be assessed. This application proposes a specific number of dwellings and bedrooms and the impact of the development has been assessed.

Principle of Development

- 15.3 Within the adopted Core Strategy policy SD1 identifies the "East Growth Area" (which includes the site) as a strategic area for new development. Policy H1 confirms that housing development will be focused in strategic areas, to meet the Borough's housing target. The site also has a specific allocation within the adopted Site Allocations Development Policies Document where the site forms part of "Land to

North of Magdalen Street”, and allocated for ‘predominantly residential’ development under policy SA EC1. The site is also within “East Colchester Special Policy Area 3” (Magdalen Street) – policy SA EC5. Here, housing development will be extended and consolidated, and other small scale uses that are compatible with overall housing proposals will be permitted. In addition, the policy confirms that land will be safeguarded adjacent to the railway line, in order to provide for a future transit link (ETC) and will also include footpaths and a cycleway.

- 15.4 Policy SA EC8 refers to ‘Transportation in East Colchester’, and confirms that land will be safeguarded for the transit link between Colne Causeway and Recreation Road, and alongside the south of the railway from Hythe Station (Station Road) to Colchester Town. Supporting paragraph 5.80 confirms that the exact requirements of safeguarding shall be agreed on a site by site basis either within an agreed Development Brief.
- 15.5 The development of the site for residential purposes is therefore acceptable in principle. One of the core planning principles set out by the National Planning Policy Framework (NPPF) is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. The application site is brownfield land, so its redevelopment would be encouraged, subject to material planning considerations.

Site Brief

- 15.6 A Brief for Magdalen Street Rail Sidings was adopted in August 2014. The Brief identifies the significant change in levels and concludes creating a level site would not be viable. In terms of air quality it states that both Brook Street and Magdalen Street form part of an Air Quality Management Area and that any application must be accompanied by a detailed air quality report. The Brief proposes residential development and suggests the site could accommodate circa 70 units. Access is proposed off Magdalen Street because there was no certainty that the land owned by ECC would form part of any application.
- 15.7 The Brief indicates buildings 2/3 storeys. It recommends the retention of woodland on the east and south embankments, safeguarding a 12m strip for the rapid transport link and improved pedestrian and cycle links.
- 15.8 The application proposes 61 dwellings, building heights range from 2-4 storeys the 4 storey element is limited and whilst this exceeds that refers to in the brief it will not adversely affect either residents or public amenity. The application includes improved pedestrian and cycle links and retains the required 12 m buffer strip
- 15.9 Whilst the Brief indicates access onto Magdalen Street the application proposes access onto Brook Street. Providing access onto Magdalen Street involves land which passes between residential properties off George Williams Way then crossing this road passing close to other dwellings and then joining Magdalen Street. The land, then owned by British Rail, was reserved for potential access when the South Central development was constructed. These properties have been occupied for several years and residents are used to this land providing an amenity open area. The use of this access would also add further traffic to George Williams Way and ultimately onto Magdalen Street which is also in the Air Quality Management Area.

- 15.10 This application has to be determined on its planning merits and the access from Brook Street is acceptable to the Highway Authority in matters of highway safety and to Environmental Protection in respect of impact of the AQMA.

Layout and Design

Full Application

- 15.11 A new building is proposed fronting Brook Street which will enhance the street scene. A traditional design is proposed with a pitched slate roof and brick elevations and will complement existing development. The change of use of the former rectory building involves minimal changes externally as the conversion involves mainly internal works conversions works. Unsightly metal railings will be removed. The car park will be removed and the area landscaped this will enhance the setting of the building and mature oak tree. The new access from Brook Street is between the two buildings.

Outline Application

- 15.12 Design will form part of the reserved matters application. A linear form of development is proposed with a series of buildings fronting the new road and the landscaped embankment. Parking courts are proposed between the buildings and will be generally screened from public view. Visitor parking is shown in front of the buildings. The layout plan also shows substantial areas retained as amenity land, open space, wetland and new habitats. A cycle path footpath is proposed on the line of the existing internal road linking to existing footpaths. It is considered that the site can satisfactorily accommodate the level of development proposed and a condition will restrict the outline planning permission to the number and mix of units proposed.

Scale, Height and Massing

Full Application

- 15.13 The new building is 3 storeys in height but as the lower storey is set into cut ground it appears as 2 storey height from the road and roof line is lower than the adjacent residential development. It is of a domestic scale and mass which reflects the adjacent rectory and other new developments facing Brook Street.

Outline Application

- 15.14 The massing reflects the context of the site and buildings in the South Central development. The buildings are mainly 3 storeys high with a small element of 4 storey building.

Impact on the Surrounding Area

- 15.15 The visual impact of the proposal is considered to be relatively minimal; the ground level of the sidings is lower than nearby development and the new building fronting Brook Street compliments existing buildings. Whilst the development will be visible from the public right of way and pedestrian bridge over the railway it will improve the outlook from these paths and make pedestrians feel safer. The development will not have an impact on the surrounding area as residential use is compatible with surrounding uses. (Issues relating to traffic and air quality are considered below)

Impacts on Neighbouring Properties

Full application

- 15.16 Windows in the side elevation on the upper floors of the new building which could have resulted in overlooking issues have been removed. A condition will be imposed removing permitted development rights to insert new windows. Amendments also include a higher screen wall to a first floor external amenity area. The potential for the development to have an adverse impact on neighbouring amenity has therefore been overcome by the amended plans.

Outline application

- 15.17 This part of the site is at a much lower ground level than adjacent dwellings in George Williams Way and the new buildings are remote from existing residential properties. Section drawings have been submitted and these will form part of the committee presentation. There will be no adverse impact on neighbouring properties. A condition relating to maximum storey heights of buildings will be imposed. There will be no loss of privacy or overlooking and Council policies and guidance in the Essex Design Guide are satisfied.
- 15.18 The greatest impact upon neighbouring properties is likely to be during the construction phase of development and to minimise any impact a condition requiring a construction management plan will be imposed.

Amenity Provisions

- 15.19 The private amenity areas for the proposed development are described above. The buildings on the former Sidings involve approx. 1/3 of the site area with the remainder forming amenity space. The development of this derelict area will enhance public amenity. In particular it will enhance the use of the adjacent footpaths and footbridge as it will provide natural surveillance to these public areas

Highway Issues

- 15.20 The new road from Brook Street will serve both the full and outline development and this access forms part of both applications. To construct a road at a suitable gradient to deal with the change in ground levels cut and fill is involved. The ground level will be cut at the Brook Street frontage with ground level for the existing and proposed building retained. An access will be cut into the bank to serve the parking spaces in the proposed building. The steep bank between the two parts of the site will be filled and the road gradient to the area of former sidings. Cross sections through the road have been requested and submitted and these indicate the change in ground levels can be accommodated with only limited use of low retaining walls and also that ground levels surrounding the mature oak tree will be unaffected. The sections will form part of the presentation to members.

15.21 The access would serve both the full and outline elements of the application. Once full planning permission is granted this development could be implemented immediately but the outline application would require the submission and approval of reserved matters. Should the full planning permission be implemented prior to the reserved matters the access and section of road from Brook Street, a temporary area for visitor parking and turning facility, would be required and these matters are secured by condition.

15.22 The applicant has asked for the following to be taken into consideration in respect of the proposed access:-

“We also wanted to set out some of the background to the access position. Following a review of the site and its surrounding area, the Applicant team identified a number of site constraints and opportunities which informed the overall design development process. As part of this, it was established that direct access could be achieved from Brook Street, and it was considered that this design approach represented the best solution for the site.

In particular, we note:-

- That the proposed access off Brook Street would enable a gradual gradient into the site allowing a serviceable road
- Access from Brook Street opens the currently underutilised site for development, ensuring that it's potential and developable area are maximised
- An Alternative vehicle access proposal from George Williams Way gives rise to serious concerns with regard to the impact upon the residential amenity of adjacent residents by reason of noise, and disturbance
- The application proposals have demonstrated that there would be no impact to air quality with this proposed access, and as such the Council's Environment team have no objection; and
- Access from Magdalen Street would also significantly compromise the proposed public landscape and ecological areas within the scheme.
- The vehicular and pedestrian access have been designed in discussion with and agreed in principle with the LPA / Highways”.

Air Quality

15.23 The application includes an Air Quality Assessment which has been considered by the specialist consultant used by Environmental Protection. This document considers impacts on air quality during the construction phase and post construction. The modelling assessment predicts a negligible impact on both Nitrogen Dioxide and Particulate Matter 10 concentrations as a result of traffic generated by the proposed development. Environmental Protection has consulted their specialist and the response is set out above no objection is raised subject to a condition requiring electric car points.

Drainage and Flood Issues

- 15.24 A Flood Risk Assessment incorporating Surface Water and Foul Water Drainage Strategy Report has been submitted in support of the application. Whilst the site is development is in Flood Zone 1 as it exceeds 1 hectare a site specific Flood Risk Assessment is required. The Flood Risk Assessment demonstrates that the proposed development can be safeguarded against the risks from the primary sources of flooding for its lifetime and not exacerbate flood risk to neighbouring development. The residential development footprint is in Flood Zone 1 which classifies the site as having a low probability of fluvial flooding. It is therefore precluding the necessity for Sequential or Exception Testing and is deemed to satisfy the NPPF. The conceptual surface water drainage strategy is based on Environment Agency requirements and has demonstrated that the site development proposals can cater for storm events up to and including a 1 in 100 year plus 30% climate change by way of a Sustainable Drainage System. The foul water drainage strategy proposal would offer an on-site foul sewer network with a proposed pumping station that will convey the development's foul flows to the existing Anglian Water foul network at Brook Street. The proposed adoptable sewers and the new connection of the foul drainage system from the development will be subject to Section 106 Agreement in accordance with the Water Industry Act with Anglian Water.
- 15.25 The development proposals will adhere to the FWMA through the provision of SuDS as a fundamental element of the surface water drainage system.
- 15.26 Whilst Essex County Council Essex County Council, as the Lead Local Flood Authority (LLFA) as lead drainage authority originally objected to the application following the receipt of further details and clarification they withdrew their objection. Anglian Water has raised no objection subject to a condition and the environment agency has confirmed the proposed development falls outside their remit.

Ecology/Landscaping

- 15.27 The site is overgrown and contains a variety of habitats and landscape features. The new buildings cover only part of the site and woodland and embankments will be retained and enhanced. The application includes draft proposals for significant landscaping and creation of new habitats. These include native tree planting and retention of existing trees, a pond, wildflower areas, areas of scrub, sandy scrapes and the provision of bat, insect and bird boxes, information boards, bee houses and deadwood piles.

