



Application No: 151850

Location: Cowdray Centre, Mason Road, Colchester, CO1 1BX

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **3rd March 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Lucy Mondon Due Date: 04/03/2016

MAJOR

Site: Cowdray Centre, Mason Road, Colchester, CO1 1BX

Application No: 151850

Date Received: 25 August 2015

Agent: Ms Paula Stratford, Montagu Evans

Applicant: F & C

Development: Demolition of existing buildings and redevelopment to provide up to 154 dwellings within Class C3 and up to 2,517sqm B1 and/ or D1 floorspace, with related access, roads and paths, car parking and servicing, open space and landscaping

Ward: Castle

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

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because:

- It is a major application on which material planning objections have been received and the Officer recommendation is to approve; and
- A S106 is required.

2.0 Synopsis

- 2.1 The application seeks OUTLINE permission for the redevelopment of a brownfield site and existing business premises for housing (Class C3) and B1 and D1 floorspace. The only matter being applied for in full is access. The report describes the site and its setting, details of the proposal, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.2 The key issues explored below are traffic and highway implications; noise; contamination; flood risk; ecology; and archaeology. Impact on neighbouring amenity and the surrounding area will also be discussed, as will the impact upon existing businesses. Matters surrounding the viability of the scheme will also be addressed in so far as they relate to necessary planning contributions towards infrastructure.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended, subject to the completion of a S106 agreement.

3.0 Site Description and Context

- 3.1 The application site forms part of Cowdray Trade Park, a trade and industrial park, located to the north of the town centre (town centre fringe) off Cowdray Avenue. The Cowdray Trade Park site as a whole is within a Regeneration Area and is allocated for mixed use development (Site Allocation policies SA CE1 and SA TC1) in the Local Plan.
- 3.2 For ease of reference, the application site can be divided into three areas:
Area A: The main central part of the site;
Area B: Eastern side;
Area C: Western side (Unit 22).



- 3.3 Area A: The site originally contained a large printing factory (from c.1938), which was extended and subsequently divided into individual units. However, following a fire in 2006, the majority of the building was demolished and its site has remained vacant. This part of the site is now fenced off with solid hoardings. There is a Local Wildlife Site to the north-western corner of the site, which is overgrown.

- 3.4 Area B: The building to the eastern part of the site formed part of the previous factory, but has remained in use and contains a variety of existing business units. These include (but are not limited to) a motorcycle MOT shop; dance studio; a triathlon store; and guitar shop. Approximately 65% of the units are currently occupied, equating to 19 businesses, and are running on short term leases.
- 3.5 Area C: The western part of the site consists part of an existing unit (Unit 22), an adjacent car park and an area of grass. The unit is currently vacant and the car park is used as overflow car parking for nearby units.
- 3.6 The remainder of the Cowdray Trade Park lies to the west and south of the application site and, whilst being within the same ownership, does not form part of the application. The trade park as a whole measures approximately 10.19 ha, with the application site measuring 5.36 ha.
- 3.7 Beyond the confines of the site and the trade park is the Lookers car servicing and sales building (to the east), with Colne View Retail Park beyond. Highwoods Country Park lies immediately north of the site. The site is separated from the country park by a railway track, although there is a public footpath (Public Right of Way 73) under the track that enables access. The footpath also enables access to Turner Rise Retail Park and North Station railway station. The footpath is allocated as a Green Link within the Local Plan. The railway track runs along the northern boundary of the site in its entirety and is set at a much higher level (approximately 5-7 metres). Other facilities, such as Leisure World and allotments, lie to the south of the site across Cowdray Avenue.
- 3.8 There are residential properties in close proximity to the site. Those closest are a linear development of 1930s houses running along part of the southern boundary on Cowdray Avenue. The rear boundary of these properties forms the boundary of the site and consist a mix of fencing and walls, some of which are overgrown. There is also more recent residential development at Clarendon Way, Bloyes Mews, Gilbert Court, and Imperial Court to the west of the trade park.

4.0 Description of the Proposal

- 4.1 The application seeks OUTLINE planning permission for up to 154 dwellings and up to 2,517sqm of B1 and/or D1 floorspace, including roads and paths, car parking, servicing, open space and landscaping. The only matter being applied for in full is access. The proposal was subject to a preliminary enquiry in March 2015, whereby Case Officer advice was given regarding planning policy and supporting evidence requirements.
- 4.2 A plan (ref: 6234/1115 Revision B) has been submitted with the application showing access points onto Mason Road and also indicating a mixed use scheme of residential development within the main body of the site, with non-residential units located on land adjacent unit 22 of the Cowdray Trade Park. A number of illustrative layouts have also been submitted.