Heritage Assets

- 15.28 The former rectory is a locally listed building and is retained as part of the development proposal. There is little change to its external appearance with the main alterations comprising the internal conversion works. The retention of this building is welcomed and the proposed works are acceptable. The removal of the hard surfaced parking area next to the building will improve its setting. The application documents include an Archaeological Assessment which has been considered by the Council's Archaeologist. His comments are detailed above with no objection being raised to the application.

Contamination

- 15.29 Due to previous uses of the site, a Preliminary Environmental Risk Assessment was submitted as part of the application to ascertain contamination risks. The Council's Contamination Officer is satisfied with the content of the report and has no objections to the proposed development subject to conditions.

16.0 Conclusion

- 16.1 The application involves the development of a brown field site in a highly sustainable location. The site can accommodate the scale of development proposed. The development retains a locally listed building and will provide a new footpath and cycle link as well as providing surveillance to existing paths. Substantial areas will be retained for amenity space and the existing landscape features will be enhanced and new habitat and ecological measures implemented. Part of the site is safeguarded for a possible transport link. Whilst the site access is onto Brook Street which is within the Air Quality Management Area no objection is raised by the specialist consultant. Magdalen Street is also within the Air Quality Area. The application is considered acceptable, it complies with planning policies and Government guidance all consultees have raised no objection. Permission is recommended subject to the legal agreement and conditions set out below.

17.0 Recommendation

- 17.1 APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:
- A review mechanism in respect of financial viability
 - Provision of a private management company
 - Provision of open space plus submission and approval of scheme for the setting out and landscaping and management/ maintenance of this area
 - Provision of footpath and cycle way for public use
 - 12metre area along the north boundary to be reserved for Rapid Transport Route
- 17.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Conditions

FULL APPLICATION PERMISSION

1 – Time Limit for Full Permission

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

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

2 – Development to accord with approved plans

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

The development shall take place in accordance with the submitted detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site and identifying all areas of cut or fill.

Reason: To ensure the development is carried out without an have an adverse impact of the surrounding area and trees within the site.

4 – Materials to be Agreed

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

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

5 – Refuse and Recycling as shown

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

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

6 – Non Standard Condition

The development hereby permitted shall not be occupied until the access onto Brook Street and the internal road to the rear of the site has been constructed in accordance with the approved drawings and either the parking spaces and turning area shown on the approved drawing or alternative provision approved by the local planning authority have been provided to the satisfaction of the local planning authority.

Reason: To ensure there is satisfactory access and parking provision to serve the development.

7 – Non Standard Condition

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the south side elevation WALL or roof FACE of the new building HEREBY PERMITTED.

Reason: To protect the privacy of adjacent dwellings.

8 – Non Standard Condition

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

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

9 – Full Landscape Proposals

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

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

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

10 – 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.

11 – Earthworks

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

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

12 - 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.

13 – Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

14 – Non Standard Condition

The development shall be carried out in accordance with the submitted Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837. An Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development shall be employed on the site.

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

15 – Construction Method Statement

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

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

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

16 – Non Standard condition

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).

On request of the applicant, a brief will be provided for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation incorporating palaeoenvironmental 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.

17 – Non Standard Condition

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.

18 – Non Standard Condition.

All residential units shall 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)

The noise mitigation measures specified in the accompanying acoustic report shall be fully implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter.

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

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

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

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

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the

Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

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

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

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

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

23 - *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 19.

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

24 – Non Standard Condition

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

- a) A priority junction off Brook Street to provide access to the proposal site as shown in principle on planning application drawing number PB1250/P/04 Rev P2
- b) Upgrading of the footway along the western side of Brook Street between the proposal site access and the mini roundabout to the south to a shared footway/cycleway
- 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.

25 – Non Standard Condition

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding.

26 - Non Standard Condition

No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding.

27 - Non Standard Condition

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:

1. Surface water run-off restricted to the greenfield rate calculated from the impermeable area served by the drainage network. The run-off rate should be a minimum of 1l/s.
2. Attenuation storage for the 1 in 100 inclusive of climate change storm event.
3. An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
4. Demonstration of approval from the relevant authority to connect to a surface water sewer.
5. Further detail as to how the drainage scheme for the existing building on site fits into the wider drainage scheme at the site.
6. A drainage plan highlighting final exceedance and conveyance routes, location and sizing of storage features, discharge rates and outfall/s from the site.

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

28 - Non Standard Condition

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented. The scheme shall be implemented as approved.

Reason The National Planning Policy Framework paragraph 103 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.

29 - Non Standard Condition

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.

30- Non Standard Condition

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

Reason

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

31 - Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity).

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

32 – No Unbound Surface Materials

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

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

33 – Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

34 - Cycle Parking (as approved plan)

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

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

35 – Non Standard Condition

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

Reason: There is insufficient detail with regard to these features which are important elements to the appearance of the buildings

OUTLINE PLANNING PERMISSION

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 ACCESS, APPEARANCE, LANDSCAPING, LAYOUT 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 – Reserved matters Application

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference 152730 relating to this site and the conditions attached thereto remain in force.

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

5 - Development to accord with approved plans

The development hereby permitted shall be carried out in accordance with the details 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.

6 – Non Standard Condition

This permission relates to the erection of 61 residential dwellings comprising 27 x 1 bedroom and 34 x 2 bedroom units.

The reserved matters shall in substantial conformity with the outline drawings in terms of layout, massing and building heights.

Reason: To avoid doubt as to the scope of the consent hereby granted and to ensure a satisfactory form of development.

7 - Non Standard Condition

The construction of the road shall be carried out in accordance with the approved cross section drawings drawing no 1339-D8511-rev02.

Reason: To ensure the road is constructed in a satisfactory visual manner.

8 - Non Standard Condition

No works shall take place until full details of all ecology mitigation and enhancement works, including an implementation timetable, have been submitted to and agreed, in writing, by the Local Planning Authority. The approved works shall be carried out in accordance with the approved implementation timetable.

Reason: To ensure that there is a suitable ecology proposal to be implemented at the site.

9 – Non Standard Condition

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

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

The submitted draft landscape scheme shall be amended to include moisture loving shrubs and trees forming the principal cover to the lower lying areas of the site below the escarpment.

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.

10 – 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.

11 – Earthworks

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

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

12 – Full Arboricultural Survey

No works shall take place until details including a survey of the development site as existing and, as appropriate, a Land Survey in accordance with BS 5837, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To allow the proper consideration of the impact of the proposed development on the amenity value of the existing site.

13 - 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.

14 - Light Pollution for Major Development

Prior to the first occupation/use of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity) shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

Reason: In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

15 – Materials to be agreed

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

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

16 – Tree and Hedgerow Protection

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

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

17 – Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

18 - Parking Space/Hardstanding Sizes (Open)

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

19 - Parking Space/Hardstanding Sizes (Contained)

Any vehicular hardstanding which is bounded by walls or other construction shall have minimum dimensions of 3.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety.

20 – Cycle Parking TBA

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities 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.

21 – Non Standard Condition

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).

On request of the applicant, a brief will be provided for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation incorporating palaeoenvironmental 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.

22 - Non Standard Condition

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; measures to control noise.

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.

23 - Non Standard Condition

The reserved matters shall include a scheme of enhancements and long term management of the land edged blue. The approved scheme shall be implemented in accordance with an agreed timetable.

Reason: To ensure a satisfactory appearance to this public area.

24 - Non Standard Condition

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.

25 - Non Standard Condition

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.

26 - Non Standard Condition

All residential units shall 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 L_{Amax})

The noise mitigation measures specified in the accompanying acoustic report shall be fully implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter.

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

27 - Contaminated Land Part 1 of 4 (Site Characterisation)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

28 - 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.

29 - 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

30 - 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 27 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 28, 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 29.

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.

31 - *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 27.

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.

32 – Site Levels Plan

No works shall take place until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

33 - Schedule of Types & Colours to be Submitted

No works shall take place until a schedule of all types and colours of external materials to be used has been submitted to and approved, in writing, by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved schedule.

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

34 – Communal Storage Areas

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

35 – Non Standard Condition

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any approved as part of the reserved matters shall be erected.

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

36 - Non Standard Condition

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

- a) A priority junction off Brook Street to provide access to the proposal site as shown in principle on planning application drawing number PB1250/P/04 Rev P2
- b) Upgrade to current Essex County Council specification the two bus stops which would serve the proposal site with the highest frequency of bus services (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) Upgrading of the footway along the western side of Brook Street between the proposal site access and the mini roundabout to the south to a shared footway/cycleway
- d) 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.

37 - Non Standard Condition

Development shall not commence until a scheme for the provision of active electric vehicle charging points and associated electrical infrastructure has been submitted to and approved in writing by the local planning authority. Charging points shall be provided at the rate of 1 charging point per unit (dwelling with dedicated off-road parking) and 1 charging point per 10 spaces (unallocated off-road parking). The electric vehicle charging points shall thereafter be provided in accordance with the approved details.

Reason To mitigate any adverse impact on the Air Quality Management Area.

38 – Non Standard Condition

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding.

39 - Non Standard Condition

No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding.

40 - Non Standard Condition

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:

1. Surface water run-off restricted to the greenfield rate calculated from the impermeable area served by the drainage network. The run-off rate should be a minimum of 1l/s.
2. Attenuation storage for the 1 in 100 inclusive of climate change storm event.
3. An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
4. Demonstration of approval from the relevant authority to connect to a surface water sewer.
5. Further detail as to how the drainage scheme for the existing building on site fits into the wider drainage scheme at the site.
6. A drainage plan highlighting final exceedance and conveyance routes, location and sizing of storage features, discharge rates and outfall/s from the site.

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

41 - Non Standard Condition

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented. The scheme shall be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development.

42 - Non Standard Condition

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.

Reason: 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.

43 - Non Standard Condition

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.

44 - Non Standard Condition

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

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

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

(3) 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.

(4) 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.

(5) Informative on Section 106 Agreements

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

(6) Informative on Land Contamination Advisory Note

PLEASE NOTE that the site is known to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

Tiered risk assessment shall be carried out in accordance with the procedural guidance and UK policy relating to the contaminated land regime.

Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.

The Local Planning Authority will determine the application on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post-development and that the applicant had prior knowledge of the contamination, the applicant is likely to be liable for this under Part IIA of the Environmental Protection Act 1990 and as such become an Appropriate Person. In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.

Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this the applicant or those

acting on his behalf will be liable under Part IIA of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment. During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public, property and the environment are protected against noise, dust, odour and fumes.

The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site.

The Local Planning Authority will provide a Validation Certificate for completion by the applicant/developer. This certificate will not only provide confidence in the site for the local authority in terms of development control and the Part IIA regime but will help discharge conditions applied by the approved inspector and also provide confidence for solicitors and homebuyers in the conveyancing process.

(7) Informative on Air Quality for Outline Permissions

PLEASE NOTE: With regard to air quality assessment, a competent person is defined as someone who has demonstrable experience in complex air quality modelling, using current DEFRA approved software applications, with specific emphasis on urban and traffic-related situations. Their assessment should take full account of the Local Air Quality Management Process including, where relevant, the presence of any Air Quality Management Areas.

(8) Informative on Steep Sloping Sites (Outline)

PLEASE NOTE that if it appears that difficulties may be encountered with levels on this site, it is recommended that the applicant submits details of road gradients with their detailed application.

(9) Informative on Trees Adjacent Highways

PLEASE NOTE that the area(s) directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway. In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

(10) Informative on Retaining Walls Affecting Highways

PLEASE NOTE that in situations where retaining walls or other similar methods are required to support either the Highway or land directly adjacent to the highway, their design, construction or composition (in the case of embankments) should be agreed in advance with the Highway Authority.

(11) Informative on Protected Wildlife

PLEASE NOTE: It is likely that a protected species may be present at the site, which are fully protected by the Wildlife and Countryside Act (1981). Further advice on surveys and compliance with the legislation can be obtained from Natural England, Eastbrook, Shaftesbury Road, Cambridge CB2 8DR, Tel. 0300 060 3787.

(12) Informative on Watercourses

PLEASE NOTE that any culverting, damming, diverting or infilling of a watercourse requires the prior written approval of the Local Authority under the terms of the Public Health Act 1936 and the prior written consent of the Environment Agency under the terms of the Land Drainage Act 1991 and the Water Resources Act 1991. The Environment Agency does not normally grant consent for culverting a watercourse. The term watercourse includes all open, bridged, culverted or piped rivers, streams, ditches, drains, cuts, dykes, sluices and passages through which water flows.

(13) Informative on Surface Water Drainage

PLEASE NOTE that it is the responsibility of the developer to ensure proper provision is made for the surface water drainage of the site to ground, watercourse or surface water sewer. To avoid foul sewer flooding, surface water must not be drained to a foul sewer. The use of sustainable drainage systems (known as SUDS) is very much encouraged. SUDS offer an alternative approach to traditional engineered drainage solutions by detaining run-off on site and releasing it slowly into watercourses or to ground (e.g. dry ditches/swales, detention/attenuation ponds, integrated wetlands). Source control techniques are also increasingly popular, e.g. the use of porous (as opposed to impermeable) paving and 'green roofs' which allow rainwater re-use. These techniques reduce the likelihood of flash flooding, result in greatly improved water quality, are often cheaper and easier to maintain than traditional engineered drainage solutions (i.e. involving seal-trapped gullies and petrol interceptors), and can provide wildlife habitats.

(14) Essex County Council Informatives

For the outline element of the planning application, in making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only

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

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time.

(15) Informative on Archaeology:

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

(16) Landscape Informative

Note: Detailed landscape proposals, if/when submitted in order to discharge these conditions, should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ 'Guidance Notes LIS/C'.

(17) Network Rail Informative

The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

Comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

Future maintenance

The development must ensure that any future maintenance can be conducted solely on the applicant's land. The applicant must ensure that any construction and any subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land and air-space, and therefore all/any building should be situated at least 2 metres (3m for overhead lines and third rail) from Network Rail's boundary. The reason for the 2m (3m for overhead lines and third rail) stand off requirement is to allow for construction and future maintenance of a building and without requirement for access to the operational railway environment which may not necessarily be granted or if granted subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant. Any less than 2m (3m for overhead lines and third rail) and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works. The applicant / resident would need to receive approval for such works from the Network Rail Asset Protection Engineer, the applicant / resident would need to submit the request at least 20 weeks before any works were due to commence on site and they would be liable for all costs (e.g. all possession costs, all site safety costs, all asset protection presence costs). However, Network Rail is not required to grant permission for any third party access to its land. No structure/building should be built hard-against Network Rail's boundary as in this case there is an even higher probability of access to Network Rail land being required to undertake any construction / maintenance works. Equally any structure/building erected hard against the boundary with Network Rail will impact adversely upon our maintenance teams' ability to maintain our boundary fencing and boundary treatments.

Drainage

No Storm/surface water or effluent should be discharged from the site or operations on the site into Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Proper provision must be made to accept and continue drainage discharging from Network Rail's property; full details to be submitted for approval to the Network Rail Asset Protection Engineer. Suitable foul drainage must be provided separate from Network Rail's existing drainage. Soakaways, as a means of storm/surface water disposal must not be constructed near/within 10 – 20 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property. After the completion and occupation of the development, any new or exacerbated problems attributable to the new development shall be investigated and remedied at the applicants' expense.

Plant & Materials

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no plant or materials are capable of falling within 3.0m of the boundary with Network Rail.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant/applicant's contractor must consider if they can undertake the works and associated scaffold/access for working at height within the footprint of their property boundary.

Piling

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Fencing

In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.

Noise and Vibration

The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which holds relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Permitted: Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaegus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebbrina"

Not Permitted: Alder (*Alnus Glutinosa*), Aspen – Poplar (*Populus*), Beech (*Fagus Sylvatica*), Wild Cherry (*Prunus Avium*), Hornbeam (*Carpinus Betulus*), Small-leaved Lime (*Tilia Cordata*), Oak (*Quercus*), Willows (*Salix Willow*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), London Plane (*Platanus Hispanica*).

Vehicle Incursion

Where a proposal calls for hard standing area / parking of vehicles area near the boundary with the operational railway, Network Rail would recommend the installation of a highways approved vehicle incursion barrier or high kerbs to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing. As the site is adjacent to Network Rail's operational railway infrastructure, Network Rail strongly recommends the developer contacts AssetProtectionAnglia@networkrail.co.uk prior to any works commencing on site, and also to agree an Asset Protection Agreement with us to enable approval of detailed works. More information can also be obtained from our website at www.networkrail.co.uk/aspx/1538.aspx.

20.0 Positivity Statement

- 20.1 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.

7.2 Case Officer: Daniel Cameron

Due Date: 27/05/2016

MINOR

Site: Footbridge, Balkerne Hill, Colchester, Essex

Application No: 160192

Date Received: 16 February 2016

Agent: Mr Mauricio Jardim

Applicant: Mr Paul Mclean, Essex County Council

Development: Remove the existing 1.8m wide footbridge and replace with a similar style bridge 3.0m wide. This is to provide a shared facility for both cyclists and pedestrians to have access via this bridge into Colchester Town Centre.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as it has been subject to the Member call- in procedure. Former Councillor Frame requested that the application be discussed by Planning Committee as he was concerned that the width of the proposed bridge will lead to health and safety issues.

2.0 Synopsis

- 2.1 The key issues explored below are:
- The impact of the bridge works on the nearby scheduled ancient monument, grade I and grade II listed buildings and conservation area; and
 - Health and safety concerns raised by former Councillor Frame.

3.0 Site Description and Context

- 3.1 The footbridge is located at the western fringe of Colchester Town Centre and provides an east-west walking link over the A134 Westway. To the immediate east of the footbridge lies the 'Hole in the Wall' Public House with the Mercury Theatre building and Balkerne Gardens residential and sheltered accommodation development directly behind the Roman walls and Balkerne gate. To the west lies St Marys multi-storey car park behind which lies terraced residential housing along Crowhurst Road. To the immediate north-west of the footbridge lies the St. Marys Fields residential development.

4.0 Description of the Proposal

- 4.1 The works proposed are the removal of the existing 1.8m wide footbridge and its replacement with a 3m wide shared use pedestrian and cycle bridge. In order to facilitate a wider bridge some ground works will be required for the extension of the piers which support the bridge and anchor it in place.

5.0 Land Use Allocation

- 5.1 The area directly to the east of the existing footbridge is allocated as cultural facilities noting the proximity of the scheduled ancient monument, grade I and II listed structures and location of the Mercury Theatre. The area directly to the west is allocated as car parking.

6.0 Relevant Planning History

- 6.1 Following the installation of the footbridge in 1977, there is no relevant planning history associated with the existing footbridge.

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:

UR2 - Built Design and Character
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
ENV1 - Environment

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

DP1 Design and Amenity
DP14 Historic Environment Assets
DP17 Accessibility and Access

- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Cycling Delivery Strategy (Adopted January 2012)

8.0 Consultations

8.1 Consultation on the application was sought from:

- Essex Highways;
- Colchester Civic Society;
- Historic England; and
- The Ramblers Association.

8.2 Colchester Civic Society and The Ramblers Association did not respond to the consultation request.

8.3 Essex Highways had no objection to the proposal provided that the following condition was imposed: *No works shall be commenced until such time as the full nature of any existing highway right has been ascertained and prior to the way being open for public access any due legal process required to amend the aforesaid right or create the new cycle track should be confirmed.*

8.4 Historic England also raised no objection to the proposed works. They noted that a separate application had been submitted to the Secretary of State for scheduled ancient monument consent. They felt that while the works proposed had the potential to cause harm to buried archaeological remains in the vicinity of the site, this potential harm was slight and the proposed written scheme of archaeological investigation proposed by the applicant was sufficient to mitigate it. Historic England concluded that the proposed works met the tests prescribed by the NPPF in relation to designated heritage assets.

8.5 Further, internal consultation was sought from:

- Archaeological Advisor;
- Environmental Protection; and
- Transport Policy

8.6 Environmental Protection offered no comments on the application.

8.7 Comments from the Archaeological Advisor concurred with those made by Historic England provided that the submitted written scheme of archaeological investigation is secured by condition.

8.8 Transport Policy commented that when the A134 Westway was constructed it created a barrier to movement from the west of Colchester to the Town Centre. There are three crossing points for pedestrians but none that cyclists can legally use. Their comments conclude that addressing this issue is consistent with existing adopted policy to promote sustainable modes of transport. It is noted that this will also have positive impacts for air quality within the Town Centre as well as providing an improved facility for pedestrians using the proposed shared use bridge.

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

9.0 Parish Council Response

9.1 The site lies within an unparished town centre ward.

10.0 Representations

- 10.1 To date eighteen public representations have been received regarding the application. Six have been received in support of the application. Ten have objected to the application. The remainder have been mixed in their response or have only made general comments.
- 10.2 A summary of the issues raised by the representations is given below:
- Width of the proposed bridge should be increased to at least 4m;
 - Bridge should be constructed with non-slip materials underfoot;
 - Lighting should be provided on the bridge;
 - Bridge should not be a shared use facility;
 - Existing bridge is adequate for the purpose;
 - Project represents a waste of funding;
 - Work should be timed to reduce its impact;
 - A separate bridge should be provided for cyclists;
 - No separate bridge should be provided for cyclists;
 - Essex County Council consultation is inadequate;
 - Guard rails on the bridge are inadequate; and
 - Proposed road closures and diversions are too severe.
- 10.3 Of these issues only those relating to the health and safety of the users of the bridge are considered to be material for the purposes of planning. These will be addressed within the body of the report to follow.
- 10.4 It should be noted that Sustrans, Colchester Cycle Campaign, Colchester Travel Plan Club and the Mercury Theatre have all responded in support of the application.