4.3 Documents submitted with the application include:

- Planning Statement
- Design and Access Statement
- Statement of Community Involvement
- Preliminary Archaeology Assessment
- Ecological Appraisal and Invertebrate Survey
- Noise, Vibration and Air Quality Assessment
- Preliminary Environmental Risk Assessment
- Flood Risk Assessment
- Transport Statement

5.0 Land Use Allocation

5.1 The site is within the Town Centre and North Station Regeneration Area and is allocated for mixed use development within the Local Plan. Site Allocation Policies SA CE1 and SA TC1 are relevant.

5.2 Site Allocation Policy SA TC1 states that the Cowdray Centre 'should provide a range of uses within the categories of retail, residential, leisure, hotel, and employment. The residential element shall comprise no more than 50% of the site area and existing businesses will be encouraged to remain.' The policy goes on to state that 'development of the site should also deliver improved connectivity to the Town Centre and North Station for vehicles (especially public transport), pedestrians and cyclists; and a green link between Highwoods Country Park and Leisure World/Castle Park. In addition land should be safeguarded for a potential future vehicular link under the railway to Turner Rise.'

6.0 Relevant Planning History

6.1 There is no planning history with direct relevance to the application site. Planning history relating to the existing business units to the east of the site consists of changes of use to a variety of retail (A1) and leisure (D2) uses. Recent planning permissions include: a 2012 change of use from B1/B2/B8 to D2 fitness centre at Block D8 (ref: 121412) and a 2014 change of use from warehouse and storage to full retail outlet at Durrant Guitars Block D10 (ref: 145824).

6.2 Previous planning applications relating to redevelopment of the site include:

81/0579 - Outline application APPROVED for warehouse and industrial development (not more than 113,000 sq.ft. industrial) with ancillary office, circulation road, car parking and service facilities. 15th June 1981;

O/COL/01/0449 – Outline application for redevelopment of redundant warehouse (former Ozalid Works Site and adjoining land) to retail warehouse and employment development. Approved subject to legal agreement, but subsequently CLOSED due to lack of progress.

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
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2a - Town Centre
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- 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
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- 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 CE1 Mixed Use Sites
SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area

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

8.0 Consultations

- 8.1 Network Rail: No objections. Detailed comments on future maintenance, drainage, plant and materials, scaffolding, piling, fencing, lighting, noise and vibration, landscaping, vehicle incursion.
- 8.2 Environment Agency: No objections. The water environment at this site is of low environmental sensitivity with regards to contamination.
- 8.3 Highway Authority: Confirmation that they are content the proposal would not have a material impact on existing traffic conditions as the proposal is unlikely to lead to a significant number of additional trips. Having checked the figures quoted in the Transport Assessment, they are content these represent negligible increases. In terms of highways and transportation, the impacts of the proposal are acceptable subject to a construction management plan; residential travel information packs; a travel plan (for the non-residential element of the proposal); and the following requirements and improvements:
- A roundabout in Mason Road to provide access to the proposal site
 - If and when a bus service uses Cowdray Avenue, upgrade to current Essex County Council specification the two bus stops in vicinity of the Cowdray Avenue/Mason Road junction (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - A footpath/cyclepath between Cowdray Avenue, the subway under the railway line immediately north of the proposal site and North Station Road (south of the railway line) (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - Improvements to the subway under the railway line immediately north of the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)

- 8.4 Natural England: No objections. The proposal is not likely to have a significant effect on any statutory nature conservation sites. SSSIs do not represent a constraint in determining this application. Natural England would encourage the incorporation of Green Infrastructure (GI) into this development. The authority should consider securing measures to enhance biodiversity. Standing advice regarding protected species.
- 8.5 Essex County Council SuDs: No objection subject to conditions requiring detailed surface water drainage scheme and a management and maintenance plan of the surface water drainage system.
- 8.6 Ramblers Association: No objections provided footpaths and public rights of way are wide enough, safe enough and well-maintained.
- 8.7 Anglian Water: No objections subject to a condition that no hardstanding areas are constructed until works have been carried out in accordance with a surface water strategy. Requested informatives regarding Anglian Water assets on site; applications required regarding the discharge of trade effluent; petrol/oil interceptors; and fat traps for catering establishments.
- 8.8 Planning Policy:
'Policy SA TC1 1(ii) provides that the Cowdray Centre is designated for Mixed Use redevelopment, with the residential element comprising no more than 50% of the site area. The current proposal provides for approximately half of the site to be residential, which is considered to comply with the policy target. It will, however, be important to consider the residential use within the wider context of other commercial uses on the remainder of the site, and evidence demonstrating masterplanning for the site as a whole and inclusion of appropriate commercial uses should be submitted.'
- 8.9 Landscape Officer: Recommendation for additional tree planting to the south of the proposed light industrial units in order to help soften the street scene at maturity [Comments based on indicative layout drawing submitted]. No objection subject to conditions for full landscape proposals and a landscape management plan.
- 8.10 Arboricultural Officer: Following the receipt of an Arboricultural Implications Assessment, no objections subject to conditions for protective fencing for retained trees; tree monitoring; and hand excavation under tree canopies.
- 8.11 Urban Design: Issues with illustrative layouts submitted, but supportive comments regarding concept of proposal:

'This is a strategically important site offering potential walking/cycling distance access to both the mainline railway station and town centre. It has the opportunity to provide a strong, mixed and relatively self-contained community, benefitting from good sustainable access to facilities and open countryside, well landscaped streets and spaces, wildlife corridors and high quality housing. The site can also significantly join up and enhance the strategic foot and cycle network and therefore promote sustainable travel locally.'
- 8.12 Environmental Protection: No objections subject to conditions relating to noise and vibration levels; construction method statement; limited hours of construction and

demolition; details of the management of communal storage areas; lighting; restricted hours of operation and delivery; and control of fumes and odours.