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

11.0 Parking Provision

- 11.1 N/A.

12.0 Open Space Provisions

- 12.1 N/A.

13.0 Air Quality

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

14.0 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Policy Background

- 15.1 Given the nature of this application as well as its location, the two most important planning policy issues to consider are the principle of the development in light of Colchester Borough Council's transportation policies and whether the impacts of the application would be harmful to the heritage assets within the area.
- 15.2 Paragraph 30 of the NPPF states that '...encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion...'. Paragraph 35 goes further stating that '...plans should protect and exploit opportunities for the use of sustainable modes of transport...'.
- 15.3 Further policy support is given by Core Strategy policies PR2, TA1 and TA2, as well as Development Policy DP17. Collectively these policies commit the Council to the improvement of the street environment, to change travel behaviour and improve accessibility, and to promote both walking and cycling as '...integral and highly sustainable means of transport...'.
- 15.4 The adopted Cycling Delivery Strategy covers investment in infrastructure including the filling of gaps within the existing cycling network to provide continuous routes and the upgrading of existing routes.
- 15.5 With regards to designated heritage assets the NPPF clearly assigns great weight to their conservation stating that '...substantial harm to or loss...should be wholly exceptional...'. Paragraph 134 states where any harm would be less than substantial; it should be weighed against the public benefits of the application of the proposed works.
- 15.6 Core Strategy policies UR2 and ENV1 as well as Development Policy DP14 are also highly relevant. They commit the Council to the protection and enhancement of Colchester's unique history and heritage.

Principle of Development

- 15.7 The proposed works are intended to link existing cycle routes and provide a safer environment for cyclists. It is also proposed to separate the walking and cycle paths, to ensure that the pedestrian environment is protected. Further it would create a legal crossing point over the A134 Westway which could be utilised by cyclists. At present there are none.
- 15.8 The scheme is entirely consistent with both national and local transport policy to promote sustainable transport and encourage modal shift. This would also be of benefit to the wider aims of the Council to help address air quality issues within the Town Centre.

- 15.9 With regards to the impact of the works upon the nearby heritage assets, it is not considered that the removal of the existing bridge and its replacement with one broadly similar in terms of design constitutes harm to the setting of either of the grade I or grade II listed buildings, nor would it unduly impact upon the character of the conservation area. In this regard it is clear that the proposed works only constitute slight harm at very worst.
- 15.10 As part of the application a written scheme of archaeological investigation was submitted by the applicant and appraised by both Historic England and Colchester Borough Council's Archaeological Advisor who both concluded that the report was sound and represented adequate mitigation of its impacts. Historic England felt that this was sufficient to satisfy the tests laid out within the NPPF, namely that the benefits of the written scheme overcame any potential slight harm. The carrying out of the scheme will be secured by condition.
- 15.11 Members should note that due to the proximity of the Balcerne Gate and roman walls both of which are designated as Scheduled Ancient Monuments, separate consent is required from the Secretary of State for the works proposed. It is understood that the applicant is currently applying for this consent.

Health and Safety Issues

- 15.12 The proposed design of the bridge is similar to that of the one already in place on site with the notable exception that its width has been increased so that it now measures 3m across. The structure is enclosed by metal railings with handrail along its edges.
- 15.13 The material public representations received centre on the possible conflicts between cyclists and pedestrians utilising the proposed new bridge. Suggested solutions include the widening of the proposed bridge to 4m or the erection of a separate cyclist only bridge.
- 15.14 These issues were discussed with the applicant during the course of the application. They have responded that a bridge wider than 3m would entail far more engineering complexity, with substantially more work would be required to construct the supporting piers of the bridge. Further, they comment that a wider bridge could potentially encourage misuse as it would be wide enough to accommodate a car. Far greater safety equipment would therefore be required to prevent this occurring, while a narrower span would accomplish this naturally.
- 15.15 ECC also commented that a 3m wide structure would be enough to accommodate the number of cyclists estimated to make use of the bridge, while helping to manage the speed which cyclists are able to cross the bridge at. They note that a wider bridge leads to encouragement of greater speed, which in turn may lead to greater conflict.
- 15.16 The safety audit carried out on the proposed bridge structure raised no issues on either its width or the height of the proposed handrails. Further, appropriate signage for the shared use nature of the bridge will be provided as part of the design. It has been conditioned that this is installed prior to the first beneficial use of the bridge.

Impact on Neighbouring Properties

- 15.17 In terms of outlook from the neighbouring properties the design of the proposed bridge will have very little impact, other than the fact it is wider than the bridge currently in place. The greatest imposition on the neighbouring properties is the build programme for the replacement bridge during which the existing bridge will be removed for a period of two months.
- 15.18 During this time alternative crossing points would have to be used by any pedestrians or cyclists wishing to cross the A134 Westway. The closest crossing is the signal controlled crossing at Crouch Street. However, the subway at Sheepen Road could also be utilised.
- 15.19 Given the close proximity of the alternate routes, the inconvenience of the works is not considered to be an undue hardship upon the neighbouring properties.
- 15.20 Road closures during the proposed works are scheduled so that the majority of the larger scale road closures take place at night. The only notable closure is that of the slip road which connects St. Marys car park with the A134 Westway, with motorists instead being diverted into the one-way system along Rawstorne Road.

16.0 Conclusion

- 16.1 The application runs parallel to existing national and adopted local policy, will provide improved facilities for both pedestrian and cyclist users of this popular east-west route to the Town Centre. The nature of the development makes it necessary that some disruption will occur during the construction works. However, this is not held to be of sufficient weight to outweigh the benefits of the improved facilities which will be provided as part of this application.
- 16.2 An adequate health and safety audit has been completed on the proposed design of the bridge and has not raised any comments or concerns over either the width of the new bridge or the height of its handrails. A wider structure should reduce any current conflict between users of the bridge, although it should be noted that it is impossible to remove this completely.
- 16.3 The impact of the bridge upon the designated heritage assets is slight at worst and any undue impacts upon underlying archaeology in the area has been suitably mitigated through a written scheme of investigation which has been endorsed by both Historic England and Colchester Borough Council's Archaeological Advisor.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions;

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers BR0900-01- 0401; BR0900-01-0202; and BR0900-01-0203.

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

3 - Materials to be Agreed

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

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

4 - Surfacing Material to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

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

5 - Non-Standard Condition/Reason

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with the Written Scheme of Investigation that has been submitted with the application. The site investigation shall 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 Colchester Borough Council's Core Strategy (2008), revised July 2014.

6 - Non-Standard Condition/Reason

Prior to the first beneficial use of the development hereby approved new instructional and directional signage shall be erected within its vicinity to inform users of its change of status to a shared surface facility.

Reason: To ensure that the general public is made aware of the change in status of the bridge.

19.0 Informatives

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

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

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

(3) **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.

(4) Non Standard Informative

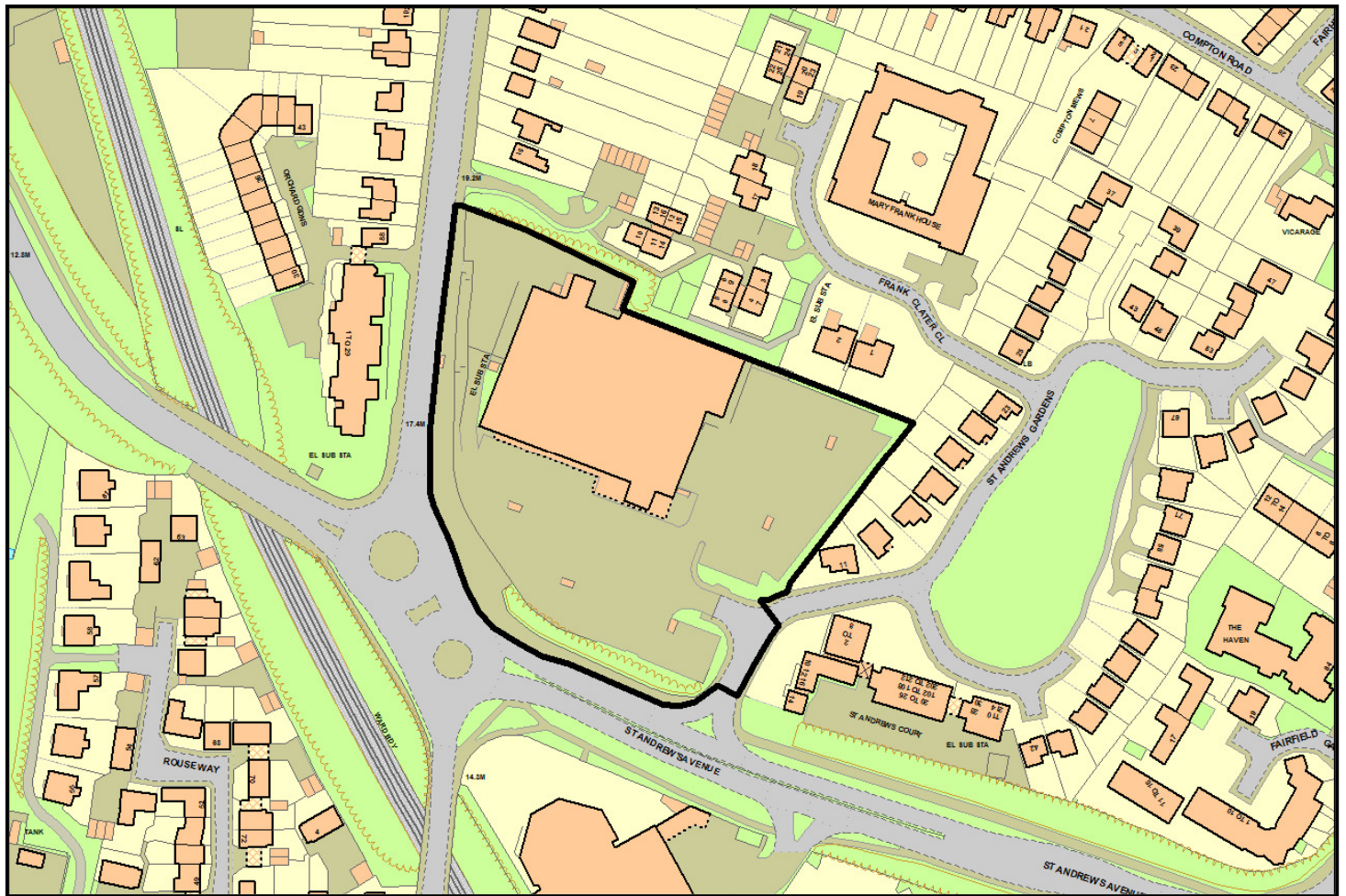
All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

(5) Non Standard Informative

No works shall be commenced until such time as the full nature of any existing highway right has been ascertained and prior to the way being open for public access any due legal process required to amend the aforesaid right or create the new cycle track should be confirmed.

20.0 Positivity Statement

20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 160687

Location: Waitrose Foodstore, St Andrews Avenue, Colchester, Essex, CO4 3BE

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

7.3 Case Officer: James Ryan

Due Date: 22/06/2016

MAJOR

Site: Waitrose Foodstore, St Andrews Avenue, Colchester, Essex, CO4 3BE

Application No: 160687

Date Received: 23 March 2016

Agent: Mr Tim Williams, Firstplan Ltd

Applicant: Waitrose

Development: Variation of condition 15 (Permitted delivery times) on planning permission 080900. (Use of existing retail premises as a food store including ancillary coffee shop and customer toilets together with works of refurbishment and associated alterations, reconfiguration of car park and service arrangements, reconstruction of retaining wall and erection of new delivery bay, entrance lobby and mezzanine)

Ward: St Annes & St Johns

Summary of Recommendation: Conditional Approval

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 received an objection.

2.0 Synopsis

- 2.1 The key issues explored below are the impact on residential amenity of the change in delivery hours. This is held to be acceptable and the application is recommended for approval.

3.0 Site Description and Context

- 3.1 Colchester Waitrose is located to the north of St Andrews Avenue. Ipswich Road is located to the west and St Andrews Gardens is located to the east; both of which are residential in character. The store is located via an access road off St Andrews Gardens. The car park is a broadly L-shaped area which wraps around the store to the east and south. The loading bay is located towards the rear to the north of the site and is enclosed by a three-metre high acoustic fence to the north and east. The nearest noise-sensitive receptors are the flats, two-storey houses and bungalows located on Frank Clater Close; however these properties are screened from the delivery yard by the three-metre high acoustic fence. The store sits in an elevated position with the car park and store significantly higher than St Andrews Avenue.

4.0 Description of the Proposal

4.1 Condition 15 of 080900 currently reads:

“Deliveries of goods to the store shall not be permitted outside the following times:
Monday to Saturday 06.00 - 22.00 hours
Sunday and Bank Holidays - 10.00 - 16.00 hours”.

The applicants wish the condition to be varied to state:

“Deliveries of goods to the store shall not be permitted outside the following times:
Monday to Saturday 06.00 – 00.00 hours
Sunday and Bank Holidays – 09.00 – 18.00 hours”

5.0 Land Use Allocation

5.1 The site has a retail use.

6.0 Relevant Planning History

6.1 The most relevant application is the original consent for the Waitrose foodstore which was granted planning permission in 2008. This was application 080900 and it granted consent for “Use of existing retail premises as a food store including ancillary coffee shop and customer toilets together with works of refurbishment and associated alterations, reconfiguration of car park and service arrangements, reconstruction of retaining wall and erection of new delivery bay, entrance lobby and mezzanine”.

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
CE2c - Local Centres
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP7 Local Centres and Individual Shops

- 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:

N/A

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

N/A

8.0 Consultations

- 8.1 Environmental Protection: Environmental Protection has no objections to the variation of condition 15 for planning permission 080900. Please ensure the document "Quiet Delivery Procedure" is implemented by all delivery staff and drivers.
- 8.2 Highways: I have had a look at the details of this application and the Highway Authority does not wish to submit a formal recommendation.

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

- 9.1.1 The area is non-parished.

10.0 Representations

- 10.1 Two representations were received from residents located on the other side of the Ipswich Road to the store. In summary these objected to the scheme on the following grounds:
- It would appear from the plan that the existing boundary, retaining wall on the Ipswich road side, is to be extended outwards right up to the edge of the road and continuing in a similar manner around the corner.
Officer Response – This is not the case – no physical changes are proposed.
 - Loss of pedestrian walkway that abruptly comes to a halt at entrance to flats / homes.
Officer Response – This is not the case.
 - Loss of traffic lights and crossing.
Officer Response – This is not the case.
 - Loss of bus stop.
Officer Response – This is not the case.
 - Loss of disability entrance walk way to occupants of residential retirement flats opposite.
 - Increased noise levels due to increased number of deliveries.
Officer Response – This is not the case – although the scheme does propose changes to delivery hours it is not to facilitate more deliveries.

- Increase in existing traffic noise due to traffic noise rebounding off of new retaining wall (if as plan implies, now to be level with curb side).
Officer Response – This is not the case, no new retaining wall is proposed.
- Potential unwelcomed flood lighting from lorry headlights, especially late on in evenings when street lights are off. All due to closer proximity. Will shine through slatted fencing (if constructed as now). Equally a hazard / blind spot to oncoming traffic in both directions. Prior to traffic lights this used to be an accident prone area.
Officer Response – This is not the case – the walls/fencing are not being moved.
- It is not clear from the plans as to whether or not there is to be any changes to existing highways (Ipswich road) layout.
Officer Response – no changes are proposed.
- Close proximity of new retaining wall will impact and reduce existing day light aperture to all properties immediately opposite.
Officer Response – no changes are proposed to the wall.

- 10.2 It appears that the objectors are under the impression that the Waitrose Foodstore is changing physically in some way. This is not the case. This application proposes no physical works. This scheme is simply for a change in delivery times. The impact of the change in delivery times will be assessed in the main body of the 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 This application has no impact on the on-site parking provision.

12.0 Open Space Provisions

- 12.1 This application has not impact on open space provision.

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 no Planning Obligations should be sought in this instance.

15.0 Report

The Proposal

- 15.1 This proposal looks to extend the time that Waitrose can accept deliveries by two hours in the evening Monday to Saturday and by an extra hour in the morning and two hours in the evening on Sundays and Bank Holidays. All other conditions will remain in place. This is because Waitrose are finding it difficult to work with the current

restriction – the planning statement notes that “at present the current restrictions are fettering the efficiency of the store’s operational management and preventing it from being fully stocked in time for store opening to the detriment of the shopping experience of the first Waitrose customers of the day”. The planning statement noted that this change will not increase the number of deliveries – it will simply allow the more efficient running of the store.

- 15.2 The NPPF at Paragraphs 19 and 21 details the importance that the government places on promoting economic development. Paragraph 19 states:

The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.”

- 15.3 Paragraph 21 stipulates that investment by retailers should:

“not be overburdened by the combined requirements of planning policy expectations.”

Therefore it is officers’ opinion that the variation applied for is acceptable in principle.

Impact on Amenity

- 15.4 The key issue to explore is the impact of the extended delivery hours on residential neighbours.
- 15.5 A noise assessment was commissioned by the applicants prior to submission. The assessment concluded that *‘no time restrictions should be imposed on staggered goods deliveries by articulated lorries in full accordance with national noise policy.’* However it suggested that if unrestricted deliveries were granted that staggered deliveries by large articulated lorries to *‘say 5/6 during a 24 hour period and required adherence to a delivery noise management plan for night time deliveries’* would be appropriate.
- 15.6 The Planning Statement sets out how Waitrose is extremely keen to maintain good neighbourly relations with all surrounding occupiers and therefore they have only requested a limited extension to the delivery window rather than seeking unrestricted deliveries which the Noise Report supports.
- 15.7 The proposal, including the supporting documentation has been carefully assessed by the Environmental Protection Team. They do not consider that the extended hours will cause material harm to the neighbours. They have confirmed that they have not received any complaints regarding Waitrose.

Mitigation

15.8 Condition 16 of 080900 (which is not being varied) requires the following:

On Sundays and Bank Holidays and before 08.00 hours and after 20.00 hours on weekdays the following shall apply to all deliveries to the store:-

Drivers to switch off reversing alarms.

Chillers to be switched off as soon as practicable.

Drivers to switch off radios prior to driving into the service area.

15.9 Along with the other conditions attached to 080900 this will be carried over to any new consent. In addition to this Waitrose has provided a Quiet Delivery Procedure – Delivery Management Plan document which sets out measures that will be taken to ensure that noise and disturbance is reduced to the bare minimum. It is therefore suggested that compliance with this is conditioned on any new consent. For clarity the points that Waitrose have stated they will comply with are set out below:

- **Drivers contact the store prior to arrival to ensure service yard gates are open, therefore enabling lorries to enter the service yard without stopping and thus minimising the time taken to pass nearby residential properties. Similarly, gates are left open during unloading activities such that lorries do not idle at the gates on departure;**
- **Deliveries are scheduled and agreed with the store to reduce to a minimum the time taken to deliver the goods and therefore limit potential for noise impact;**
- **Delivery doors, gates and shutters are well maintained to minimise noise when opening / closing;**
- **Lorries reverse up to the service yard doors such that loading/unloading activity occurs inside the store building;**
- **Lorry engine and refrigeration is turned off as soon as practicable and they are not left running during deliveries;**
- **Padlock chains for service yard gates are covered in plastic to reduce clanking noise;**
- **Loading bay is kept clear of obstructions to enable lorries to manoeuvre easily;**
- **An isolating mat is placed under the tail/scissor lift to reduce the noise of the plates on the pavement or the loading bay;**
- **The radio in the lorry cabin is switched off / muted before arrival;**
- **The branch radios are switched off / muted before the service yard doors are opened;**

- **All employees speak in hushed voices;**
- **All employees avoid going over drains and loose paving when moving cages.**
- **There is a general requirement for all drivers to minimise noise at all times;**
- **Delivery vehicles are driven around the site in a considerate manner, e.g. speed being kept to a practical minimum and all items properly fastened in order to ensure rattles and bangs are kept to a minimum;**
- **If a complaint arises, Waitrose employees will follow a set of guidelines which set out how to deal with complaints quickly and effectively and to address any issues raised.**

15.10 Officers consider that this management plan is reasonable and workable. It will enable any increase in harm to be sufficiently mitigated. It is therefore suggested that a new condition is imposed requiring compliance with it.

16.0 Conclusion

16.1 This scheme is held to comply with economic growth sentiments of the NPPF, PPG and Development Plan. Due to the mitigation plan proposed it is not held to cause demonstrable harm to neighbours. An approval is therefore recommended.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Conditions

1 - *Removal/Variation of Condition(s) Approval

With the exception of condition 15 of Planning Permission 080900 which is hereby varied, the requirements of all other conditions imposed upon planning permission 080900 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

2 - Non-Standard Condition/Reason

Deliveries of goods to the store shall not be permitted outside the following times:

Monday to Saturday 06.00 - 00.00 hours.