- 8.13 Environmental Protection (Air Quality): Recommended conditions to mitigate any increase of pollution as a result of the development. Recommended conditions include: a demolition and construction management plan; provision of EV charging point infrastructure (both residential and commercial); and a travel plan to include mechanisms for discouraging high emission vehicle use and encouraging modal shift (i.e. public transport, cycling and walking).
- 8.14 Contaminated Land Officer: Following receipt of further clarification from Waterman Infrastructure and Environment Ltd, no objections subject to conditions dealing with site characterisation, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination, and submission of a validation certificate.
- 8.15 Archaeology: The proposal is located in an area of archaeological interest, adjacent to the site of a Roman cremation cemetery. There is high potential for encountering buried archaeological remains (and potentially further burials) at this location, given the proximity to known remains. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist. No grounds to consider refusal of permission in respect of archaeology subject to a condition to record and advance the understanding of the significance of any heritage asset before it is damaged or destroyed.
- 8.16 No comments have been received from:
Essex Wildlife Trust
Essex County Council Footpaths
Bridleways
Essex Fire Planning Liaison
Street Services (Waste)

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

10.1 Representations

10.1 Five letters of objection and one comment has been received from local residents and business owners, the contents of which are summarised below:

- Traffic and parking issues
- Mason Road blocked with traffic at rush hour
- Would the NHS support a doctor's surgery?
- Smaller businesses will suffer
- What will existing businesses do in the interim?
- Concern regarding the affordability of the new business units.
- Existing businesses (B2) would not be able to go to the new units (B1 and D1)
- Vacant larger units should be split into smaller units to provide for small businesses

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

11.0 Parking Provision

11.1 The application is for outline permission only and no layout or detailed design is to be agreed at this stage. Any Reserved Matters application would be required to comply with the Council's adopted Vehicle Parking Standards, subject to material planning considerations.

12.0 Open Space Provisions

12.1 Current planning policy would require at least 10% of the site to be open space. The application is for outline permission only and no layout, including any layout to indicate areas of open space, is to be agreed at this stage. The illustrative layouts submitted with the application fall short of the policy requirement for open space. However, due to the location of the site, in very close proximity to Highwoods Country Park, Leisure World and Castle Park, it is considered difficult to justify a refusal on these grounds.

12.2 It is, however, considered important that equipped areas of play are provided on site, as similar facilities are not within easy reach. As such, it is recommended that a requirement for locally equipped areas of play (LEAPs) is included within a S106 attached to the permission.

13.0 Air Quality

13.1 The application site is not within an Air Quality Management Area and Environmental Protection has assessed the proposal on its own merits. There is the potential for increased levels of pollution due to increased traffic movements, but it is considered that this can be mitigated via conditions. Recommended conditions include the following: a demolition and construction management plan; provision of EV charging point infrastructure (both residential and commercial); and a travel plan to include mechanisms for discouraging high emission vehicle use and encouraging modal shift (i.e. public transport, cycling and walking). Environmental Protection have confirmed that these conditions are considered to adequately mitigate the impacts of the proposed development in terms of air quality and are in line with medium proposal

mitigation measures contained in the draft Air Quality & Emissions Technical Planning Guidance and also the Air Quality Action Plan which is currently in consultation.

14.0 Development Team and Planning Obligations

14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations sought were:

- Affordable Housing: 20% on-site provision
- Education: £413,848 for primary places, index linked from April 2015 using the PUBSEC index
- Open Space, Sport and Recreation: £771,599 (although this sum would vary according to whether play sites were provided and whether the Borough Council would be required to take on maintenance)
- Community Facilities: £197,000

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 which agreed that the development would be unviable if planning obligations were pursued. However, the review concluded that a number of sums (costs and gains) could change as and when the site is actually developed. Although some costs could increase at the time of development, the review considered that sales values could increase due to the high potential of the site (in terms of proximity to facilities and the town centre) and remediation costs could be reduced, leading to a potential surplus over and above the developer’s cited profit of 20%. If this were the case, some contribution could be made towards the necessary planning obligations. It was therefore recommended that the Council seek agreement to a review mechanism so that any improvements in viability that result in a surplus being generated by the scheme can generate contributions. This approach would deal with the uncertainty over actual costs and sales values, which are especially ambiguous due to this being an outline application without details of the exact numbers and types of build, without potentially making the scheme unviable.

14.4 The Applicant has agreed to a viability review and the mechanism for this is to be included in a S106.

15.0 Report

Principle

- 15.1 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 main body of the application site is brownfield land, so its redevelopment would be encouraged, subject to material planning considerations. However, the site also comprises existing commercial uses and so the principle of its redevelopment as a whole needs to be considered further.
- 15.2 The site is allocated within the Local Plan for mixed use redevelopment under Site Allocation Policies SA CE1 and SA TC1. This allocation covers the Cowdray Centre and Cowdray Trade Park as one site and seeks to provide a range of uses within the categories of retail, residential, leisure, hotel, and employment. Policy SA TC1 states that 'the residential element shall comprise no more than 50% of the site area and existing businesses will be encouraged to remain. Development of the site should also deliver improved connectivity to the Town Centre and North Station for vehicles (especially public transport), pedestrians and cyclists; and a green link between Highwoods Country Park and Leisure World/Castle Park. In addition land should be safeguarded for a potential future vehicular link under the railway to Turner Rise.'
- 15.3 The proposal is considered to comply, for the most part, with the requirements of the site allocation. In terms of the mixed use designation, the residential element of the proposal would not exceed 50% of the overall Cowdray Trade Park site; the Cowdray Trade Park is 10.19 hectares in size and the residential element of the proposal would cover approximately 4.96ha, according to the outline proposal. In addition, land could be safeguarded for a potential future vehicular link under the railway to Turner Rise, as shown in illustrative layouts submitted with the application.
- 15.4 In terms of improved connectivity, the illustrative plans do show a path running along the northern boundary of the site which links to the subway under the railway track, which in principle would result in good access from the site to Highwoods Country Park, the retail park, and the train station beyond. In order to adhere to highway requirements, as well as the provisions of policy SA TC1, it is also necessary to secure the following:
- A footpath/cyclepath between Cowdray Avenue, the subway under the railway line immediately north of the proposal site and North Station Road (south of the railway line) (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - Improvements to the subway under the railway line immediately north of the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- 15.5 Subject to the above requirements, and in consideration of this being a brownfield site within the settlement boundary of Colchester, the proposal is considered to be acceptable in principle.

Design and Layout

- 15.6 The application is for outline planning permission and all matters of layout, appearance, and landscaping do not form part of this application and will be submitted and agreed under the reserved matters application. The access arrangements submitted do form part of the application and consist of vehicular access points to the north and south of the non-residential part of the site and a roundabout from Mason Road into the residential part of the site. The access arrangements are considered to be acceptable.
- 15.7 Whilst the design and layout of the proposed development is a matter for the Reserved Matters application, it is beholden on an applicant to show how a given number of units could be accommodated on site. Illustrative plans have been submitted which show a mixed-use development of residential properties and commercial properties. Whilst the illustrative plans show how development could be arranged on site, the layout and design is not considered to be successful. However, as the plans are purely illustrative they do not preclude the determination of whether outline planning permission should be granted provided that the Council can be satisfied that the amount of development proposed can be achieved on site. In terms of design and layout, issues would need to be addressed and resolved in the submission of reserved matters to ensure that the development adheres to planning policy in a satisfactory manner.
- 15.8 It is considered that the site can potentially accommodate the level of development proposed. In this case, it is important to note that the proposal is for **up to** 154 dwellings and **up to** 2,517 sqm B1 and/or D1 floorspace. The amount of development is therefore a maximum rather than a set figure. In terms of the residential element of the proposal, the density of development could be increased should additional land be required for increased garden space, landscape buffers, car parking, and open space; indeed, Core Strategy Policy H2 states that locations with good access to centres are more suited to higher density development, although a flexible approach will be important to ensure that densities are compatible with the surrounding townscape. Flats have been included within the illustrative layouts submitted and these numbers could be increased in order to intensify the density of development.
- 15.9 The non-residential element of the proposal appears to be relatively successful in its layout. Although the number of units may change (as it is an area of floorspace, rather than unit numbers, that is being applied for) the illustrative plans show that it can be comfortably sited and adequate landscaping can be included.
- 15.10 The landscaping of the scheme has been considered to be acceptable, subject to conditions. Landscape details would be required as part of reserved matters.

Impact on the Surrounding Area

- 15.11 The visual impact of the proposal is considered to be relatively minimal. The site would be clearly visible from the higher ground of Highwoods Country Park, but it would be set against a backdrop of well-established existing development, such as housing, Leisure World, and the town centre beyond. The development would not be a prominent or imposing feature when viewed from Cowdray Avenue due to it being set back and largely obscured by existing buildings within the trade park, as well as existing housing along Cowdray Avenue itself.

- 15.12 A reserved matters application would need to show the design, layout and scale of development so that its impacts can be fully considered.