Sunday and Bank Holidays 09.00 - 18.00 hours.

Reason: This is the basis on which this application was made. This condition is required in the interests of preventing noise and disturbance to the residents of neighbouring dwellings.

3 - Non-Standard Condition/Reason

No deliveries shall take place apart from in complete accordance with the submitted Quiet Delivery Procedure - Delivery Management Plan document.

Reason: This Quiet Delivery Procedure - Delivery Management Plan which has been submitted as part of this application is essential to ensure that the deliveries to the store do not cause demonstrable harm to neighbours.

19.0 Positivity Statement

- 19.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

7.4 Case Officer: Mark Russell

MAJOR

Site: Clarendon Way, Colchester

Application No: 160379

Date Received: 16 February 2016

Agent: Ms Samantha Jefferies, Arcady Architects Ltd

Applicant: Modena Homes Limited

Development: Application to remove/vary condition 2 & 17 of planning permission 145356. (Erection of 18 residential apartments, access and car parking)

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application and an objection has been received.
- 1.2 This application was deferred by Members at the Committee of 28th April for the following reasons:

“For further discussions with the applicant with a view to securing a more suitable solution to deliver parking provision in accordance with adopted dimensions and standards, a landscape scheme to include more suitable replacement planting in all locations where trees had been removed and consideration of the provision of charging points for low emission vehicles and a report on the outcome of these discussions be submitted to a future meeting of the Committee.”

- 1.3 The following report is amended from that of 28th April. Some paragraphs have been removed as they are out of date, **new paragraphs are in bold.**

2.0 Synopsis

- 2.1 The key issues explored below are the proposed amendments to Planning permission 145356 – namely amended drawings showing a new planting scheme to replace trees which have been removed and slightly smaller parking spaces.
- 2.2 **Following negotiations, an improved planting scheme and improved parking provision have been secured (more details below). However, it is not considered reasonable to insist upon the provision of charging points as this Authority does not have a Policy to support this.**

3.0 Site Description and Context

- 3.1 The site is on the northern side of Clarendon Way, to the north of North Station Road and about 500 metres from the station itself and about 1.2km from Colchester town centre.
- 3.2 The site measures approximately 0.2 ha and is rectangular in shape (roughly 75 metres by 30 metres). Whilst the site is quite flat, there is a change in level from north to south of approximately three metres, which is retained with a wall.
- 3.3 To the south of the site is a public footpath, beyond this is a residential development of flats of about 3.5 storeys. To the north are Childsplay Adventure Land and its car park, to the west is a private gym.
- 3.4 The eastern boundary is separated from employment buildings located in Mason Road by a public footpath (PROW 127_53) which is fenced off from the site.
- 3.5 To the south are the flatted residential developments of Bloyes Mews and Gilbert Court.
- 3.6 The site is currently vacant, having been cleared of tree and scrub late last year. It is located within an employment zone, but where permission has previously been granted for a retirement home and more recently C3 residential accommodation.

4.0 Description of the Proposal

- 4.1 The proposal, in the form of a Section 73 (Variation of Condition) application, covers two conditions: Condition 2 (drawing numbers) and 17 (size of parking spaces), and its **initial objectives were** i) to achieve a landscaping/planting scheme to compensate for lost trees on eastern edge of the site and ii) to achieve a slight relaxation on parking standards to allow the bays to be the absolute minimum standard (2.5 x 5 metres as opposed to 2.9 x 5.5 metres). iii) Also proposed are extra windows to aid ventilation and iv) A re-ordering of the ground floor to facilitate use of the cycle and bin-stores.
- 4.2 **It is explained below that an enhanced landscaping scheme has now been secured and the parking spaces, with one small exception, now comply with the standards.**
- 4.3 These matters are considered in more detail in the main Report section below.

5.0 Land Use Allocation

- 5.1 Employment land, but with extant permission to build a residential scheme.

6.0 Relevant Planning History

- 6.1 O/COL/03/1777 – Outline application for residential development comprising of 24 No 2 bedroom flats - Approve 9/09/2006

- 6.2 F/COL/04/1705 - Erection of 24 residential apartment s, car parking and landscaping. Refuse - 22/11/2004
- 6.3 090654 - 29/06/2009 - Reserved Matters - Approval of reserved matters for 24no.2 bedroom- 4 persons apartments. Approve Conditional - 28/09/2009
- 6.4 121252 – Outline 60 Bed Care Home over three and a half storeys. Approve conditional 27th March 2013.
- 6.5 145356 - Erection of 18 Residential Apartments, Access and Car Parking. Approve 13th March 2015.

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
SD3 - Community Facilities
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA5 - Parking

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

- 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:

n/a

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

Vehicle Parking Standards
Sustainable Construction
Extending Your House?
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 Highway Authority: As CBC are the parking Authority if CBC are minded to allow the smaller parking space dimensions this Authority would be happy for the condition to be removed/varied.
- 8.2 Natural England: No objection.
- 8.3 Landscape Planner: I am satisfied with the landscape proposals submitted under drawing no.LSDP 11334.01 rev B lodged on 18/02/16. I would therefore have no objection to the discharge of the relevant landscape conditions or removal/variation of condition 2 & 17 of planning permission 145356 (as applicable).

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 n/a

10.0 Representations

For the initial proposal the following were received:

- 10.1 A letter from residents of Bloyes Mews objecting, stating that their kitchen/lounge/dining room windows look directly out onto the proposed development. Adding:

The part of proposed Building B containing flats 3, 8, 13 and 18:-

- 1) will be far too close to Bloyes Mews and will be separated from it only by a footpath;
- 2) will overshadow Bloyes Mews;
- 3) will severely restrict the light to the Bloyes Mews flats; and
- 4) will deny the Bloyes Mews flats of privacy, as there will be 3 windows in each of the 4 flats in this part of the proposed development - all looking directly into the kitchen/lounge/diner windows of the Bloyes Mews flats.

They further added that, although some replacement trees were shown, there were none at the proposed Building B containing flats 3, 8, 13 and 18 facing Bloyes Mews.

- 10.2 A representation was also received from Colchester Cycle Campaign: "Please ensure that the cycle parking is still in accordance with the Essex Parking Standards."

- 10.3 As a matter of courtesy, neighbouring properties were re-consulted with the amended drawings. The deadline for comment was due after this report went to press. Any comments will appear on the amendment sheet.**

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

11.0 Parking Provision

- 11.1 24 spaces were originally proposed** (as per previous permission 145356), **these were originally tabled to be smaller. The applicant is now applying for 25 spaces, all bar four comply with space standards and these only just fall short of the required length by a few centimetres** (see Report section for more details).

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a "Major" application. Its predecessor 145356 was considered by the Development Team. It was considered that the usual Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. Following a viability appraisal, it was decided that the Obligations that would be agreed as part of any planning permission should be:

- £5,000 towards footpath/cycleway improvements in line with the previous permission on this site for a care home.

- 14.2 This sum shall be carried forward to this application, with the s.106 being varied to refer to the new Planning application reference.

15.0 Report

- 15.1 Members are reminded that the proposal at hand has substantively been permitted already, as have other buildings of a similar size on this site. The only issues for consideration here are those matters which are applied for, namely:

- i) Planting, ii) Parking space sizes, iii) Extra windows, iv) Bin/Cycle-store alterations

Planting

- 15.2 Members may recall that Planning permission 145356 showed a line of trees to be retained along the southern aspect of the site across the road from Bloyes Mews. However, these have now been removed. As development had not commenced, it cannot be held that this was an unauthorized act. In fact, the trees could have been removed at any time before, during or after permission was granted.
- 15.3 Looking up Clarendon Way from the west there is a clearly established planting belt, including some quite mature trees, all the way up to the site, with the only break (apart from road accesses) being in front of the gym building. The belt used to continue in front of the application site and towards the footpath which leads to the railway line. It contained Field Maple and Hawthorn and a large Lime tree, all of this has been removed.
- 15.4 That which has been lost cannot be replicated. However, a scheme had been proposed which offered a mix of hornbeam hedge and five field maple trees to the front (south).
- 15.5 **At the previous Committee, Members were advised that the applicant had professed difficulties re-instating the full line of trees, particularly in front of the eastern block at the point in proximity to Bloyes Mews, from where the objection had been received. In this position, the applicant was proposing two types of deciduous shrubs (both varieties of Dogwood).**
- 15.6 **Members were not convinced by this proposal and asked for it to be reconsidered. In discussion with your Officer, the applicant has offered an *Amelanchier arborea* "Robin Hill" tree at the point where the Dogwood had been proposed. The Robin Hill, otherwise known as the Juneberry, has a bronze foliage and reaches eight metres in height with a spread of five metres.**
- 15.7 **Further, in response to Members' concerns, a *Tilia petiolaris* (Weeping Silver Lime) is being offered on the street corner (instead of a maple) so that a lime tree is included to replace the lime that was felled.**
- 15.8 **What was not made clear in the earlier Committee report is that these elements constitute only part of the proposed planting. In addition to the afore-mentioned Weeping Silver Lime, Robin Hill and four Maples, a further Maple is proposed on the southern aspect. Along the footpath to the east five *Tilia Cordata* (*Small-leaved Lime*) are proposed. Finally, seven *Acer platanoides* '*Drummondii*' (Norway Maple) are tabled, bringing the total of trees to twenty.**
- 15.9 **In addition to this, extensive shrub planting is proposed. In total the site stands to be significantly more landscaped than was the case before the previous trees were felled.**

Parking

- 15.10 The approved permission had a condition requiring the parking bays to measure 2.9 x 5.5 metres (as per the standards). However, the drawings only showed smaller bays (2.5 x 5 metres). **When the application at hand came to Committee in April, it was explained that**, due to the site constraints it was not possible to have 24 spaces at the larger size and therefore it was requested that the smaller size be used. This size is tolerated by the standards “in exceptional circumstances.” It is not clear exactly what this means, but your Officer believed that, in this instance, it would be expedient to accept the lower size. **It was believed at the time that** the alternative would be to lose four spaces and have 20 at the larger size. **For clarification, the spaces were not as small as was being suggested (2.5 x 5 metres), it was just that this “minimum” was being quoted.**
- 15.11 **Following concerns raised by Members, the applicant discussed alternatives with your Officer and has rationalised the space better to allow for parking spaces which meet the accepted standards. This has been achieved by reducing the size of the proposed storage areas (whilst still maintaining cycle parking and refuse storage) and double-banking two spaces (these will be allocated to two of the three bedroomed flats).**
- 15.12 **In so doing, an extra space has now been created so that there is now one space per two-bedroomed flat, two per three-bedder and two visitor spaces. This is in excess of what was already allowed under the previous permission 145356 and the residential permission O/COL/03/1777/090654.**
- 15.13 **As mentioned above, four of these spaces are marginally smaller than the standards; three of them by ten centimetres, or about three inches, one by half a metre. The latter can be tolerated as it is a double-banked space where the same flat owner will be responsible for both spaces and can thus park the vehicles closer together. The above-mentioned three spaces are also 15cm narrower than the rest. Given that twenty parking spaces are to standard and four fail very marginally, it is held to be acceptable.**

Other Matters

- 15.14 The other points raised by the objector are noted. However, the proposal at hand is identical to that already permitted at 145356 in terms of positioning and clear windows. Therefore the other points raised, relating to overshadowing, light and privacy are not for consideration. For the record, however, these issues were considered to be satisfied at the time of the last application.
- 15.15 There are no new windows proposed facing Bloyes Mews. On the next section along to the left, there are two high level windows proposed which are described as having their position “altered slightly”, these are obscured to en-suite bathrooms and in any case blind to the nearest part of Bloyes Mews because of the built form. Extra windows are proposed to the rear which have no bearing on residential amenity. Roof windows are shown to be slightly repositioned on the element closest to Bloyes Mews.
- 15.16 The re-ordering of the lower ground floor causes no major issues, allowing for ample waste storage and cycle parking.