Impacts on Neighbouring Properties

- 15.13 In general terms, the proposal is unlikely to have a significant impact upon neighbouring properties, provided that the layout at reserved matters stage is respectful in terms of back-to-back distances and privacy.
- 15.14 The non-residential uses proposed are such that they are unlikely to cause undue noise and disturbance, particularly as conditions are recommended that control noise levels, opening times, and deliveries in order to protect residential amenity.
- 15.15 The greatest impact upon neighbouring properties is likely to be during the construction phase of development. It has therefore been considered important to include a condition requiring a construction management plan so that disturbance can be kept to a minimum.

Amenity Provisions

- 15.16 Issues of garden sizes and privacy would be fully assessed when considering a detailed layout at reserved matters stage. In terms of the illustrative plans submitted as part of this application, garden sizes are lacking in some places, particularly for the three-bedroom houses and flats, but this can be addressed at reserved matters stage.
- 15.17 A noise and vibration mitigation strategy would be necessary in order to ensure that future occupants are not disturbed by noise and vibration from the nearby railway line or adjacent existing businesses. This can be secured by condition.

Highways

- 15.18 The main objection received during public consultation was concern that the proposal would have a significant impact on existing traffic issues on Cowdray Avenue. The Highway Authority considered the Transport Assessment submitted, as well as additional information requested regarding traffic flows. Following assessment of this information, they accepted that there would be increased traffic, but that the increase would not be significant; the commercial use of the site generates significantly more trips than those generated by the residential units proposed. The Highway Authority concluded that, in terms of highways and transportation, the impacts of the proposal are acceptable subject to a number of requirements including a construction management plan and measures aimed at encouraging travel by more sustainable modes of transport such as public transport, cycling and walking.
- 15.19 A further consideration is that, although residents and users of the development would undoubtedly use their cars for certain trips, the site is in a very accessible location, within walking and/or cycling distance of many facilities (such as Highwoods Country Park, the town centre, Castle Park, retail parks, trade park, leisure centre, allotments, and train station) that other residents of Colchester would be likely to drive to.

15.20 Whilst the concerns of local residents and local business owners are taken into account and sympathised with, given the proposal is unlikely to generate a significant increase in trips and that the site is in a highly accessible location, leads to the conclusion that the proposal is acceptable in highway terms and that there are no highway reasons to refuse the application.

Other matters:

15.21 Trees:

An Arboricultural Implications Assessment was requested in order to assess the impact of the proposals upon trees adjacent the site. Following receipt of the assessment the Council's Arboricultural Officer confirmed that there are no objections in respect of arboricultural matters, subject to conditions for protective fencing for retained trees; tree monitoring; and hand excavation under tree canopies.

15.22 Ecology:

Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. The National Planning Policy Framework (NPPF) is clear that a core principle for planning is that it should contribute to conserving and enhancing the natural environment. In meeting this aim, Development Policy DP21 states that, for all proposals, development will only be supported where it:

- i. Is supported with acceptable ecological surveys where appropriate. Where there is reason to suspect the presence of protected species, applications should be accompanied by a survey assessing their presence and, if present, the proposal must be sensitive to, and make provision for, their needs;
- ii. Will conserve or enhance the biodiversity value of greenfield and brownfield sites and minimise fragmentation of habitats;
- iii. Maximises opportunities for the restoration, enhancement and connection of natural habitats in accordance with the Essex Biodiversity Action Plan; and
- iv. Incorporates beneficial biodiversity conservation features and habitat creation where appropriate.

15.23 Additionally, proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas or protected species will not be permitted unless:

- a) They cannot be located on alternative sites that would cause less harm;
- b) The benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and
- c) Satisfactory prevention, mitigation and compensation measures are provided.

15.24 The application site is brownfield land in the main, with existing commercial units to the east and west. The Ecological Appraisal submitted with the application states that the application site as a whole is considered to be very poor ecologically due to large areas of bare ground and commercial buildings in an urban situation. However, there is a wildlife area to the north-west corner of the site where plants, reptiles and invertebrates of interest have been recorded previously. There are also records of protected reptiles and invertebrates along the railway embankment on the northern boundary. The north-west corner of the site has been fenced off from the remainder of the site for some time to retain it as a wildlife area, but has become quite overgrown.

According to the 2015 appraisal, the loss of open grassland in this area has resulted in previously recorded plants of interest (Bee Orchid and Dittander) being absent. However, the appraisal concludes that these species, and others, may still be present and could reappear if the land were properly managed. Reptiles and invertebrates were still recorded during the 2015 survey as part of the appraisal.