15.17 As mentioned at Committee last time, the proposal drawings show two incidences of potential lateral overlooking from units 8 and 13 of the proposal. Whilst this is not an acute issue it can be easily overcome by drawing the balconies on those units back to Juliets. The applicant has agreed to this.

16.0 Conclusion

16.1 In conclusion, the issue of lost trees has been comprehensively dealt with; the proposed planting is way and above that which existed beforehand and is held to be of a very high standard which will complement the area.

16.2 The issue of parking spaces has been looked at thoroughly and, with very limited exceptions, has been successfully dealt with. The proposal offers far more parking than any other residential scheme in the area.

16.3 The request for charging points is held to be unreasonable and therefore your Officer does not recommend a condition for this.

16.4 No other issues of concern arise and therefore the proposed amendments are held to be acceptable.

17.0 Recommendation

17.1 APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 varying the previous agreement in terms of reference to this Planning application. This to be done 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.

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

18.0 Conditions

1 - *Removal/Variation of Condition(s) Approval

With the exception of condition 2 of Planning Permission 145356 which is hereby varied and condition 17 of 145356 which is hereby removed, the requirements of all other conditions imposed upon planning permission 145356 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

2 - 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.

3 - *Development to Accord With Approved Plans

With the exception of the details of condition 7 hereunder, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 15/18/PA1 C, 15/18/PA2 B, 15/18/PA3, 15/18/PA4, 15/18/PA5 A, 15/18/PA6 A and 15/18/PA7 A and LSDP 11334.01 REV D

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

4 - *Removal of PD - Obscure Glazed & Non-Opening (Check Building Regs)

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the windows shown as being obscured shall be of limited opening and glazed in obscure glass to a minimum of level 3 obscurity on the Pilkington scale before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

5 - Non-Standard Condition/Reason

Prior to the occupation of any of the units hereby permitted, the parking shown on the approved drawings shall be provided as shown and shall be retained as such for that sole purpose.

Reason: To avoid nuisance parking on the highway in the interests of highway safety and efficiency.

6 - Non-Standard Condition/Reason

Planting as shown on the approved drawing LSDP 11334.01 Rev D shall be put in place during the first available planting season following substantial completion of the development hereby approved and shall be maintained at all times as indicated on the approved drawing.

Reason: In the interests of visual amenity and to compensate for trees which have been lost.

7 – Non Standard Condition/Reason

Notwithstanding the details of the drawings hereby approved, the balconies shown for units 8 and 13 are hereby excluded and shall be replaced by Juliet balconies.

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

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

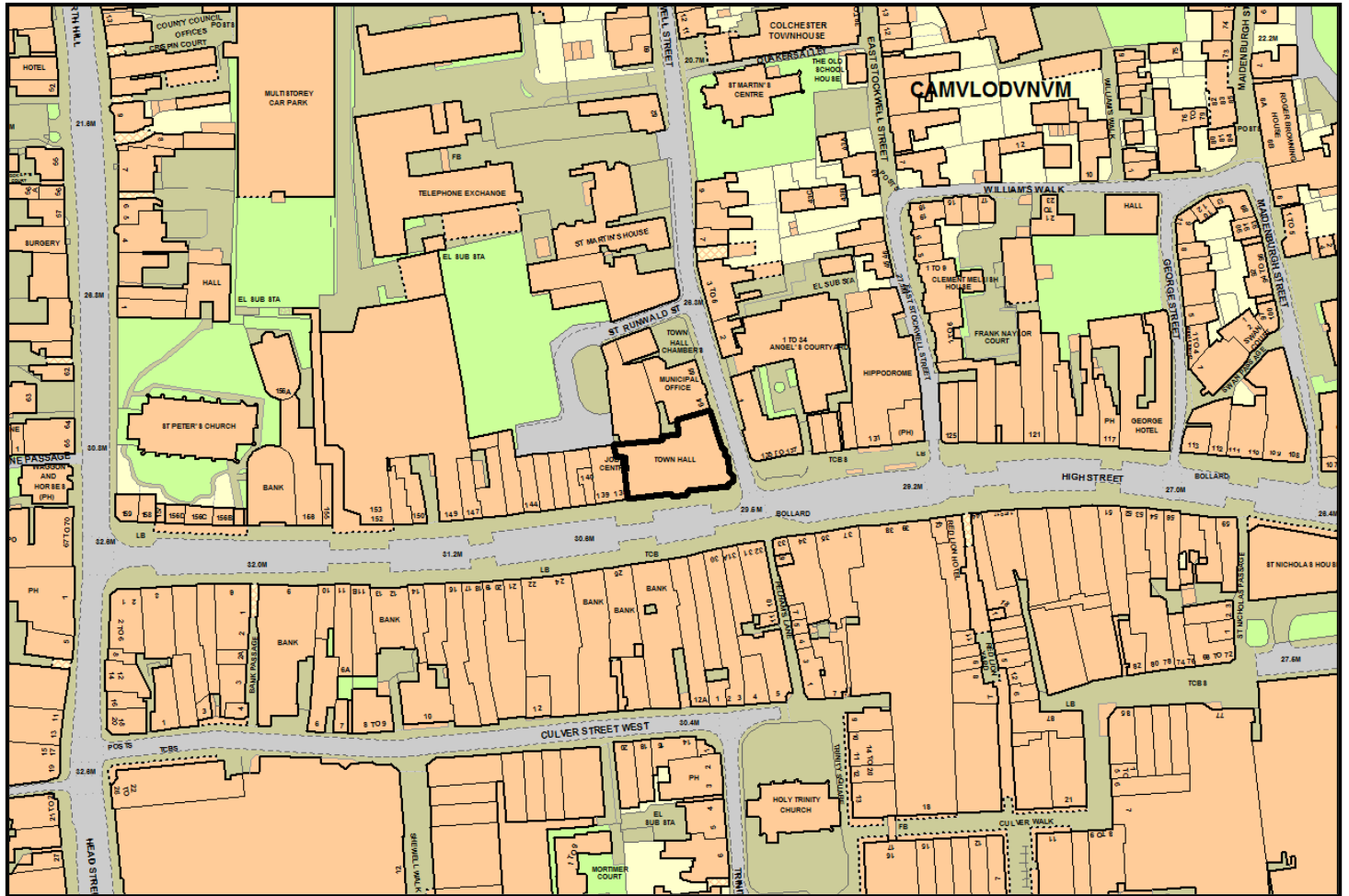
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) 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.

20.0 Positivity Statement

20.1 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.



Application No: 160502

Location: Town Hall, High Street, Colchester, CO1 1PJ

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

7.5 Case Officer: Simon Cairns
CONSENT

LISTED BUILDING

Site: Town Hall, High Street, Colchester, CO1 1PJ

Application No: 160502

Date Received: 26 February 2016

Agent: Mr Martin Leek, Colchester Borough Homes

Applicant: Colchester Borough Council

Development: Installation of a new bench on raised platform in front of the existing bench in the council chamber, including new access ramp to provide wheelchair access and associated repositioning of adjacent fixed seating and benches. The works are desired to be fully reversible so that the chamber can be returned to its existing configuration.

Ward: Castle

Summary of Application: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Council.

2.0 Synopsis

2.1 The key issues explored below are the impact of the proposed works on the special interest of this grade I listed building and the justification for the works.

3.0 Site Description and Context

3.1 This application for listed building consent for internal works relates to the Council Chamber on the first floor of the Town Hall. The works affect fixtures and furnishings.

4.0 Description of the Proposal

4.1 The works affect the main committee chamber and seek the removal of the later freestanding table in front of the dais bench; together with the forward most flanking row of benches. It is intended that these are carefully stored on-site for later re-use. The introduction of a raised section of floor is proposed in front of the dais served by a ramp followed by the reinstatement of a single row of flanking benches.

5.0 Land Use Allocation

5.1 DP6 Town Centre Uses

6.0 Relevant Planning History

- 6.1 The Town Hall has a history of successive applications for minor internal alterations and reordering. The most recent was considered at the meeting on the 31 March 2016 when consent was granted under reference 160415 for the removal of internal partitions.

7.0 Principal Policies

- 7.1 Planning law requires that applications for listed building consent should be determined in accordance with section 16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990 that states: "In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."
- 7.2 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.
- 7.3 Part 12 of the NPPF titled "Conserving and enhancing the historic environment" relates to consideration of heritage assets; including listed buildings. . Paragraph 132.of the framework states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification." Two categories of harm are identified namely substantial and less than substantial harm. These are addressed at paragraphs 132-134 of the Framework. All harm to a listed building is undesirable and requires clear and convincing justification.
- 7.4 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:
- UR2 - Built Design and Character
ENV1 - Environment
- 7.5 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
- DP14 Historic Environment Assets
- 7.6 Further to the above, the Historic England Good Practice Advice Notes 1-3 (March 2015) should also be taken into account in the decision making process for applications affecting listed buildings or the historic environment generally.

8.0 Consultations

8.1 Historic England (formerly English Heritage) comments:

“The Town Hall in Colchester is a bravura essay in the Edwardian Baroque manner. It was built to the design of John Belcher, winner of an architectural competition for the job, in 1897-1902. The superb character of its exterior is matched by the splendour of its interior, and the Council Chamber, with painted ceiling and fixed seating of high quality, is naturally among its most important spaces. The Town Hall is listed at grade I on account of its exceptional architectural and historic interest.