- 15.25 Without appropriate mitigation, development of this site would result in the loss of habitat, invertebrate diversity and reptile population, although it should be noted that some loss of habitat would still occur should the site remain as it is due to the further deterioration of the unmanaged wildlife area. The retention, management and enhancement of the wildlife area, as well as the management and protection of the habitat areas along the base of the railway embankment, are therefore considered to be necessary in order to adhere to the provisions of the NPPF and Development Policy DP21.
- 15.26 The wildlife area is outside the redline of the application site so is not intended for development, although it can be conditioned for improvement and management as it is within the ownership of the Applicant. A Mitigation Strategy, Implementation Timetable and Management Plan can be conditioned, which would include a number of mitigation and enhancement opportunities which are set out in section 7.2 of the Ecological Appraisal and section 4 of the Invertebrate Survey submitted.
- 15.27 As the wildlife area and railway embankment would remain undeveloped, development on the application site would, therefore, only result in the loss of the well-vegetated areas immediately adjacent the wildlife area. These vegetated areas do have interest for invertebrates and reptiles. However, the improvements to the wildlife area, as well as the other enhancements and mitigation measures proposed are considered to adequately compensate for this loss. The proposal is therefore considered to meet the requirements of the NPPF and Development Policy DP21.

Contamination:

- 15.28 Due to previous industrial and commercial uses of the site, a Preliminary Environmental Risk Assessment was submitted as part of the application to ascertain contamination risks. The report concludes that there is a potential for contaminants to be present within the underlying soil and groundwater. It has been recommended that actions are required to address the potentially unacceptable risks identified, including additional investigations of groundwater and ground gas and in previously inaccessible or un-investigated areas, and decommissioning of a groundwater abstraction borehole. The Council's Contamination Officer is satisfied with the content of the report, having received some points of clarification, and has no objections to the proposed development subject to conditions dealing with site characterisation, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination, and submission of a validation certificate. The proposal is therefore considered to be acceptable in terms of contamination, subject to the aforementioned conditions.

Drainage and Flood Risk:

- 15.29 The site is located within Flood Zone 1 and the application has been assessed in line with the NPPF and Environment Agency Standing Advice. As a Flood Zone 1, the site is unlikely to be susceptible to flooding. The Environment Agency has no objections to the proposal and comment that 'the water environment at this site is of low environmental sensitivity with regards to contamination.'
- 15.30 Essex County Council, as the Lead Local Flood Authority (LLFA), have assessed the application and have no objections to the scheme subject to conditions requiring a detailed surface water drainage scheme, as well as a management and maintenance plan of the surface water drainage system. Similarly, Anglian Water has no objections to the scheme subject to a condition that no hardstanding areas are constructed until works have been carried out in accordance with a surface water strategy.
- 15.31 Following an assessment of Environment Agency standing advice and consideration of the consultation comments received from the Environment Agency, Essex County Council as LLFA, and Anglian Water, it is concluded that development on this site is acceptable in terms of drainage and flood risk.

Archaeology:

- 15.32 The Council's Archaeology Officer has assessed the proposal and commented that the site is in an area of archaeological interest, adjacent to the site of a Roman cremation cemetery. There is high potential for encountering buried archaeological remains (and potentially further burials) at this location, given the proximity to known remains. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist. The Archaeology Officer has no objections to the proposal subject to a condition to record and advance the understanding of the significance of any heritage asset before it is damaged or destroyed. A pre-determination archaeological evaluation is not required for this proposal. However, it is advised that the applicant undertake 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.

Existing businesses:

- 15.33 The proposal would result in the loss of existing business units. Site Allocation Policy SA TC1 states that existing businesses will be encouraged to remain on site as part of a mixed-use development. Unfortunately, due to the type/use class of many of the existing businesses (A1, D2, sui generis), this would not be possible as only B1 and D1 floorspace is proposed and the remainder of the trade park is currently fully occupied. The existing businesses are not strictly employment uses and are therefore capable of relocating to the town centre or edge of town centre.

15.34 Information from the Applicant (January 2016) sets out the businesses currently on site:

Number of Available/Vacant units – 10

Tenants List: **C Block**

Marriages
The Bunker
Simply Living

D Block

Sound Attak (Vacating March 2016)
Toy library
Pink Ladies
Demon Xtreme
Crossfit
Peach Guitars
5312

E Block

PM Tech
Lloyds Motors (Expires Dec 2016)
Brian Nunn & Son
Panelcraft
API
P.Barker (Vacating April 2016)
H&S Motors
M.Rytel
Dance Studio

15.35 The businesses have been on short-term leases since the fire in 2006. In anticipation of relocation, the Applicants have issued a newsletter to all the aforementioned tenants in order to offer assistance in finding new premises.

15.36 Enquiries have been made with the Council's Enterprise team who have confirmed that they would be able to offer the following support as and when required:

- A wider trawl of available properties across all the commercial agents in Colchester
- Liaise with our Estates team on properties which are/will become vacant on a range of lease terms
- Specific business advice and support from Colchester Business Enterprise Agency (COLBEA)
- If any redundancies are planned particularly for skilled staff we can circulate CV/s to prospective employers in Colchester/Essex

15.37 Therefore, whilst there are limited opportunities for existing businesses to remain at the trade park, there are a variety of avenues with which to get support for relocation. The lack of opportunities for on-site relocation is not considered to be a reason for refusal of planning permission as it is not the function of the planning system to protect individual traders and the proposal accords with the amount of development set out in the Local Plan site allocation.