Consent is sought for the removal of three benches to either side of the room, between the podium and the main semi-circle of seating, and of a table, to make way for a new row of seating in front of the podium. This, while still raised a little above the general floor level, would be lower than the podium, and would be accessible for those in wheelchairs.

Historic England consider that the proposed work would be consistent with the conservation of the Town Hall’s exceptional interest and significance, and consistent with the relevant policies of the National Planning Policy Framework. Although the work would erode the integrity of the original arrangement, it is necessary to meet the need for disabled access; and in providing for such access it would ensure the full use of the Council Chamber for its historic purpose. Such harm to significance as would arise would have a clear and convincing justification, and may be considered to be outweighed by public benefit - including that of maintaining the room in its “optimum viable use” (NPPF, 132, 134).

Recommendation

As Historic England consider the proposed work to be consistent with the conservation of the Town Hall’s significance we see no objection to the approval of this application, but recommend that consent should be qualified by a condition to secure the retention of the displaced furniture, something indicated in the application, and perhaps by a limitation to its duration, again in view of the applicants’ intention to reverse the work in due course.”

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

8.2 Environmental Protection: Have no comments to make.

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 None received at time of report writing.

11.0 Parking Provision

11.1 N/A.

12.0 Open Space Provisions

12.1 N/A.

13.0 Air Quality

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

14.0 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 This report considers:
- the impact of the proposed works on the special interest of the grade I listed building;
 - the justification for the proposals;
 - Conformity with good practice and the NPPF.
- 15.2 These proposed works arguably affect the climax of the series of highly ornamented interiors within this key Edwardian civic building with its eclectic Baroque styling and strong historicist references to the past glories of Roman Colchester. The works seek the reordering of the area immediately in front of the dais bench with the part removal of the first row of benches to allow the introduction of a raised platform served by a ramp to facilitate wheel chair access. The works are fully reversible and would not result in the loss of historic fabric since the fixed furnishings removed could be reinstated after careful storage if desired. The works as proposed would have extremely limited impact (negligible adverse) on the special interest of the building by the slight erosion of the original Edwardian interior.
- 15.3 In terms of justification, the proposed works would facilitate disabled access to enable wheel chair users to address the chamber. The present arrangement, dating from a period when such considerations of equality were not yet recognised, does disadvantage wheel chair users and the Disability Discrimination Act 2005 requires that every effort should be made where possible to provide for equality of access. In this case, the works to facilitate access would give rise to little or no identifiable or permanent harm and Historic England raise no objection.
- 15.4 The NPPF acknowledges that circumstances will occur where less than substantial harm to a listed building associated with works that are justified in the public interest may outweigh the harm (paragraph 134 NPPF) and the current scheme is considered to be both convincingly justified and to give rise to only marginal harm that is more than justified in the wider public interest of facilitating the use of the Chamber for the original purpose to provide equality of access.
- ### **16.0 Conclusion**
- 16.1 The works are well considered and fully justified and any limited harm identified is fully justified and outweighed by the public benefits of equality of access to permit the use of the chamber for its original purpose.

17.0 Recommendation

17.1 APPROVE subject to the following conditions.

18.0 Conditions

1 - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent. Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - *Protection of Architectural Features

Prior to the commencement of any works, details of measures to be taken to secure and protect interior features of the building for the duration of the development works shall be submitted to and approved, in writing, by the Local Planning Authority and shall be fully implemented. No such features shall be disturbed or removed temporarily or permanently except as indicated on the approved plans/drawings or as may be required by the measures approved in pursuance of this condition without the prior written approval of the Local Planning Authority. In particular provision shall be made for the security and protection of the staircase and balustrade, vulnerable surfaces and finishes.

Reason: In order to ensure that there is sufficient protection to these features where there is insufficient information within the submitted application.

3 - *Architectural Salvage

Prior to the commencement of any works, a scheme setting out details of how the affected internal furnishings/fixtures forming part of the building shall be carefully taken down, protected and stored for later re-erection or re-use shall have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details.

Reason: In order to ensure that this important feature shall be protected from damage and re-used.

19.0 Informatives

1 – ZUA – Informatives on all listed buildings

PLEASE NOTE: This listed building consent relates solely to the plans, drawings, notes and written details submitted with the application or as subsequently amended in writing and referred to in this notice. Any variation of the works or additional works found necessary before work starts or while work is in progress or required under the Building Regulations, or by the County Fire Services or environmental health legislation may only be carried out after approval by the Local Planning Authority. Unauthorised modifications, alterations or works not covered by this consent may constitute an offence under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and may render the applicant, owner(s), agent and /or contractors liable to enforcement action and/or prosecution.

20.0 Positivity Statement

- 20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 161060

Location: Holly Cottage, Straight Road, Boxted, Colchester, CO4 5QN

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

7.6 Case Officer: Simon Cairns Due Date: 28/06/2016 LISTED BUILDING CONSENT

Site: **Holly Cottage, Straight Road, Boxted, Colchester, CO4 5QN**

Application No: **161060**

Date Received: 3 May 2016

Applicant: Cllr Nigel Chapman

Development: Proposed replacement of three window frames

Ward: Rural North

Summary of recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application for listed building consent is referred to the Planning Committee because the applicant is a Borough Councillor.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the works on the special interest of the listed building.

3.0 Site Description and Context

- 3.1 The application relates to a grade II listed building comprising a detached thatched cottage dating from the seventeenth century. The house is of timber framed construction partly cased in later painted brickwork.

4.0 Description of the Proposal

- 4.1 The proposal seeks to replace three painted timber windows of recent origin with similar painted timber casement windows.

5.0 Land Use Allocation

- 5.1 The site is not allocated but forms part of the developed area of Boxted village.

6.0 Relevant Planning History

- 6.1 89/1381 & 89/1382: Planning permission and listed building consent granted in 1989 to join Holly and Box cottages to form one dwelling with extended kitchen and conservatory. Two of the three windows now proposed for replacement date from this period of alteration.

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:

UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP14 Historic Environment Assets
DP22 Dedham Vale Area of Outstanding Natural Beauty

7.4 Further to the above, the Historic England Good Practice Advice Notes 1-3 should also be taken into account in the decision making process for listed building consent and development affecting the historic environment.

7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Document: The Boxted Village Design Statement

8.0 Consultations

8.1 None received

9.0 Parish Council Response

9.1 The Parish Council had not submitted a representation at the time of drafting the report.

10.0 Representations

10.1 None received to date.

11.0 Parking Provision

11.1 N/A.

12.0 Open Space Provisions

12.1 N/A.

13.0 Air Quality

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

14.0 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 This report will consider the statutory duty with regard to the determination of applications for listed building consent

- The justification for the proposed works; and
- The detailed form of the proposed replacement windows.

- 15.2 The Planning (Listed Buildings & Conservation Areas) Act 1990 requires at section 16(2) that the decision maker pays special regard to the desirability of preserving the building together with any features of special interest which it may possess. In this instance, the windows that are subject to this application are in themselves later replacements of previous, probably early Victorian casement windows. They possess no intrinsic interest beyond their contribution to the evolution of the external appearance of the cottage.

- 15.3 The windows to which the application relates are decayed and replacement is therefore justified subject to agreement regarding the detailed form of the windows. Section drawings have been submitted and these illustrate painted timber casements of single glazed construction. These details are considered generally acceptable subject to omission of the storm proofed detail (the opening light frame wraps over the main frame rather than finishing flush with the outer face). It is considered that this minor detail can be revised by condition (refer to condition 3 in the draft decision below.)

16.0 Conclusion

- 16.1 The proposed works are justified and acceptable subject to slight revisions to the detailed form of the proposed windows. This matter can be appropriately controlled by condition.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Conditions

1 - Time Limit for LBCs

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

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

2 - External Joinery to be Painted Timber

All external joinery shall be of painted timber.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.

3 - Non-Standard Condition/Reason

Notwithstanding the submitted joinery details, the proposed casement windows shall be of traditional rebated form and small omit the storm proof detail.

Reason: To ensure that the detailed form of the proposed replacement windows is based on historic precedents consistent with the character of the listed building in order to ensure that the works serve to preserve the listed building in accordance with section 16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990.

19.0 Informatives

(1) ZUA – Informative on all listed buildings

PLEASE NOTE: This listed building consent relates solely to the plans, drawings, notes and written details submitted with the application or as subsequently amended in writing and referred to in this notice. Any variation of the works or additional works found necessary before work starts or while work is in progress or required under the Building Regulations, or by the County Fire Services or environmental health legislation may only be carried out after approval by the Local Planning Authority. Unauthorised modifications, alterations or works not covered by this consent may constitute an offence under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and may render the applicant, owner(s), agent and /or contractors liable to enforcement action and/or prosecution.

20.0 Positivity Statement

20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

26 May 2016

Report of	Head of Professional Services	Author	Andrew Tyrrell
Title	Changes to the Scheme of Delegation		
Wards affected	All Wards		

This report concerns a change to the Scheme of Delegation to transfer the Powers related to Tree Preservation Orders back to Professional Services after some internal staff changes. The actual powers remain unchanged.

1. Decision(s) Required

- 1.1 To transfer the powers related to Tree preservation Orders in the existing Scheme of Delegation for Planning from the Head of Community Services to the Head of Professional Services.

2. Reasons for Decision(s)

- 2.1 This change to the Scheme of Delegation is required following a minor restructure of the internal staff related to tree matters. This has led to the return to the planning service of a dedicated arboricultural planning officer, separate to the management and maintenance of our own Council owned tree stock.
- 2.2 As the arboricultural planning officer falls under the jurisdiction of the Head of Professional Services their powers also need to be transferred to that Head of Service.

3. Alternative Options

- 3.1 The alternative option is to retain the Scheme of Delegation as it stands now; however this would mean that the arboricultural planning officer would need the authorisation of a different Head of Service each time they wished to serve a Tree Preservation Order. The Head of Community Services would then remain able to authorise TPOs, but would have no line management responsibility for the officers involved.

4. Supporting Information

- 4.1 Members of the Committee will be familiar with the Scheme of Delegation already, however copies of this can be found on the Council's website. The power being transferred can be found on page 34.

5. Proposals

- 5.1 To change the Scheme of Delegation, Part 3, under the section entitled “Scheme of Delegation to Officers by the Planning Committee” to remove the entire section:

“Delegated to the Head of Community Services

1. Power to make and confirm tree preservation orders where there are no unresolved objections thereto and to determine applications to carry out works to preserved trees and trees in Conservation Areas”

And to then provide the “Power to make and confirm Tree Preservation Orders where there are no unresolved objections thereto and to determine applications to carry out works to preserved trees and trees in Conservation Areas” to the Head of Professional Services alongside their other planning powers.

6. Standard References

- 6.1 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.