16.0 Conclusion

16.1 The proposal is considered to be acceptable in principle, having had regard to national and local planning policy, and is satisfactory in terms of highway, ecology, contamination, drainage and flood risk, and archaeology matters, subject to necessary conditions.

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:

- Viability review.
- Land to be set aside for a possible future road link under the railway line to Petrolea Close. Details to be provided.
- Provision of play area on site – details to be provided and details of management company
- Open space secured at reserved matters stage: to be managed by private management company (details to be provided). Details of provision to be provided.

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. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the DESIGN AND APPEARANCE, LANDSCAPING, LAYOUT AND SCALE (including levels) 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. 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. 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. The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number 6234/1115 Revision B.
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.
5. The following drawings are NOT approved as part of this permission: 6234/1110 Revision C; 6234/1111C Revision C; 6234/1116; and 6234/1401.
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.
6. The reserved matters application shall be for a MAXIMUM of 154 Class C3 dwellings and a MAXIMUM of 2,517 sqm B1 and/or D1 floorspace, with related access, roads and paths, car parking and servicing, open space and landscaping.
Reason: In the interests of proper planning as this is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of any increased development.
7. The reserved matters application shall make provision for a Locally Equipped Area for Play (LEAP) within the site; improved connectivity to the Town Centre and North Station for vehicles (especially public transport), pedestrians and cyclists; and a green link between Highwoods Country Park and Leisure World/Castle Park. In addition land should be safeguarded for a potential future vehicular link under the railway to Turner Rise.
Reason: In the interests of sustainable development and in order to comply with the Colchester Local Plan Site Allocation Policy SA TC1.
8. The reserved matters application shall include a noise survey for proposed residential properties. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:
 - Dwellings indoors in daytime: 35 dB LAeq,16 hours
 - Outdoor living area in day time: 55 dB LAeq,16 hours
 - Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAm_{ax})
 - Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAm_{ax})Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of ANY/SPECIFY 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.

9. The reserved matters application shall demonstrate that all residential units have been designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax)
- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAmax)

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

10. The reserved matters application shall include a scheme for protecting the proposed development from vibration from the railway along the northern boundary of the site. The vibration protection scheme shall include a combination of land separation, vibration control techniques and other measures as set out in current guidance on vibration levels and such secure provision as will ensure that it endures for so long as the development is available for use, and that any and all constituents parts are repaired, maintained or replaced in whole or in part so often as occasion may require. The approved attenuation scheme shall be implemented in its entirety prior to the first occupation of the development and adhered to thereafter.

Reason: To ensure that the amenities of occupiers are not prejudiced by rail and/or road traffic vibration in the immediate surroundings.

11. 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 EZ2 rural, small village or dark urban areas.

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

12. No development shall commence until an Ecological Mitigation Strategy, Implementation Timetable, and Management Plan have been submitted to and agreed, in writing, by the Local Planning Authority. The mitigation strategy shall include, as a minimum, the ecological mitigation and enhancement measures set out in section 7.2 'Mitigation and Enhancement Opportunities' of the Green Environmental Consultants Ecological Appraisal (Report Number 1043/1), dated June 2015. The mitigation strategy shall be implemented as approved prior to first occupation of the development and shall thereafter be maintained as approved.

Reason: In order to safeguard protected wildlife species and their habitats and in the interests of ecological enhancement.

13. 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;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works.Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.
14. No occupation of the development shall take place until a roundabout in Mason Road to provide access to the proposal site, as shown on drawing 6234/1115 Revision B, is provided.

Reason: To protect highway efficiency of movement and safety.
15. No development shall commence until details of a footpath/cyclepath between Cowdray Avenue, the subway under the railway line immediately north of the proposal site and North Station Road (south of the railway line) has been submitted to, and agreed by, the Local Planning Authority. The footpath/cyclepath shall then be implemented as approved prior to the occupation of the development.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.
16. No development shall commence until details of improvements to the subway under the railway line immediately north of the proposal site have been submitted to, and agreed by, the Local Planning Authority. The improvements shall then be implemented as approved prior to the occupation of the development. The improvements shall include, but not be limited to, lighting, surveillance, surfacing, and drainage.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.
17. No development 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.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure the effective operation of SuDS features over the lifetime of the development.

18. No development shall commence until a Maintenance and Management Plan of the surface water drainage system is 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 for the lifetime of the development to ensure mitigation against flood risk.

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

Weekdays: 0800-1800

Saturdays: 0800-1300

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.

20. 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

21. 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.

22. 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.

23. 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 20, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 21, 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 22.

Reason: To ensure that risks from land contamination to the future users of

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

24. 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 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.

25. 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).

26. 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.

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

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

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

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

29. No development of the non-residential premises shall commence until a scheme for the control of fumes, smells and odours, and dust has been submitted to, and agreed in writing by, the Local Planning Authority. The approved control measures shall then be installed prior to the first use of the non-residential development. The control measures shall thereafter be retained and maintained to the agreed specification and working order.

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

30. For the residential element of the proposal, no occupation shall take place

until Residential Travel Information Packs have been provided. The packs shall include walking and cycling maps, site specific public transport information, park and ride service information, school travel plan information, local taxi information, car sharing scheme information, information on reducing the demand for travel, and sustainable travel vouchers.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

31. Prior to occupation the two bus stops in the vicinity of Mason Road shall be upgraded in accordance with details that shall have been submitted to and agreed by, the Local Planning Authority.
Reason: In the interests of promoting sustainable development and transport.
32. Prior to the occupation of the non-residential element of the proposal, if there are 50 or more employees, a travel plan shall be submitted to and agreed, in writing, by the Local Planning Authority. The travel plan shall then implemented as agreed.
Reason: In the interests of promoting sustainable development and transport.
33. 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.
34. Prior to the first use or occupation of the non-residential development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.
35. Each residential property shall be provided with 1 No. EV charging point for vehicles. The EV charging point shall be installed prior to the first occupation of the residential property.
Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

36. Prior to the first use of the non-residential development hereby permitted, E:V charging point infrastructure for vehicles shall be installed and made available for at least 10% of the off-road parking spaces.
Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.
37. Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the non-residential development hereby approved shall be used as B1 and D1 only.
Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.
38. The non-residential use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:
Weekdays: 0700-1900
Saturdays: 0700-1800
Sundays and Public Holidays: No operation
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.
39. No deliveries shall be received at, or despatched from, the non- residential site outside of the following times:
Weekdays: 0700-1900
Saturdays: 0700-1800
Sundays and Public Holidays: No deliveries
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

19.0 Informatives

(1) 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.

(2) PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the

development or before you occupy the development. ****This is of critical importance****. If you do not comply with the condition precedent you may invalidate this permission. ****Please pay particular attention to these requirements****.

(3) 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.

(4) With regards to condition 5, the drawings are considered to be unacceptable for a number of reasons that include (but are not limited to) the following:

- Lack of useable open space (10% open space has not been provided and there is limited provision of equipped areas of play);
- Lack of private amenity space for flats (particularly at ground floor where balconies would not be included);
- Additional landscape buffer on eastern side of the site (adjacent garage) has not been provided;
- The off-road foot and cycle path is too mealy dimensioned in places, with some parts being tight up against back garden fences and the railway embankment;
- The development backs onto areas of public realm in parts, giving secure-by-design and visual concerns;
- There are areas of car parking dominance within the public realm which would have visual amenity concerns;
- Potential overlooking issues from flats to houses due to close proximity; and
- Back to back distances, as set out in the Essex Design Guide, are not met.

(5) The Applicant/Developer is directed to the comprehensive comments from Network Rail, attached to this Decision Notice.

(6) 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.

(7) PLEASE NOTE: Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

(8) Further intrusive ground test should take place before commencement of the development to ensure that no infiltration is possible on this site and that ground water will not cause any flooding issues which cannot be mitigated through the site design.

(9) 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.

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

(11) With regards to condition 17, the surface water drainage scheme should be based on the information listed in the Detailed SuDs checklist, available at www.essex.gov.uk.

(12) Please be advised that the National Planning Policy Framework paragraph 103 states that local planning authorities should ensure that 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 against increased flood risk to the surrounding area during construction there needs to be satisfactory storage/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

(13) With regards to Condition 18 and the requirement for a surface water drainage Maintenance and Management Plan, please be advised that the Plan should include, but is not limited to, details of who is responsible for each element of the surface water drainage system; the maintenance activities and frequencies; and the procedure for keeping yearly logs of maintenance, as well as their availability for inspection upon request by the Local Planning Authority.

(14) With regards to conditions 8 and 9 and noise mitigation measures, please be advised that the units with facades facing Mason Road will require the level of glazing specified in the Acoustic Air Noise Assessment submitted with the application and also require passive acoustic ventilation in habitable rooms to provide adequate ventilation with windows closed. Private gardens will have to be screened by the buildings as recommended in the assessment. Units with facades facing the railway will require the level of glazing specified in the Acoustic Air Noise Assessment and require passive acoustic ventilation in habitable rooms to provide adequate ventilation with windows closed.

(15) It is advised that all private gardens within direct sight of Mason Road be bounded with a two metre high close-boarded fence. In addition, a two metre high close-boarded fence should be erected along all boundaries with existing residential properties.

(16) It is recommended the applicant or developer undertake trial trenching at the earliest opportunity in order 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 may be required.

(17) The proposal includes employment/commercial use. To discharge trade effluent from

trade premises to a public sewer vested in Anglian Water requires Anglian Water consent. It is an offence under section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

(18) It is recommended that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

(19) The installation of properly maintained fat traps on all catering establishments is recommended. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

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.